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The Intermediary Function of Turkey's Legislative Ombudsman in Resolving Public Disputes*

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Abstract

This article focuses on the function of legislative ombudsman in Turkey in resolving public disputes to understand its intermediary position between public institutions and citizens. Since its establishment in 2012 under the Turkish Grand National Assembly, the Ombudsman Institution of Turkey has resolved 80,535 public disputes. Although the intermediary function of ombudsman has been unexplored in the literature, with studies focusing more on legal and administrative functions, the Turkish context shows that the adoption of intermediary methods enhances the dispute resolution capacity of this institution. To understand the function of intermediary methods in increasing the dispute resolution capacity of ombudsman, this article empirically analyzes 1003 cases resolved via friendly settlement, an intermediary method adopted by the Ombudsman Institution of Turkey since 2017. This study reveals that intermediary methods make limited but positive contribution to the dispute resolution capacity of ombudsman by increasing the interaction between the parties.

Keywords

Ombudsman, public dispute resolution, intermediary methods, friendly settlement.

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Introduction

Ombudsmanship has become one of the most striking concepts in understanding state-citizen relations in the last decades. Although it is an old concept, it has found renewed interest worldwide, and not only governments but also NGOs, universities, private companies, and public agencies have established ombudsman offices for developing effective problem-solving mechanisms (Georgekopoulos 2017: 11). European countries such as France, Spain, the Netherlands, and Ireland established their first ombudsman offices during the 1970s and 1980s. By the end of the 2000s, almost all post-Soviet and post-Yugoslav countries together with other developing countries had already established national ombudsman institutions. Due to the increasing popularity of the ombudsman concept in public and private sectors, this trend was called ombudsmania (Abedin 2011: 898, Creutzfeldt 2018: 18, Remac 2013: 62).

Scholars as well as decision makers showed interest in the concept. Since the1960s, a growing body of literature has focused first on the institutional evolution of ombudsmanship (Hill 1974, Rowat 1965) and then emerging ombudsman models (Friedmann 1977, Hill 1976, Utley 1961). Since the 1980s, leading studies on the subject have mostly been conducted on ombudsman-bureaucracy relations (Hill 1981 Rowat 1985, Zagoria 1988, Roosbroek & Walle 2008), the ombudsman's function in public administration (Gregory & Giddings 2003, Ziegenfuss & O'Rourke 2011, Remac 2013, Monogioudis 2015, Siemiatycki et al. 2015), evaluation of ombudsman performance (Asper y Valdes 1989, Kolb 1988, Stuhmcke 2013), comparison of ombudsman models (Male 1999, Rauanheimo-Casey 2007, Kucsko-Stadlmayer 2008, Bennett 2014, Creutzfeldt 2018), and the human rights jurisdiction of ombudsman (Ambrož 2005, Sudhankitra 2015, Reif 2004, Vogiatzis 2018).

The intermediary function of ombudsman has not been considered in the literature, except for a few recent studies that touched upon the significance

of the ombudsman's third-party position between public institutions and citizens (Bennett 2014, Rowe 2015, Moore 2016, Addison-Laurie 2017, O'Brien & Seneviratne 2017). While these studies paid some attention to the underestimation of the intermediary function of ombudsman, they especially addressed the lack of empirical data for analyzing it.

To fill this gap in the empirical study of the ombudsman's intermediary basis, this study examines the function of legislative ombudsman in Turkey in resolving public disputes. As one of the youngest ombudsman institutions in the world, the Turkish case offers new insights into studying ombudsmanship based upon empirical rather than descriptive findings. The Ombudsman Institution of Turkey has been using an intermediary method, friendly settlement, since 2017 that allows the ombudsman to function as a third party between public institutions and citizens. In this respect, Turkey offers an exceptional opportunity to empirically examine how the third-party function of ombudsman contributes to the resolution of disputes between public institutions and citizens.

This study will first elaborate on the evolution of the ombudsman concept by focusing on classical/legislative vs. organizational/corporate ombudsman and national vs. local ombudsman dichotomies. Secondly, this study will explore the function of the Ombudsman Institution of Turkey and analyze various methods adopted by it to resolve disputes by paying specific attention to friendly settlement. Thirdly, the methodology and dataset of the study based on quantitative analysis of 1003 cases will be described and the findings of the study will be discussed. Finally, the article concludes with a brief discussion of the ombudsman's function as an intermediary body between public institutions and citizens based on the findings.

The Evolution of the Ombudsman Concept

Ombudsmanship was first established in Sweden by the Swedish parliament, the Riksdag, as a"watchdog institution" in 1809 to monitor administrative processes and control whether administrative bodies protected citizens'

rights (Abraham 1960: 152, Reif 2004: 5). As the first and the longest-lasting ombudsman office in the world, the Swedish ombudsman became a model for the second oldest ombudsman institution to be established in Finland in 1920.The authority of the first ombudsman offices was limited to the responsibility of monitoring whether government bodies followed the rule of law in their actions (Remac 2013: 64).

After ombudsmanship has become prevalent in the world since the mid-1950s, countries adopted various ombudsman models, which turned it into a hybrid concept (Monogioudis 2015: 22, Reif 2004: 6). As such, the ombudsman's authority is no longer limited to a monitoring mechanism; ombudsman also redress citizens' complaints (Stuhmcke 2013: 1), promote human rights and democracy (Abedin 2011: 897), defend the rule of law (Vogiatzis 2018: 3), investigate governments' actions (O'Brien 2015: 72), prevent maladministration (O'Brien 2015: 72), promote accountability and transparency (Siemiatycki et al. 2015: 7), provide collaborative governance (O'Brien & Seneviratne 2017: 95-99), and mediate between states and citizens (Bennett 2014). Thus, as the number of ombudsman offices has reached 198 in almost 100 countries and the concept has become widely used by local governments, trade unions, NGOs, the private sector, and academia, it is no longer possible to conceptualize ombudsman as a single and unitary institution.

Since the scope and formation of the ombudsman concept has been enriched and multiplied, there are various structural, functional, and operational classifications of ombudsman offices. While some scholars adopt a primordial approach and classify them as classical and non-classical ombudsman offices (Ayeni 1985: 6), some others apply a classification based on structural and functional dichotomies such as public vs. private, legislative vs. executive, and local vs. national (Reif 2004: 26-28). Thus, there is no consensus in the literature on how ombudsman offices should be classified. Throughout this study, ombudsman offices are classified within two main categories based on their structural and institutional designs.

Classical/Legislative vs. Organizational/Corporate Ombudsman

The first category is based on classification of the office according to public-private dichotomies: classical/legislative vs. organizational/corporate ombudsman. According to the International Bar Association (IBA), classical/legislative ombudsman offices can be defined as:

> An office provided for by the constitution or by an action of the legislature or parliament and headed by an independent, high-level public official who is responsible to the legislature or parliament, who receives complaints from aggrieved persons against government agencies, officials and employees or who acts on his own motion, and who has the power to investigate, recommend corrective action and issue reports. (cited in Reif 2004: 3)

As emphasized in the IBA's definition, classical/legislative ombudsman gets their authority from legislation, i.e. parliament. All classical/legislative ombudsman offices are established under the jurisdiction of parliaments and they are responsible only to them (Abedin 2011: 899). Nonetheless, although ombudsman offices get their authority from parliaments, they do not have a binding authority on any public institutions and cannot impose their decisions and recommendations on them (International Ombudsman Institution Standards of Practice). "Apparent effectiveness despite minimal coercive capabilities" makes the classical ombudsman a paradox (Hill 1974: 1077). While such an office is powerful because of having direct authority from parliament, it is also powerless because of not having any coercive capability.

If the classical/legislative ombudsman office does not have the authority to force other public institutions to accept its decisions, how it can satisfactorily function in investigating maladministration and correcting wrongdoings in the public sector? There are a few factors facilitating the effective functioning of ombudsman offices despite their limited coercive capability. Firstly, ombudsman holds moral authority arising from their relations with parliament (Rowe 1991: 358). These offices'

establishment under parliaments strengthens the image of these offices as "citizens' defenders" (Rowat 1965). Secondly, the ombudsman's authority to carry out investigations in public institutions without requiring any formal permission and to demand information from public institutions give an intrinsic power (Prince 1979: 246, Utley 1961: 10). Thirdly, the ombudsman's personal reputation in society increases the credibility of the ombudsman office in the public sector and determines its success (Dragos & Neamtu 2014: 251).

Compared to the classical/legislative ombudsman, the organizational/corporate ombudsman has a narrower sphere of influence (Bennett 2014: 29). Organizational/corporate ombudsman acts only for the resolution of disputes within local, national, and international companies in the private sector (Moore 2016: 8). Since they serve private companies, they do not have the influence on the public that a classical/legislative ombudsman does (Bennett 2014: 9). Nevertheless, compared to classical/legislative ombudsman, they have wider flexibility in their actions and can use informal tools better since they do not have to follow the strict rules and regulations that classical/legislative ombudsman must obey (Rauanheimo-Casey 2007: 248-249).

Organizational/corporate ombudsman offices function on three levels. First, since they have been established to solve workplace conflicts, their primary function is preventing troubles between management and employees in companies (Ziegenfuss 1988). Second, with the growth in company-customer relations especially after the 1980s, organizational/corporate ombudsman has started to be appointed for handling and resolving customer complaints (Singer 1990). Third, as a result of the growing needs of employees and customers being heard by company management, ombudsman has gained the function of a voice-hearing mechanism (Gadlin 2012: 36, Rauanheimo-Casey 2007: 55).

National vs. Local Ombudsman

The second category is based on the classification of the office according to national-local dichotomies. Although ombudsman offices were first established on the national level, they spilled over onto the local level with the foundation of local ombudsman offices especially after the 1990s.

There are two main reasons behind the establishment of local ombudsman offices. First of all, "the changing nature of citizen and stakeholder voice in governance" increased the importance of inclusivity and collaboration in the public sector (Bingham 2009: 273-275). With this change, disputes between states and citizens began being solved via the active involvement of citizens in policy processes (Sirianni 2018: 39). Thus, ombudsman offices have also been designed to facilitate the involvement of citizens by the establishment of local offices (Bingham et al. 2005: 550). These local offices aim to secure more direct and personal relationships between states and citizens (Gill 2016: 96-97).

Secondly, as the concept of hybridity emerged, "local responsibility for overcoming problems and local ownership of solutions" became game changers in the public sector (Boege et al. 2008: 11). The concept of hybridity assumes that although the resolution of public issues on a national level is important, local ownership in the resolution of disputes and decentralization of ombudsman offices are also crucial for building trust in public institutions (Denis et al. 2015: 274). In accordance with this approach, local ombudsman offices have been established to provide more direct relations between states and societies. These local offices have also been founded to accelerate bureaucratic processes:

> On the one hand, [local]branch offices aim at enabling direct contact and communication with the individual, providing information on the possibility of submitting complaints to the ombudsman, and thereby facilitating access to him. On the other hand, they intend to enable quick and unbureaucratic problem solving on site. (Kucsko-Stadlmayer 2008: 17)

Although local ombudsman offices have become widespread in different countries, national ombudsman offices are still monocratic bodies (Dragos & Neamtu 2014: 566). Furthermore, as local offices have achieved their intended success only in federal states such as the United States, Canada, Australia, and India (Abedin 2011: 921), national ombudsman offices still dominate the global scene.

The Legislative Ombudsman in Turkey

Before the Ombudsman Institution was established in Turkey, there were intense debates on the advantages and disadvantages of founding an ombudsman institution since the 1990s. These discussions were held in two areas: in politics and in academia. In political circles, the discussions focused on the positive effects of ombudsman in strengthening human rights protection in Turkey as proposed by the European Union (EU) Progress Report (1998:14). However, the possible contributions of ombudsman in public affairs were discussed more comprehensively in academia. The roles of the institution in preventing maladministration (Şengül 2005), accelerating European Union accession (Abdioğlu 2007), monitoring bureaucratic compliance (Arklan 2006, Ertekin 2004, Kılavuz et al. 2003), and promoting human rights (Yılmaz 2009) were discussed widely in academia.

After long-running discussions in both fields and some failed attempts, the Ombudsman Institution was established in 2012 under the Turkish Grand National Assembly (TGNA) with the adoption of Law No. 6328. The main purpose of the institution was to "establish an independent and efficient complaint mechanism regarding the delivery of public services and investigate, research and make recommendations about the conformity of all kinds of actions, acts, attitudes and behaviors of the administration with law and fairness under the respect for human rights"(Annual Report 2019).

Administrative relations between the Ombudsman Institution and the TGNA does not conform to a conventional hierarchical model. Although the Ombudsman Institution is under the supervision of the TGNA, it is functionally autonomous and operationally independent, like other examples in the world. Thus, the TGNA only has a supervisory power over the Institution and this authority comes to the fore in two ways. First, the Institution has to submit its prepared annual reports to a Joint Commission consisting of the Petition Commission and the Human Rights Inquiry Commission of the TGNA. The Commission has the authority to add some remarks on the reports before they are discussed by the TGNA(Regulation No.28601). As a result of this, the TGNA has the right to revise the annual report of the Institution. Secondly, the chief ombudsman and the four deputies are elected by the TGNA. However, despite being elected by the TGNA, ombudsman does not take orders from the TGNA or any other authorities in order to protect the Institution's independence (Regulation No.28601).

The Function of the Legislative Ombudsman in Turkey

Since the establishment of the Ombudsman Institution, it has received 80535 applications concerning disputes between public institutions and citizens (Annual Report 2019). Except for applications about ongoing legal processes or issues resolved by litigation, ombudsman approves and processes all applications as there are no restrictions on the ombudsman's scope of work in Turkey.

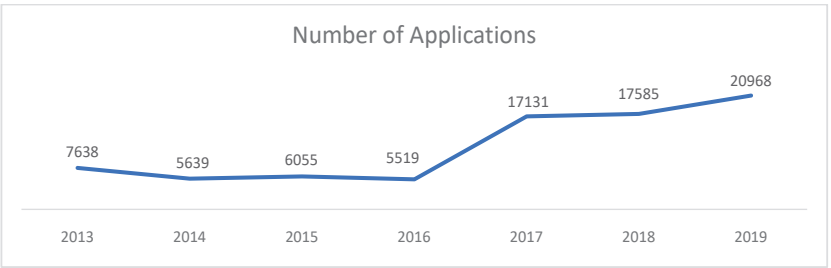

Figure 1. *Number of applications to the institution by year*

While there are no restrictions on the scope, the Ombudsman Institution particularly receives applications on topics including public personnel management, education, youth, labor and social security, economics, the environment, health, and human rights. The majority of applications received pertain to public personnel, labor and social security, education, youth, and sports (*Annual Report* 2019). Although there are slight changes from year to year, the annual distribution of cases reveals that applications mostly come from these areas.

There are four main methods used by ombudsman in the resolution of disputes: recommendation, refusal, partial recommendation or partial refusal, and friendly settlement. Recommendation refers to a process in which the Ombudsman Institution conducts a comprehensive investigation on the application, prepares a detailed analysis for the correction of the existing implementation, and proposes an action plan to the stakeholder institution. During the recommendation process, the ombudsman mostly adopts an investigative approach and analyzes whether the dispute between the public institution and the citizen (i.e. the applicant) is related to a wrong policy on the part of the public institution. If the investigation reveals that the citizen has suffered from the public institution's wrongdoings, the ombudsman recommends the respective institution to "withdraw, abort, change or correct" its policy (Regulation No. 28601).

Current statistics on responses to the ombudsman's recommendation decisions show that the Ombudsman Institution has an increasing capacity to direct public institutions in making necessary policy changes. While the compliance with ombudsman recommendations was 20 percent in 2013, the rate gradually increased year by year and reached 75 percent in 2019 (*Annual Repor*t 2019). Although public institutions do not have to comply with the decisions of the Ombudsman Institution in general (Utley 1961: 11), the supervisory power of the TGNA over the Ombudsman Institution can influence the acceptance of recommendations. The Joint Commission of the TGNA has the right to invite the officials of the public institutions

not accepting recommendations to meetings and to ask questions about their reasons for refusing. Moreover, the Ombudsman Institution's power to publicly name the public institutions not accepting recommendations pressures them to accept recommendations to prevent possible damage to their reputation among the public.

The ombudsman has the authority to partially or fully refuse applications under certain circumstances. If an application is about ongoing legal processes or issues resolved by litigation, it is refused without passing on to further stages. Moreover, the ombudsman may accept part of an application and advance it to further stages while refusing other parts if they are outside of the scope of the ombudsman's authority.

Friendly Settlement: An Intermediary Method

The fourth type of decision that ombudsman uses in the resolution of conflict, friendly settlement, started to be implemented in 2017. The method of friendly settlement entails the resolution of disputes between public institutions and citizens by the interactive involvement of an ombudsman as a third party in the process. Within this context, the ombudsman intervenes directly in the resolution process to make the parties (the public institution and the citizen) reach an agreement (Oğuşgil 2014: 8).

Why does an ombudsman adopt an intermediary approach to resolve disputes? In the ombudsman context, the friendly settlement method is useful to resolve both non-intractable and intractable disputes in public affairs. First of all, this method saves time in the resolution of non-intractable disputes. Citizens may apply to the ombudsman to solve short-term disagreements about quickly resolvable issues such as not getting a response to a petition or demanding information. Thus, the ombudsman enables effective and time-saving resolution of disputes by directly intervening in the process and resolving non-intractable disputes as emphasized in the European Ombudsman's Mandate (2000).

Secondly, this method is also effective in the resolution of intractable disputes between states and citizens that require long-term commitments to be resolved. Intractable conflicts are deep-rooted and long-lasting disputes that are resilient to resolution efforts (Chigas 2005). For intractable public disputes, an intermediary third party may promote better dialogue and facilitation by reducing the bureaucratic burden and enabling a satisfactory outcome. For this reason, the intermediary approach has become very effective in resolving public disputes to save time and resources, and to lessen the bureaucratic load.

Although friendly settlement is a new method for the Ombudsman Institution of Turkey, it has become efficient compared to other methods in recent years. In 2017, 1568 cases, or 10.78 percent of all cases, were resolved via friendly settlement. In 2018, this increased to 1916 cases, or 12.30 percent of all cases resolved. In 2019, this method was used for the resolution of 1607 cases or 8.21 percent of all cases in that year.

Data and Methodology of the Study

This study quantitatively analyzes 1003 friendly settlement cases to understand how the Ombudsman Institution functions as an intermediary body between public institutions and citizens. The sample of this study was selected from among 3891 cases resolved from 2017 to September 2019 by using stratified random sampling. Stratified random sampling enables the replication of the larger universe while building a smaller sample. To reflect the characteristics of the larger universe (3891 cases), the percentage of each stakeholder institution and the year of resolution in the designed sample (1003 cases) was calculated to equally represent all stakeholder institutions. After stratification of the universe, 1003 cases were randomly selected from among all cases. The Ombudsman Institution gave written permission to the author to use the data on condition of complying with the principle of protection of personal information.

In accordance with the aim of the study, these 1003 cases were coded in SPSS to facilitate analysis within six main categories:

1. Applicant's Profile: In this category, all applicants were coded according to gender, region, and urban versus rural residency, three dimensions that might affect the implementation of friendly settlement to see whether the profile is heterogeneous.

2. Stakeholder Institution: As it is important to see which institutions are more collaborative in using the intermediary approach, all cases were coded according to the institutions that applicants had a dispute with. Because the high number of institutions made it difficult to conduct a detailed analysis, the institutions were classified within four main categories: 1) Ministries (all ministries except the Ministry of National Education), 2) Local Governments; 3) Governorates; and 4) Educational Institutions (the Measuring, Selection, and Placement Center (ÖSYM), the Council of Higher Education (YÖK), and the Ministry of National Education).

3. Duration of Resolution: In this category, the duration of the resolution of cases was coded on a daily basis. The duration of resolution is important for two reasons. First, it allows us to measure whether friendly settlement saves time compared to other methods used by ombudsman. Secondly, it enables us to analyze whether there is a statistically significant difference between stakeholder institutions in terms of the duration of resolution to measure stakeholder institutions' capacity for cooperation.

4. Method of Resolution: This category sorts the methods used by ombudsman in mediation between stakeholder institutions and applicants. After the detailed examination of all methods used by ombudsman during the resolution process, six methods were coded within this category: 1) Guiding: The ombudsman adopts an advisory approach and shows possible opportunities to the parties to find a way to reach an agreement. 2) Investigation: The ombudsman adopts an investigative approach and carries out his own investigation about the underlying reasons behind the dispute to propose a mutual solution. 3) Providing Information: The ombudsman adopts an informative approach especially for the resolution

of disputes arising from unanswered applications demanding information. 4) Caucus Mediation: The ombudsman organizes segregated meetings with both parties to review their options in the resolution of disputes and facilitates the reaching of a mutual outcome. 5) Discontinued: The parties reach an agreement without the intervention of the ombudsman at the beginning of the resolution process. 6) Withdrawn: The ombudsman decides to withdraw the case if the conditions causing the dispute change during the resolution process.

5. The Scale of Dispute: This category classifies the cases into three types to assess the policy impact of cases resolved via friendly settlement. Cases related to individual disputes were coded as small, indicating that they were related to an individual dispute and the resolution of the dispute did not create a broader policy impact beyond resolving the individual's problem, such as a monetary refund or the taking of annual leave. Cases for which the resolution created a broader policy impact concerning a significant segment of the population were coded as large while the cases having a limited policy impact were coded as medium.

6. The Mode of Interaction: This category classifies the level of interaction among the ombudsman, stakeholder institutions, and applicants. Cases resolved with the direct interaction of parties' face to face or via phone meetings are coded as interactive. Cases resolved via mailing or e-mailing, without direct interaction of the parties, are coded as non-interactive. Cases resolved using both interactive and non-interactive methods are coded as mixed.

The Findings

Who applies to the Ombudsman Institution? Does the Institution provide equal representation of all stakeholders during the resolution process? Descriptive statistical data related to applicant profiles show that there is not a balanced distribution regarding gender, region, and residency. For example, 56.7 percent of the applicants for the friendly settlement method are female while 43.3 percent are male. In other words, the

method is mostly used in resolving disputes between female applicants and stakeholder institutions. As fewer applications from women to ombudsman is a common phenomenon in Western ombudsman practice (Roosbroek & Walle 2008: 297), the intermediary method shows better success in promoting women's involvement in ombudsman process.

When it comes to region and urban versus rural residency, it is seen that there is not a balanced distribution. Most of the applicants (22.1 percent) apply from the Marmara region and the fewest of them (4.9 percent) are from Southeastern Anatolia, excluding a very small number of applicants from foreign countries (0.2 percent). Moreover, most of the applications come from urban areas (56.7 percent) compared to rural (43.3 percent). These data imply two conclusions: a) just as the Ombudsman Institution receives the fewest overall applications from Southeastern and Eastern Anatolia, that general trend is paralleled by the data for the friendly settlement method; b) although a majority of the applicants are applying from urban areas, there is not statistically significant difference between urban and rural rates.

Table 1. *Applicant's Profile*

Applicant's Profile		**Frequency (*f*)**	**Percentage (%)**
Gender	Female	569	56.7
	Male	434	43.3
Region	Eastern Anatolia	100	10
	Central Anatolia	222	22.1
	Black Sea	111	11.1
	Mediterranean	102	10.2
	Aegean	141	14.1
	Marmara	276	27.5
	Southeastern Anatolia	49	4.9
	Foreign Country	2	0.2
Residency	Urban	569	56.7
	Rural	434	43.3

Do institutional factors matter for the intermediary approach? The data show that most of the applicants (61.3 percent) are applying due to disputes with educational institutions while the fewest of them (1.8 per cent) are disputes with governorates. The data show divergence from a general pattern regarding institutional factors. Although the Ombudsman Institution receives most of its applications for disputes with ministries regarding public personnel management issues, the friendly settlement method is mostly used for resolving education-related issues. This may imply two conclusions: educational institutions are more open to resolving disputes via intermediary methods compared to other stakeholder institutions or there are some conditional factors promoting an intermediary approach in education-related issues.

Significant differences also emerge when stakeholder institutions are cross tabulated with the duration of resolution. The mean duration for the 1003 cases analyzed is 76.26 days. This shows that friendly settlement provides time savings since an ombudsman has to resolve a dispute within 180 days. After one-way ANOVA was performed to determine the relationship between stakeholder institutions and the duration of resolution, it was seen that there is a statistically significant difference between all stakeholder institutions and the duration of resolution ($F=7.562$, $df=1002$, $p<0.05$). The mean duration of resolution is longest for ministries (86.51 days), while it is shortest for governorates (58.17 days), as indicated in the table below. Thus, the data show that intermediary methods save time for the resolution of disputes regarding all institutions compared to other methods of resolution adopted by ombudsman.

Table 2. *Relationship Between Duration of Resolution and Stakeholder Institution*

Stakeholder Institution	N	Mean of Duration of Resolution	Std. Deviation
Ministries	242	86.51	58.204
Local Government	128	66.69	50.617
Educational Institutions	615	74.75	35.669
Governorates	18	58.17	45.334
Total	1003	76.26	44.704

Analyzing the relationship between the duration of resolution and the method of resolution is important to understand which method is more successful in saving time. One-way ANOVA was therefore performed to determine the relationship between the method of resolution and the duration of resolution. According to the findings, there is a statistically significant difference between the methods of resolutions, which include guiding, investigation, providing information, caucus, discontinued, and withdrawn, for the duration of resolution ($F=28.956$, $df=5$, $p<0.05$). As seen in the table below, the ombudsman's role in guiding and investigating disputes as a third party requires more time compared to other methods. Nevertheless, when an ombudsman directly intervenes in the process by choosing the method of caucus mediation, it decreases the time spent on resolution. Thus, compared to guiding and investigation, the ombudsman can resolve disputes more quickly by adopting other methods.

Table 3. *Relationship Between Duration of Resolution and Method of Resolution*

Method of Resolution	N	Mean of Duration of Resolution	Std. Deviation
Guiding	9	134.67	136.221
Investigation	335	94.96	36.274
Providing Information	388	60.31	34.177
Caucus Mediation	153	75.91	55.314
Discontinued	89	68.01	48.656
Withdrawn	29	82.76	35.420
Total	1003	76.26	44.704

The data reveal that although ombudsman adopts the methods of guiding, providing information, and investigation more often during the resolution process, caucus mediation is more effective in saving time. Nevertheless, since caucus mediation requires more dedication, as it is not easy for

stakeholder institutions to spend time and make other investments to take a part in face-to-face meetings with the ombudsman during the process, it is crucial to understand which institutions are more open to using this method. When the method of resolution is cross tabulated with institutions, it is found that caucus mediation is statistically significantly more common with educational institutions than ministries, local government, and governorates ($p<0.05$). Indeed, cross-tabulation of these two categories reveals that educational institutions are more open to using intermediary methods compared to other stakeholder institutions. However, when the ratios of caucus mediation are calculated, it is seen that ministries proportionally use caucus mediation more compared to the other five methods (21.5 percent), arising from their smaller sample number (242) compared to the number of educational institutions (615).

Table 4. *Cross Tabulation of Method of Resolution and Stakeholder Institution*

Method of Resolution	Ministries		Local Government		Educational Institutions		Governorates	
	N	%	N	%	N	%	N	%
Guiding	3	1.2	3	2.3	3	0.5	0	0.0
Investigation	52	21.5	21	16.4	258	42.0	4	22.2
Providing Information	77	31.8	69	53.9	237	38.5	5	27.8
Caucus Mediation	52	21.5	7	5.5	90	14.6	4	22.2
Discontinued	45	18.6	14	10.9	25	4.1	5	27.8
Withdrawn	13	5.4	14	10.9	2	0.3	0	0.0

Do intermediary methods contribute to the resolution of disputes at smaller or larger scales? This is important to assess the policy impact level of the friendly settlement method. According to the data, most of the disputes resolved by ombudsman via friendly settlement are medium-scale disputes (47.1 percent), while the ratios of large-scale disputes (20.7 percent) and small-scale disputes (32.2 percent) are lower. As seen, almost 70 percent

of cases resolved via friendly settlement concern a group of people rather than individuals and create a broader but limited policy impact in the public sector. The limitedness of the cases is related to their pertaining to medium-scale disputes rather than large-scale. This shows that although this method contributes to the resolution of small-scale disputes less often, it does not resolve large-scale disputes concerning a significant number of people as much as medium-scale disputes.

One interesting aspect of the findings is related to the relationship between the scale of dispute and the method of resolution to see which method is more functional for creating broader policy impacts. Cross-tabulation of these two categories shows that large-scale disputes are statistically significant in caucus mediation compared to other methods ($p<0.05$). This finding emphasizes that caucus mediation is mostly used in the resolution of disputes that concern a larger scale of people rather than just individuals. The data also show that ombudsman conducts face-to-face meetings with stakeholder institutions and citizens when disputes create problems for large numbers of people and their resolution contributes a broader policy impact.

Table 5. *Cross Tabulation of Scale of the Dispute and Method of Resolution*

Scale of the Dispute	Guiding		Investigation		Providing Information		Caucus Mediation		Discontinued		Withdrawn	
	N	%	N	%	N	%	N	%	N	%	N	%
Small	2	22.2	228	68.1	36	9.3	19	12.4	22	24.7	16	55.2
Medium	3	33.3	54	16.1	331	85.3	44	28.8	31	34.8	9	31.0
Large	4	44.4	53	15.8	21	5.4	90	58.8	36	40.4	4	13.8

In line with the previous finding, the mode of interaction of cases shows that large-scale disputes require more interaction between the ombudsman, stakeholder institutions, and citizens compared to small- and medium-scale disputes. A cross-tabulated comparison between the scale of disputes

and mode of interaction reveals that 64.1 percent of large-scale disputes are resolved via interactive tools, while this ratio for medium-scale disputes is 25.4 percent and for small-scale disputes is 10.6 percent. This means that large-scale disputes are statistically significantly more likely to be addressed in interactive cases than non-interactive or mixed cases ($p<0.05$). Thus, during resolution of large-scale disputes, tools providing interactive communication such as phone meetings rather than mailing or e-mailing are used.

Table 6. *Cross Tabulation of Scale of the Dispute and Mode of Interaction*

Scale of the Dispute	Interactive		Non-Interactive		Mixed	
	N	%	N	%	N	%
Small	15	10.6	69	13.6	239	67.5
Medium	36	25.4	374	73.8	62	17.5
Large	91	64.1	64	12.6	53	15.0

Conclusion

This study has empirically explained the intermediary function of the ombudsman in resolving public disputes between public institutions and citizens. The findings indicate that friendly settlement as an intermediary method provides more interactive dispute resolution processes between public institutions and citizens despite some limitations. For instance, while the results prove that interactive methods show success in the resolution of disputes with educational institutions, they do not show similar outcomes with ministries, governorates, and local administrations. The dominance of caucus mediation, the most interactive friendly settlement method, with educational institutions also emphasizes the limited adoption of interactive methods by other institutions.

Another successful but limited outcome of the intermediary method is related to policy impact. As friendly settlement mostly contributes to the resolution of medium-scale disputes concerning a limited population, it shows limited policy impact in the public sector. Nonetheless, since 20.7

percent of the cases are large-scale disputes concerning a significant number of people, it is still successful to a certain extent in creating policy impact. Moreover, the results also show that ombudsman particularly adopt more interactive tools between public institutions and citizens when the scale of dispute is high, and the resolution concerns a significant population.

The findings also highlight that friendly settlement provides better accessibility to ombudsman and contributes to saving time. Friendly settlement increases the ratio of women and people from rural areas using ombudsman services. Furthermore, friendly settlement saves time compared to other ombudsman methods by decreasing the ombudsman's duration of resolution from 180 days to 76.26 on average. This means that friendly settlement also lessens the bureaucratic load in the public sector.

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Türkiye'de Yasama Ombudsmanının Kamusal Uyuşmazlıkların Çözümünde Arabulucu Fonksiyonu*

Hazal Duran**

Öz

Bu makale Türkiye'de yasama ombudsmanının kamusal uyuşmazlıkların çözülmesindeki rolüne odaklanarak kamu kurumları ve vatandaşlar arasındaki arabulucu fonksiyonunu incelemektedir. 2012 yılında Türkiye Büyük Millet Meclisi'ne bağlı olarak kurulmasından itibaren Kamu Denetçiliği Kurumu 80,535 kamusal uyuşmazlığı çözüme kavuşturmuştur. Ombudsmanın arabulucu fonksiyonu literatürde göz ardı edilmesine ve kurumun daha çok idari fonksiyonuna odaklanılmasına rağmen Türkiye örneği arabuluculuk yöntemlerinin uygulanmasının kurumun uyuşmazlık çözüm kapasitesini artırdığını göstermektedir. Arabuluculuk yöntemlerinin kurumun uyuşmazlık çözüm kapasitesini artırmadaki fonksiyonunu daha iyi anlamak amacıyla bu makale dostane çözüm yöntemi olarak adlandırılan ve 2017 yılından itibaren Kamu Denetçiliği Kurumu tarafından uygulanan arabuluculuk yöntemiyle çözülen 1003 uyuşmazlığı ampirik olarak analiz etmektedir. Bu çalışma, arabuluculuk yöntemlerinin kısıtlı olsa da taraflar arasındaki etkileşimi artırarak ombudsmanın uyuşmazlık çözüm kapasitesine olumlu katkı yaptığını ortaya koymaktadır.

Anahtar Kelimeler

Ombudsman, kamusal uyuşmazlık çözümü, arabuluculuk yöntemleri, dostane çözüm.

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Посредническая функция законодательного омбудсмена Турции в разрешении общественных споров*

Хазал Дуран**

Аннотация

В этой статье основное внимание уделяется функции законодательного омбудсмена в Турции в разрешении общественных споров, чтобы понять его посредническое положение между государственными учреждениями и гражданами. С момента своего создания в 2012 году при Великом Национальном Собрании Турции институт омбудсмена Турции разрешил 80 535 общественных споров. Хотя посредническая функция омбудсмена не исследована в литературе, а исследования, в большей степени, сосредоточены на юридических и административных функциях, турецкий контекст показывает, что использование посреднических методов увеличивает возможности этого института по разрешению споров. Для определения функции посреднических методов в повышении способности омбудсмена разрешать споры, в этой статье эмпирически проанализировано 1003 дела, разрешенных путем дружественного урегулирования - промежуточного метода, принятого Институтом омбудсмена Турции с 2017 года. Это исследование показывает, что посреднические методы вносят пусть ограниченный, но положительный вклад в способность омбудсмена разрешать споры за счет усиления взаимодействия между сторонами.

Ключевые слова

Омбудсмен, разрешение общественных споров, посреднические методы, мировое соглашение.

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