A Comparative Analysis within the Context of Central Government – Local Government Relationships in Local Governments at Turkey And Azerbaijan¹

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ABSTRACT: In today's world, public administrations of the countries have begun to accept the necessity of strengthening the local governments units against the central governments, and accordingly, perform restructuring and reforming activities at the local level. The biggest obstacle in front of such activities is the intense centralist structure of the countries' administrative customs. Hence, the most important criterion for the success of the intended reform activities is whether the local government units have administrative and financial autonomy as a result of the reforming activities. However, the degree of the importance given to the participation at the local level, transparency and accountability is among the other elements which point at the success of the reform. Azerbaijan is a country where the unitary state structure and centralization are dominant. Such attributes in the structure and operation of a country's public administration indicate the necessity to perform some reforming activities at the local level. Thus, it is seen within the historical course just like in Turkey that local reforming activities are either not performed or no opportunity is found to implement them even if they are performed. This study will review firstly the central government-local government relationships on the theoretical basis and the necessity and quality of the reforming activities in local governments in terms of the aforementioned relationships. Afterwards, political and administrative structural features of Turkey and Azerbaijan will briefly be discussed and (although many different reforming activities are encountered in the past) the reforming activities, which have only been performed for the local government units recently, will be stressed. Thus, it will be possible to analyze comparatively at what degree the aforesaid reforming activities bear democratic and participative features that support the local autonomy and strengthen the local governments.

KEYWORDS: Azerbaijan, Central Government, Local Government, Reform, Turkey

I. INTRODUCTION

In the 19th and 20th century, the developed countries began to adopt the general opinion that the the local governments should be strengthened, and to carry out restructure and reform activities. However, the most important difficulty in practicing these activities is the countries' notably centralist administration traditions. The most important indicator of the success of these reform activities is how much importance is paid to the structure of the central and local government relationships, and in parallel with this, to the principles such as local administrative and financial autonomy, participation, transparency and accountability. One of the prominent characteristics of Turkey, which has a unitary state structure, is over-centralism. This situation has not prevented transfer of politics and reform study for local government in the historical process but most of these activities have not been put into practice due to various reasons. Since 2003, the multilateral reform efforts generally in public administration and particularly in local government have been considered as exceptions and a different sample in terms of both their legal infrastructure and application components.

In Azerbaijan, which is also a unitary state, it is possible to say that centralism is, again, predominant. Considering the local government history of Azerbaijan, the local government is divided into three periods: Czarist Russia Period, Soviet Russia Period and the period after becoming independent (Aslanov, 1998: 112-113). When examining these periods, it has been observed that no reform activities have been conducted or even if done, they haven't been put into practice, as in Turkey. However, the most important attempt that may be described as local reform study is observed to be actualized at the period after independence. In this study, the

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central government-local government relationships, and the necessity and quality of the reform studies in local government based on the said relationships will be reviewed. Later on, the political and administrative structural characteristics of Turkey and Azerbaijan will briefly be dealt with and the recent reform studies only in local administrative units will be emphasized (even if many reform studies can be observed in the past in different forms). In this way, we will be able to comparatively analyze the level of democratic and participatory characteristics of the reform studies and if they were supportive for the local autonomy.

II.CENTRAL GOVERNMENT – LOCAL GOVERNMENT RELATIONSHIPS AND THE NECESSITY OF THE REFORM IN LOCAL GOVERNMENTS

Examining the public administration systems of the countries, it is observed that the administrative organization is generally actualized in a bilateral system: central government and local government. The central government may be described as "realizing the politics, decision and execution functions regarding the general public services under the command and order of the central government" (Eryılmaz, 2012:106). The local governments are the administration units that remain out of the management hierarchy and "relatively independent" from the central government. In the meantime, the local governments are the administrative units organized to cover the 'common' and 'local' requirements of the people who live together in a certain area (Karaman, 2001: 11-13). The basic terms in the relationships between central government and local government are local autonomy and administrative tutelage. The local autonomy may be described as "the right to freely fulfill the local public services by the local governments pursuant to the laws". At this point, it is seen that the local autonomy is an indicator of the "local democracy" because while an aspect of the local autonomy is the relationship of the local government with the central government, the other aspect is the relationship of the local government with the people. The administrative tutelage is "the power of the central government to control and reverse the decisions, transactions and actions of the local government within the frame of the laws". Mathematically there is a sharp contrast between the two concepts. The increase in local autonomy in a public administration system is the indicator of the decrease in administrative tutelage or vice versa (Keleş, 2000: 50; Tortop and et al., 2006: 52; Bayrakcı, 2014: 21 and 27).

The relationships between the central government and local government in the public administration system of a country is crystallized as a result of social, economic, political and administrative structure and application components occurred in the historical process of that country. Therefore, the situation of a country in terms of the relationships between both administrative levels is affected by the political, administrative and socio-cultural structure emerged during the historical process of the said country; even, from a different point of view, each of the levels interacts with various elements, each of which functions as a social subsystem, to form the current situation. At this point, the administration systems of the countries in terms of if they give weight to central government or local governments are determined by criteria such as their 'state government traditions', 'historical and geographical conditions', 'socioeconomic structure and relationships', 'political culture' and 'democratic awareness level' (Parlak, 2014: 8-9).

The basic idea that is continuously handled theoretically as well as advocated by the international texts on relationships between central government and local government is that the local government should gain more autonomy in terms of administration and finance and strengthened in certain aspects to obtain a much more democratic and participatory functioning. However, the most remarkable point in the relationship between the central government and local government is that the center of gravity is in favor of the central government though the level changes from one country to another (Yıldırım, 1996: 15-16). The reason is that the central government retains the power to 'use the resources and powers' and 'make legal regulations throughout the country'. This results in concentration of the power in the hands of a certain group, tries to apply an anti-democratic governing concept by the said groups, and this, in turn, naturally leads to leaving aside the local democracy and participation (Ünlü, 1994: 13).

In order to remove the defects of the strength of the central government in the relationships of the central-local governments as well as better meet the requirements of the local democracy and service demands, it is observed that reform studies in the local government units are accepted as a major requirement and much more attention is paid day by day. It is obvious that a lot of paperwork, awkwardness, inefficiency and ineffectiveness appear in time in producing and presenting service in the countries where centralism is dominant. On the other hand, trust issues appear between the ruling and ruled parties due to secrecy and non-transparency. These come out as the barriers for a democratic and participatory administrative functioning.

Thanks to giving weight to the local governments as a result of the said reform studies, it is thought that benefits such as 'codetermination', 'spread of democratic awareness', 'effective public service presentation', 'reduction in disfunctional bureaucracy' will be gained (Parlak, 2014: 12-13). In the meantime, the local governments are adopted as the administrative units in which democracy is experienced in the best way in historical process (Stewart, 1996: 39). Since democracy is applied in smaller administrative units more easily, the citizens become more active individuals and they may influence more easily the decisions of the workers and executives of the local administrative units (Görmez, 1997: 59-60; Özden, 2007: 386). Finally, the local

governments play an important part in restricting the power of the central government, expanding the freedom of the citizens, having the institutions to act in a much more democratic way, a democratic life and having the people to gain a democratic sense. All of these reasons are significant elements displaying why reforms should be carried out in local governments in the context of central government – local government relationships.

III. CENTRAL GOVERNMENT – LOCAL GOVERNMENT RELATIONSHIPS AND REFORM STUDIES IN LOCAL GOVERNMENTS IN TURKEY

In Turkey, some reform efforts that influence the central government – local government relationships, increase the autonomy of the local government against the central government and participation of the local, and promote effective service presentation have been put into practice. In this context, the first regulation should be mentioned is "5216 Law for Metropolitan Municipalities" enacted in 2004. In the Article 6 of this Act, the participation to the metropolitan municipality is regulated. In this case, we can conclude that the citizens should be asked for their opinion through election for participating in the metropolitan municipalities. In Article 7 of the Act, it has been regulated that the metropolitan municipalities are responsible for designing the strategic plan and programs and relative budgets, in the "Powers, tasks and obligations granted to the metropolitan municipalities". In Article 13, it is stipulated that the place and time of the local council should be announced to the public.

In the "5302 Law for Provincial Special Administration" enacted in 2005, there are provisions stipulating announcement of the internal procedures and decisions of the local council to the public. 'Providing the citizens with the services at the point nearest to the people and by means of the most proper methods' is regulated in the Article 6, while 'to do public opinion surveys and researches in order to point out the opinions and ideas of the people about the services' in the Article 7. On the other hand, according to Article 17, the 'experts' and the 'personnel of the public institutions by approval of the governor' will participate in the 'audit commission' meetings. In the Article 18, regulating the information acquisition and auditing procedures, it has been aimed that the provincial assembly can execute a function based on accountability and participation in relation to the internal functioning by means of 'question', 'general debate' and 'activity report'. In Article 31, it has been stipulated that the governor should receive opinions from the universities, trade associations and non-governmental organizations interested in the subject when designing the strategic plan. In the article 65, it has been decided that 'various programs should be applied for providing voluntary participations in order to provide solidarity and participation, efficiency, savings and productivity in services in the town'.

Another legislative regulation is the '5355 Law on Local Administrative Unions' which was enacted in 2005. This regulation aims 'to protect local governments' interests', 'to help their development', 'to increase the solidarity and cooperation among them', and 'to support spreading of the good application examples through knowledge and experience exchange'.

Another law enacted in 2005 was '5393 Law for Municipalities'. In the Article 9 of the relevant Law, the district and district administration are handled and it is stipulated that the mukhtar (headman of the district) points out the needs of the inhabitants by allowing people's voluntary participation, and that the municipality prioritizes the common opinion of the inhabitants for the decisions regarding the district. In Article 13, under the 'Law for fellow countrymen', it is said that 'everyone is the fellow countrymen of the district he/she lives' and the provisions such as 'the fellow countrymen have the right to participate in the decisions and services by the municipality and right to information' have been adopted. In Article 14 it is stipulated that the municipality should provide the citizens with the services at the point 'nearest to the people and by means of the most proper methods'; while in Article 15, it is empowered 'to do public opinion surveys and researches in order to point out the opinions and ideas of the people about the services of the district'. In Article 55, the scope and types of audit are regulated and it is stipulated that the results of the audit to be announced to the public and local assembly. The City Councils are an important regulation taking part in the Laws for Municipalities, in terms of participation culture. According to this article, the city council plays a role in putting into practice the principles such as 'citizenship awareness', 'environmental awareness', 'social aid and solidarity', 'transparency', 'accountability', 'participation', and 'self-government'. In the article 77, the voluntary participation is stipulated and it has been decided that the municipality perform the services based on 'solidarity and participation', and apply various supportive programs for providing voluntary participations in order to increase efficiency, savings and productivity'.

Finally, upon introducing '6360 Law For Establishing Metropolitan Municipality in Fourteen Cities and Establishment of Twenty Seven District and Law on Amendment in Some Laws and Decree Laws', the legal entity of the provincial private administrations ended up in the cities with metropolitan municipality. The borders of the metropolitan municipalities have become the border of administrative border; and the legal entities of the small towns and villages were cancelled and the villages become districts and the small towns were connected to the town as districts. Although this legal regulation, which was put into practice on 30 March 2014, was criticized that 'it restricts participation to the local assemblies and autonomy', that 'the metropolitan

municipalities have become tutelage authorities' and 'this law was made without receiving the opinion of the people' (Gül and et al., 2014: 20-21), it is not possible to make a detailed evaluation since the application results have not appeared yet.

IV. CENTRAL GOVERNMENT – LOCAL GOVERNMENT RELATIONSHIPS AND REFORM STUDIES IN LOCAL GOVERNMENTS IN AZERBAIJAN

Despite of exceptionally having a self-governing state (Nakhchivan Autonomous Republic), Azerbaijan is a unitary and centralist state. In Azerbaijan, where separation of powers is in force, the legislative and executive powers are exercised by different authorities. The legislative, executive and judicial organs interact and are independent within the limit of their authorities. The legislative power is exercised by National Assembly of Republic of Azerbaijan, the executive power is exercised by the President of Republic of Azerbaijan, and the legislative power is exercised by the Courts of Republic of Azerbaijan (Hasanoğlu, 2008: 77).

The central government in Azerbaijan consists of President, Prime Minister and Cabinet and Departments of Executive Authority. The rural organizations of these departments are organized in geographic units such as city, raion, small town and village. It is an important indicator of centralism that the heads of Executive Authorities are appointed by the President. In fact, because of over-centralism in the country, every kind of services are planned by the capital city; the services are conducted by the central government and rural units rather than local government. In the country, the central government activates as 'a unique legal entity' but it is observed that the local governments also have separate legal entity as a requirement of decentralism principle (Rehimli, 2009: 378 and 380; Hasanoğlu, 2008: 80-82).

Azerbaijan declared its independence from Soviet Union in 1991. With the beginning of the new period, the state entered into establishing a new constitution and the Azerbaijan Constitution Act was adopted by referendum. Later on, the constitution was amended by two referendums in 2002 and 2009. The regulations regarding the local governments are made in Articles from 142 to 146 of Section IX of Part Four of the Constitution (Hekimoğlu, 2013: 52). According to the constitution, the local governments have a dual structure. The first is 'local executive authority organs, the rural institutions of the executive that is a leg of sovereignty'; the second is the 'municipalities that put into practice the local self-government principles' (Aslanov, 1998: 122).

It may be considered as important that assigning a separate section for the local governments in the constitution is the indicator of paying attention to the local administration units. On the other hand, although the constitution says 'the local government is exercised by the municipality', there is no clarity about the status and power of the municipalities as well as the their relationship with the local executive organs, which are affiliated to the central government (Hüseyn and et al., 2013: 163). However, since Azerbaijan is a unitary state, the local government has the power only to exercise the local and common services. Therefore, we can conclude that the local governments may use their power and responsibilities within the bounds of the constitution and laws (Şengül, 2004: 155). Although there was a provision stipulating that the local elections should be held within two years, the local elections could be exercised in 1999. Since then reform efforts have appeared to regulate the relationship between the central government and local government and strengthen the local governments in order to solve the problems observed before the independency. In addition, international documents such as the European Charter of Local Self-Government and etc., which was adopted by Azerbaijan in 2001, has been important driving force, as in Turkey (ÖztaşveZengin, 2008: 48-49).

In the same year, Republic of Azerbaijan Law on the Status of the Municipalities' which determine the legal status of the municipalities were enacted for exercising reform in local governments (Rehimli and et al., 2013:128-129). According to this law, the municipalities have been organized based on the population and as village, small town, town and city in one-stage procedure. The municipalities consist of four organs: assembly, president, committee, and commissions. Among them, the members of municipal assembly are elected by the citizens while the president and the members of the committee are selected by the municipal assembly (Elma, 2013: 168).

This law includes expressions that the particularly the local democracy and participation may be put into practice. A part of the regulations in the relevant law has a content allowing the citizens to come together in order to solve the local problems, aside from the central government. The mechanisms which are able to put this into practice are local government organs, come to power through election, and the meetings that the citizens directly participate in. In the meantime, the citizens have equal rights to exercise different participation mechanisms apart from voting, to vote and to be elected for local government organs, to directly apply the municipalities and their organs. On the other hand, the municipalities should provide tools for the citizens to exercise their right to information, and inform them in various issues (Zengin, 2000: 12-13). In Azerbaijan, some legislative regulations have also been enacted in order to provide the tools allowing the citizens to participate in local government. For example, it is mentioned in the Exemplary Regulation (Numunevi Nizamnamesi) under the section titled 'Electing the Members of the Municipality and Repealing them from the

Power' that the 'recall' practice may be applied. In addition, there are regulations on various participation methods such as local referendum, public meetings, accountability and citizen initiatives successively in the previous legislative regulation (Article 27, 28, 15 and 29) and in the same regulation (nizamname) (Article 10 and 31).

However, in Article 3 of the Republic of Azerbaijan Law on the Status of the Municipalities, the regulations 'the citizens' right to put into practice the local government' and in the Article 33 of the same Law, 'the citizens' right to participate in governing the municipal ownership' have been designed. Finally, in the Article 53 of the same law, it is said that the citizens may file a complaint about the problems occur during the local government units exercise their duties (Zengin, 2000: 17-22). These provisions have been developed to reduce, even a little, the central governments' heavy administrative tutelage on the local governments.

Finally, there some other legislative regulations regarding the local governments, though we do not have opportunity to handle them in details in this study. Some of them are Republic of Azerbaijan Law on Rules of Municipal Elections and Republic of Azerbaijan Law on Public Services (2005) and Law on Combining Some Municipalities (2009).

V. ASSESSMENT AND RESULTS

Since the practices are in favor of central government in central-local government relationships, some reorganization or reform efforts have been exercised for local government in time. At that point, there are similarities between Turkey and Azerbaijan. Turkey has remained as a country where the local government are weak against the central government due to the unitary structure of the state and central government. Azerbaijan is also a country where the central government has tutelage power over the local government because of its unitary structure and particularly due to the influences of the period before independence, and its overcentralism characteristics. Considering both countries, Turkey is closer to the stewardship model among the models for central government – local government relationships. In Azerbaijan, it may be said that the relationship is closer partly to the agency and partly to the stewardship model. Therefore, both countries have attempt exercising reforms in local governments because of the abovementioned reasons, thus, they have shown that they are trying to pass from agency to stewardship model and even to partnership model.

It seems that there are similarities between the reform efforts of Turkey and Azerbaijan in terms of source of motivation and the methods followed. It has been observed that the heavy centralist and tutelage practices have resulted in serious damages in the public administration in both countries in time. The appearance of the non-productiveness and ineffectiveness in production and presentation of the local services, the practices leading trust problems, which ignore participatory, and are anti-democratic and based on secrecy and non-transparency, have suggested a requirement of reforms in local levels. On the other hand, the regulations demanded by EU during Turkey's EU membership period and that Turkey is obliged to comply with some international agreements and charters that it had signed are important source of motivation for Turkey.

In turn, in Azerbaijan, the provisions of the European Charter for Local Self-government have provided a similar motivation in reform efforts. In addition, it is observed that both the constitutional and legislative regulations form a basis for the reform efforts in both countries. Although there is no a new constitutional regulation in Turkey, new acts have been enacted regarding metropolitan municipalities, municipalities and provincial private administrations. In Azerbaijan, some constitutional regulations had been exercised after the independence, which became the foundation for the acts enacted in relation to the local governments.

Today, the reform studies in local governments in Turkey may be said to leave a significant positive impression. It is also possible to say that the local governments have become stronger in terms of both the administrative and financial structure and livability of the local democracy. Of course, it is obvious that some tutelage practices will continue in a country having a centralist tradition but it can be said that the reform attempts are generally promising. It appears that the over-centralist and tutelage practices inherited from the period before independence still continue in Azerbaijan. Though the constitutional and legislative regulations are promising, there is much progress to be made. Moreover, it is questionable how much of the constitutional and legislative regulations are genuinely put into practice. Hence, according to the results of the survey by Elma (2012: 114), it seems that the establishment of many municipalities has not been completed yet and they are not able to exercise the essential functions in local representation and services. This situation shows that there are still problems in 'the financial structure of these institutions', 'personnel and management team', 'issues regarding power and tasks', 'regulating the relationships with the central institutions', 'service providing' and 'participation of the citizens in the decision-making processes'.

Ultimately, both 'sister' countries appear to have similar problems in their public administration systems particularly in central government – local government relationships. Of course, becoming aware of the problems and even attempting to make constitutional and legislative regulations are pleasing facts. However, the problem of 'trust' in the local authorities and citizens underlies the malfunctions observed in practice. When this

problem is overcome, it will be possible to diversify and increase the participation and strengthen the local democracy. In this way, both countries will be stronger and prosperous.

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