

A CRITIQUE OF ETHICS REGULATION IN TURKISH PUBLIC  
ADMINISTRATION

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## **ABSTRACT**

### **A CRITIQUE OF ETHICS REGULATION IN TURKISH PUBLIC ADMINISTRATION**

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In today's world, ethics has become an important discussion topic in public administration. Through the effects of neo-liberalism as the dominant ideology of globalization, Turkish public administration has forced to change with structural reforms by the international and regional organizations which are both ideologically and economically powerful on Turkey. The emergence of new forms of management techniques and governance models represented by the market values have triggered the moral transformation in Turkey. Thus, ethics regulation in Turkey has emerged as an external control mechanism since 2004 and focused on the desirable forms of behaviors of public administrators.

By attributing a very different meaning to the concept, ethics in Turkey has been grounded in extensive legalism almost substituting the law with its regulatory structural model. Therefore, this thesis study has examined the ongoing process relating to ethics regulation in two dimensions as legal/judicial and structural/organizational and tried to set forth legal and structural deficiencies in the implementation. Despite the fact that the concept of ethics is theoretically

inappropriate to be a subject matter of the regulation, legalization and institutionalization of ethics in Turkey has led to discharge of its meaning by removing it from its main function. The empirical study with the interviews conducted with government officials within the scope of this thesis has emphasized that ethics regulation has emerged as a pointless effort since the very beginning in Turkey.

**Keywords:** Ethics Regulation, Administrative Ethics, Ethics Management in Turkey

## ÖZ

### TÜRK KAMU YÖNETİMİNDE ETİK REGÜLASYONUN BİR KRİTİĞİ

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Bugün dünyada, etik, kamu yönetimi literatüründe tartışılan önemli bir konu haline gelmiştir. Küreselleşmenin baskın ideolojisi olan neo-liberalizmin etkileriyle, Türk kamu yönetimi ideolojik ve ekonomik olarak Türkiye üzerinde güçlü olan uluslararası ve bölgesel kuruluşlar tarafından yapısal reformlarla değişime zorlanmıştır. Yeni yönetim tekniklerinin ve yönetim biçimlerinin kamuda ortaya çıkması Türk kamu yönetiminde de ahlaki dönüşümü tetiklemiştir. Böyle bir çevrede, etik regülasyon dışsal bir denetim aracı olarak 2004 yılından itibaren ortaya çıkmış ve kamu yöneticilerinde istendik davranış biçimleri üzerine odaklanmıştır.

Kavrama farklı anlamlar yüklenerek, Türkiye'de etik, düzenleyici yapısal modeli ile neredeyse hukuku ikame edecek şekilde yoğun bir kanunculuk ile temellendirilmiştir. Bu sebeple, bu tez çalışması etik regülasyona dair devam eden süreci yasal/yargısal ve yapısal/kurumsal olarak iki boyutta incelemiş ve uygulamadaki eksiklikleri ortaya koymaya çalışmıştır. Etik kavramı teorik olarak düzenleme konusu olmaya uygun olmamasına rağmen, etiğin hukuklaştırılması ve kurumsallaştırılması kamu yönetiminin temel fonksiyonundan uzaklaşmasına ve etik kavramın içeriğinin boşaltılmasına neden olmuştur. Bu tez çalışmasında yapılan ampirik çalışma kapsamında kamu görevlileri ile yapılan röportajlarda, Türkiye'deki

etik regülasyonun en başından beri verimsiz bir çaba olarak ortaya çıktığı vurgulanmıştır.

Anahtar Kelimeler: Etik Düzenleme, Yönetim Etiği, Türkiye'de Etik Yönetim

To My Husband,

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## **CHAPTER 1**

### **INTRODUCTION**

In modern sense, ethical debates in public administration have been intensified since 1970s and are still gaining prominence in today. In the beginning, the corruption in political-bureaucratic system was perceived as unique to underdeveloped countries but the situation was the same in developed Western countries. Huge political and bureaucratic scandals was not much different in those countries attracted all the attention to the "notion of ethics" and exacerbated ethical debates in public opinion (Ömürgönülşen & Öktem, 2005: 231). The idea of ethics 'as a preventive measure' began to take part in every country's anti-corruption strategy besides 'the law enforcement measures'. In fact, it has been adopted by the governments as another control mechanism to deal with administrative and criminal offences in addition to laws. Although the laws have been designed to protect human rights and to ensure the principle of legality in criminal or administrative offenses, ethics was interestingly presented as only solution to struggle with the political and administrative corruptions occurring in the environment that maladministration and conflict of interests have extremely increased and become widespread. The expansion of these problems with the help of TV and media led to unrest in public and loss of prestige in public administration at all around the world (Okçu, 2002: 10).

The effort to create code of ethics and standards with building up regulatory and supervisory agencies have also become prevailing in public administration. The main reason for these efforts is the perception of a decline in the standards of public administration. Since such a perception has brought forward the costs of misconduct on the part of those who have been entrusted with protecting public interests and funds. These negative developments have started a comprehensive reform movement

which calls for universal 'ethical principles' based on 'moral consensus' all over the world. Through a claim of eliminating moral distortions, governments have called out regulatory bodies equipping them with legal powers similar to the courts to oversee the unethical behaviors in public administration and to implement necessary sanctions in scope of the regulations they based on.

However, the corrupt order has been tried to be justified interestingly by the so-called universal ethical principles which are very implicit and not known to every individual despite the certainty of laws. All the states and their institutions have found themselves involved in this process by trying to minimize deviations from these de-facto principles. They have even chosen the way of enacting ethical principles as 'in the form of laws' in line with the transformation of government from a big bureaucratic machinery into a small but effective regulatory government across the advanced capitalist world. Therefore, the provided legitimacy coming from possible impacts of this global transformation requires a deep and systematic analysis in terms of questioning why governments actually need to regulate public administration through ethics. It should be also noted that regulation inevitably brings the law together. Whereas, ethics and law are not the same thing. Unfortunately, ethics has been substituted law in Turkey and legislated like laws. Thus, public administrators have been forced to espouse ethics and to take overall responsibility of the moral wrongdoings in public administration. However, ethics as a part of the philosophy is very individualistic and thus people are alone with their consciences, individual beliefs and judgments. But, when public administrators who have some responsibilities and special powers such as discretion do morally bad things on behalf of citizens in general or a specific group of people waiting for public service, they have been already called to account for what they have done as required and defined by the legal system.

The new order which has been firmly affiliated with the New Right policies within the scope of 'minimal but regulatory state' understanding uses ethics as a self-control mechanism for its bureaucrats without entrusting them. However, the triggering effects of the New Right policies on the emergence of new public management understanding in the world can be regarded as the primary source of a lack of

common good understanding. Through focusing on the short-term benefits of the liberalization, marketization, and privatization, new public management continuously emphasize the efficiency and effectiveness in public administration. In fact, all these causes together have a major impact on the development of codes of ethics that seek for establishing the criteria for morally acceptable behaviors.

The efforts to form these common principles related to moral practices are the result of the 'regulatory state understanding' in the new order which is now prevalently used for a wide range of policy areas such as banking sector, energy market, capital market, public procurement area and many other fields. Nevertheless, regulatory body established for the administrative ethics in Turkey, namely the 'Council of Ethics for Public Officials', differs from the others in many respects. Although it has a similar structure as in the case of other regulatory bodies, the Council does not have the functional characteristics brought about by the regulation model in Turkey. For example, regulatory bodies should be independent and have an enforcement power. But, although the Council is authorized to conduct necessary investigations on the basis of applications claiming the violation of ethical principles by senior public officials, enforcement powers were not counted among the duties of the Council which have been obtained by the other regulatory bodies. In addition, it should be independent but the Council in Turkey was established under the Office of Prime Minister in 2004, by law No. 5176. To be clear, it can be said that it is not able to work independently both on legal and structural basis.

On the other side, regional and international organizations such as United Nations, World Bank, European Union, Council of Europe and OECD have been continuously demanding the 'good management' or 'good governance' practices from the member states. They have been chased to impose ethical values into legal-institutional infrastructures of both developed and developing countries through the contracts, advisory decisions, action plans and programs to avoid corruptions which form negative effects on the proper functioning of the market mechanism. Therefore, Turkey as one of the members or followers of these international organizations is under the pressure of Western policy implementations to ensure the alignment or harmonization in a way they intended to be done.

Furthermore, international scientific and professional organizations<sup>1</sup> have supported these efforts in worldwide. An 'Ethics Section' within the professional association, namely the American Society for Public Administration (ASPA) had been primarily formed to promote the ethical conduct. Besides laws, professional associations have advanced ethics as one of the regulatory 'codes of conduct'<sup>2</sup>. More interestingly, Transparency International was established in 1993 to stop corruption and promote transparency, accountability and integrity at all levels and across all sectors of the society. It investigates how corruption affects the daily lives of ordinary citizens and asks for the opinions of general public towards corruption. Also, it focuses on the corruption rates of various countries. According to the results of the corruption perceptions index, Turkey was ranked as 66<sup>th</sup> among 168 countries in 2015.

The efforts to create an ethical management system in the world have concomitantly brought the supervision of unethical behaviors to the government's agenda. Thus, governments have chosen to incorporate the principles of ethics into their legal systems as in the forms of laws aiming to determine the parameters of an acceptable conduct and have decisively implemented ethics training programs to reduce the corrupt behaviors in public administration. Constant monitoring of unethical acts with different structural/institutional mechanisms in the world public administration system has been also performed by the supervisory and regulatory agencies such as ethics boards or commissions. Especially, the involvement of these supervisory and regulatory agencies in the administrative process has paved the way for making the public work implementations compatible with the ethical values in search for a trustable government. To be affected from the developments in other countries, morality-based management approach in public administration has been adopted by Turkey during 2000s as an alternative solution to deal with the corruptions and a way of increasing the service quality and efficiency. The justification of the law<sup>3</sup>

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<sup>1</sup> These organizations refers to ASPA, NASPAA, IIAS, and IIPA.

<sup>2</sup> Codes of conduct are the written set of guidelines including social norms, rules and responsibilities for the proper functioning of public administration.

<sup>3</sup> Law Related to the Establishment Council of Ethics for Public Service and Making Modifications on Some Laws, Retrieved June 4, 2015, from [https://www.tbmm.gov.tr/etik\\_komisyonu/belgeler/kanun\\_5176\\_eng.pdf](https://www.tbmm.gov.tr/etik_komisyonu/belgeler/kanun_5176_eng.pdf)

establishing the Council of Ethics for Public Service<sup>4</sup> clearly pointed out that there is a close relationship between ethical codes of conduct and laws. However, it was claimed that subjective situations where laws are seen inadequate are supported by the ethical codes of conduct. This situation actually proves from the view point of government that ethical principles seem somehow complementary to the laws in Turkey. In fact, the problem can be associated with the enactment of these ethical principles as in the form of legal rules by the Council having judicial powers on public administrators. Although the Council in Turkey has empowered to determine ethical principles to be abided by public officials and to judge their behaviors, there is also a structural/organizational problem with this regulatory body. Therefore, ethics regulation in Turkey includes legal/judicial and structural/organizational imperfections which make the ethics regulation idle and aimless.

Turkish Grand National Assembly (TGNA) and ruling governments since 2004 have taken steps<sup>5</sup> towards the establishment of legal and institutional structure of ethics regulation in Turkey. However, the steps taken towards the establishment of an ethics management including both obligatory actions based on the policy requirements of international and regional organizations and also voluntary actions relying on ongoing corruptions have not been sufficient to form a solid ground for ethics regulation in Turkey. Thus, this thesis asserts that the ethics regulation in Turkey has been established over legal/judicial and structural/organizational imperfections since the very beginning. In this regard, the opinions of the members of ethics commissions and low-rank public administrators as practitioners have been given extra importance to analyze the indicators of abortive ethics regulation in Turkey. Legal and institutional dimensions of ethics regulation have been discussed over their comments and evaluations through a set of interview questions. Supporting the claim of the thesis, in-depth interviews within the scope of the comprehensive

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<sup>4</sup> The Council of Ethics for Public Service will be referred as the 'Council' throughout the thesis.

<sup>5</sup> These can be grouped into two such as legally binding and legally non-binding. The legally binding ones refer to the laws, regulations and international conventions. Others can be political and administrative measurements such action plans, strategies and reports. For example, 'TGNA Corruption Investigation Commission Report' (2003) or 'The Strategy on Increasing Transparency and Strengthening the Fight against Corruption' (2010-2014).

empirical study, four different assumptions have been tried to be justified through the opinions of the public administrators who are affected mainly from the ethics regulation.

First of all, conceptual and theoretical framework regarding the ethics will be reviewed in Chapter 2. Focusing on what ethics is about and the outstanding ethical approaches emerged throughout the history will be elaborated in detail. So that, the transformation of the meaning of ethics together with the changing world order would be clearly apprehended. Additionally, the relationship of ethics with morality, religion and law will be explicitly reasoned out. Since, prepotency of ethics understanding inspired by the philosophy of law in our modern world, in which everything that concerns our lives is tried to be suppressed by the notion of market economy or primary economic interests, are systematically occupying the public life. In other words, evolution of the ethical values in the form of laws, in a market-oriented environment, is emptying the concept of ethics. That's why; at the end of the chapter, there will be a theoretical evaluation regarding what ethics should be in our modern age. For example, Adams (2001: 294) justifiably claims that

Much of the activity in the world of public administration practice has been directed at external controls. The promulgation of additional laws and regulations has dominated our response to the moral slough of the 1990s, much as it did in the post-Watergate times.

Although we are now in 2000s, we are not using ethics for making good and right things for the benefit of human beings. On the contrary, ethics is used as a social control mechanism for the people. Thus, the assigned role for ethics is today unfortunately misunderstood both in Turkey and the remaining part of the world.

Chapter 3 will discuss administrative ethics as a formal topic in public administration within a historical background. Beginning with explaining the main objectives and functions of public administration, the aim of the chapter 3 is to analyze the ethical concerns in the early years of the public administration. Moreover, searching for what we know about the administrative ethics as a moral discourse in public administration system in the world will be the main focus of this chapter. Then, the

new dimensions of administrative ethics tied with the modern ethical concerns such as social equity, regime values, and their reflections on public administration will be broadly questioned. As the final subject, the two major philosophical stances, namely the deontological and teleological ethics, will be shortly addressed within the context of this thesis. Finally, the reflections of the Western world on Turkey's public administration system relating to administrative ethics will be evaluated before the study critically goes further with the existing legal and institutional infrastructure of administrative ethics in Turkey.

Chapter 4 examines the existing infrastructure of administrative ethics with its legal and institutional basis in Turkey. It should be clearly noted that ethics have found its expression in principles and standards such as transparency, accountability, duty of care, avoiding conflict of interest etc... These principles have been apt to be legally enshrined into laws and institutionally monitored by the Council within the authorized limits stipulated by the law No. 5176. The ethics regulation in Turkey has been regarded as a solution to the corruptions in public administration and embraced by the government in order to have all public administrators to adopt these values. Through easily replacing law with ethics, government preferred to establish an external control system for its bureaucrats. In other words, ethical principles or codes substitutes the laws, equating the latter with the former. Thus, public administrators stay under the pressure of this control mechanism. However, legal sanctions, administrative or criminal, have been already determined by the existing laws in Turkey. Such kind of a legal control on public administrators over ethics regulation deserves a further discussion in a critical sense. Since, ethics cannot be a subject matter of a regulation since ethics as the part of the philosophy appeals to individual reasoning and conscience.

Chapter 5 deals with the empirical analysis of the existing ethics regulation in Turkey through in-depth interviews conducted by the members of ethics commissions and low-rank public administrators as the practitioners of the field. In this study, four different assumptions have been made over legal/judicial and structural/organizational imperfections or deficiencies of the ethics regulation in Turkey. That's why, the study asserts that ethics regulation in Turkey has been

inaccurately and deficiently established from the very beginning. Beyond that ethics is not a concept which is capable of substituting or superseding the laws, its institutional structure has been built on a flimsy ground. For example, the Council as the regulatory body only determines the ethical principles and the oversight function is ignored by its structural/organizational aspects which are assigned to it. Without having sanctioning power, it is unable to perform the duties specified in the law such as conducting necessary investigation on the basis of applications claiming the violation of ethical principles by senior public officials. However, if it makes an investigation and finds that there is a criminal or disciplinary offence committed by the senior official, the Council cannot give any penalties. At that time, the duties of the Council could contradict with the final decisions of the courts. Therefore, the activities of the Council in this regulatory model does not go beyond to give some basic resolutions for public institutions and basic trainings for public administrators. Therefore, it is required to question the necessity of the ethics regulation due to its legal/judicial aspects and its structural/institutional model in Turkey.

Furthermore, the interviews which have been conducted with both low and high rank public administrators in different public institutions of Turkey have been used to touch upon the problems with the ethics regulation in Turkey. The opinions of the interviewed are very important to analyze the underlying reasons on why ethics regulation did not or cannot work in Turkey. Different perceptions of ethics, low rate of awareness regarding ethics regulation, dysfunction of the ethics commissions and finally the blurred relationship between ethics and law as the assumptions of this study supports the claim of this thesis regarding that ethics regulation in Turkey is very problematic through its legal/judicial and structural/organizational deficiencies so that the legal and institutional basis of the ethics regulation in Turkey has been wrongly established from the very beginning.

The ethics regulation in Turkey has been put into practice to be an external control mechanism and imposed to public administrators through its new institutions besides the specific ethics legislation. Instead, the aim of ethics should have been to just remind that ethics is a part of the everyday life including administration keeping its importance on the agenda to raise ethical awareness and to solve the ethical

dilemmas occurring under the ordinary cases, unexpected circumstances, social and economic relations. However, ethics is now being used as an instrument to solve the social and economic problems of the capitalist system supported by the neo-liberal ideology and globalization through its new institutions. In fact, the new world order wants to reshape the public in line with its utility-based understanding so that the behaviors of the people are kept under control through the new regulatory institutions/structures. Assigning a different role for ethics in public administration, unethical behaviors are now being supervised by the Council at the highest level and ethics commissions at the lowest level in public administration. Through this empirical study, structural/institutional imperfections of ethics regulation has been examined over the ethics commissions at the lowest level. Since, institutionalization of ethics in public organizations through the ethics commissions deeply reflects the failure of ethics regulation in Turkey in an intense public scrutiny and proves that ethics regulation in Turkey has not achieved the intended results or outputs by the government. Furthermore, it has not been actually used as an effective controlling tool of the new world order as expected since the ethics regulation in Turkey has been established as flawed from the very beginning.

Beyond in its foundational ground, ethics has a relativistic nature and is shaped by the individual judgments putting emphasis on conscience which indicates the right and wrong in an exact manner. Furthermore, ethics regulation has not been instinctively developed and adopted in Turkey. It would not be wrong to say that ‘ethics management’ based on legal and institutional regulation in Turkey can be actually interpreted as the extension of Westernization efforts of Turkey. In parallel with the Western understanding of ethics, Turkey has promulgated ethics regulation without calculating its consequences for its administrative system. However, ethics regulation in Turkey established over the legal/judicial and structural/organizational system have deficiencies or imperfections leading to implicit form of ethics in public institutions. Within the scope of the thesis, empirical study conducted with members of ethics commissions and low rank public administrators has underlined that ethics regulation in Turkey is not viable due to different perceptions of ethics, low rate of ethical awareness, dysfunctionality of ethics commissions and the blurred

relationship between ethics and law. In this regard, both public organizations and public administrators has been remained very passive recipients of the moral reform through ethics regulation in Turkey.

## **CHAPTER 2**

### **CONCEPTUAL AND THEORETICAL FRAMEWORK**

Philosophers have been always seeking answers to various ethical questions since the ancient times in the history of philosophy, spending their time on discovering unsettling things about morality to provide a solid foundation and to give new insights into our everyday lives. However, ethical matters have also become the subject matter of those people who are not philosophers not only in ancient times but also in modern times of our world. Ethical questions indicate clearly that the study of ethics is not only the concern of academic people. Since, ethical issues may arise in many areas of our lives and every ordinary person may encounter ethical problems related with their personal goals and relationships with others. The same person is also able to solve these problems by making ethical judgments discussing the particular moral issues not in great detail as philosophers do but in a basic way with using their inquiring minds or their life experiences. Due to the fact that ethics is fundamental to our lives, its conceptual and theoretical framework requires a further elaboration. Since, in a climate of increasing interest and regulation in the field of public administration, the outline of conceptual and theoretical framework of ethics is required to be coherently examined within the scope of the thesis to understand the ground or positioned situation of ethics in public administration. On the other hand, ethics in public administration derived from the theoretical ethics is important in terms of incorporation of structural and organizational aspects into public administration under the name of ethics regulation in Turkey.

#### **2.1 Origins of Ethics**

First of all, it should be noted that the study of ethics has been usually thought to be an aspect of philosophy. Thus, the relationship between two ought to be examined as the first starting point to get proper answers on what ethics is about, what are the

sources of motivation for ethical behaviors, should these motivations be guided by 'innate moral sentiments', 'rational thoughts', 'absolute categorical imperatives' or 'provisional ultimate goals'...etc. In these circumstances, it can be argued that what the philosophy is and what it seeks for and pursue in its subject field in order to understand the relevance of ethics and to apprehend the essence of ethical issues in philosophy. On that issue, Louis P. Pojman (1995: xv) states that:

ETHICS OR MORAL PHILOSOPHY IS ONE BRANCH of philosophy.  
What is philosophy? It's an enterprise that begins wonder at the marvels and mysteries of the world, that pursues a rational investigation of those marvels and mysteries, seeking wisdom and truth, and that results in a life lived in passionate moral and intellectual integrity. Believing that "the unexamined life is not worth living," philosophy leaves no facet of life untouched by its inquiry. It aims at a clear, critical, comprehensive conception of reality.

Pojman identifies the concept of 'ethics' with 'moral philosophy' by using these concepts interchangeably. Therefore, according to Pojman, 'ethics' refers to the domain of philosophy and especially, moral philosophy due to the fact that they have common features that will be explained in detail in the following paragraphs.

Alasdair MacIntyre (2004: 3) point outs to the changing characteristics of the concepts and aptly states that "philosophy leaves everything as it is - except concepts." because he believes that investigating a concept philosophically helps to transform the concept itself. This philosophical inquiry can recommend necessary revisions on existing concepts or find out new concepts by modifying or eliminating the old ones (MacIntyre, 2004: 3). It can be concluded that the meaning expressed by the moral concepts could be expounded and discussed by the various philosophers of each age with different opinions and approaches. They interpret ethical value judgments with respect to their understanding of life. In this sense, the concept of ethics as one of them is handled by many ethical theories reflecting different assumptions about the subject of ethics and its paramount importance to us. Therefore, the best way to comprehend and to explore the meaning of ethics is to

know firstly in what context or scope ethics is analyzed and grounded by different thinkers.

## **2.2 What Ethics is About?**

David E. Cooper in his titled book "Ethics; The Classic Readings" (2004: 1) has noted that ethics is derived from the Greek word *ethos* meaning 'character'; 'moral' is derived from the Latin word *moralis* relating to 'custom'. Despite coming from different origins, these two terms have been used interchangeably by many philosophers. For instance, when we talk about Aristotle's ethics, the first thought that comes to mind is his theory of good, virtue, justice and so on. Cooper (2004: 1) finds interesting that the meaning of these two terms alter over the centuries; since, the difference between ancient and modern thinking proves this assertion. From a different point of view, Ahmet Cevizci (2014: 11) claims that ethics is actually a polysemous word that contains different meanings in itself. There is an ambiguous situation concerning what exactly 'ethics' corresponds to and what issues it actually emphasize (Cevizci, 2014: 11).

According to Harun Tepe (1998: 10), ethics is often mixed up with 'the moral' in the literature. On this respect, he asserts that morality is used in three different meanings. Just one of them exactly coincides with the ethics. Two other meaning is separated from ethics, which has been basically a branch of the philosophy. Ethics has characteristics of being one of the key areas of philosophy as a field of knowledge. That's why; ethics has a privileged position among the topics covered in the initial study of philosophy such as existence, knowledge and logic. For example, Socrates, Plato, and Aristotle have clearly presented that ethics is a field of knowledge (İyi & Tepe, 2011: 6). In fact, ethics as a discipline of philosophy reveals verifiable and falsifiable information regarding the ethical problems in relation to humans (Tepe, 1998: 9-24).

It has been already stressed that the study of moral philosophy providing one with tools helps to address a range of ethical issues with a greater sophistication. In this context, ethics as a branch of philosophy is interested in how we ought to live with the idea of the 'good' in practice of our real life. Ethics investigates the existence and

the validity conditions of moral practices (Evre, 2012: 1). Essentially, beyond the prevalent use of ethics which is generally equated with morality in daily language, it questions the morality itself and deals with how we should maintain our lives within the framework of the 'good' understanding.

In philosophy, moral judgments or statements have generally placed a value, negative or positive on actions and practices of human beings. Since, they are evaluative in terms of relying on beliefs in general about what is good or bad and also right and wrong (Mackinnon, 2008: 5). This is because that ethics is about human conduct and people generally tend to identify their own ethics because they constitute their set of values or beliefs according to diverse sources that are originated from family upbringing to individual choices. Here, it can be inferred that the 'good understanding' can change from one person to another. In this situation, ethics seems highly personal. It can be accordingly claimed that not everyone agrees on what ethics is. Some people may regard ethics as a set of moral beliefs developing over the years or social principles or standard codes ruling the society. Some may believe in that ethical thoughts arise from the religion providing a motivation or inspiration to be moral.

Pieper puts forward that ethics as a discipline or a branch of philosophy is about human actions which primarily emphasize the actions and behaviors of human beings in terms of morality. In other words, it investigates human practices in order to justify the concept of morality with regards to existing moral conditions (Pieper, 2012: 23). When Wyschogrod and McKenny (2003: 1) also asked for what ethics is about, the answer is that

It is about what actions we should perform, what rules should govern our conduct, what end states we should pursue, what virtues we should cultivate, and, at a deeper level, how we can justify claims about all of these matters.

However, ethics does not say anything that needs to be done because ethics is not an activity that lays down the rules and guidelines to be followed for every specific

moral situation. Ethics just speaks on morality which means that it thinks about morality and makes analysis on the purpose of ethics (Pieper, 2012: 29).

On the question of what ethics is, Johnson and Reath (2007: 1) point out that the kind of examination of life to which Socrates devoted himself is the branch of philosophy called "ethics or moral philosophy". They conceive the concept of ethics as a rational inquiry how to act and how to lead one's life and they ask some questions about ethics in relation to the course of its history:

What are the proper aims of life? What goods are truly worth having and what kinds of actions truly worth engaging in? What are the principles that distinguish right from wrong? What principles should guide our treatment of others, and what limits do they impose on our pursuit of our own happiness and our personal goals? ...And are there objective answers to questions such as these? Are there, for example, any universally valid moral principles that all people and all societies ought to accept?

Therefore, as can be understood from the questions above, ethics is a normative theory rather than a descriptive one. It needs to provide a realistic view of human nature and motivation but its purpose is not to describe people's actual behaviors and goals or the values that they actually accept and follow. The critical approach to the moral philosophy as a normative enterprise is its voluntary conduct. Ethics does not tell us what we should do in certain situations, it sets out information about the action and values which are required for only our evaluations (Tepe, 1998: 59). This means that individuals can determine the good over actions and attitudes with their reasoning, their experiences, and value assumptions - for example, that helping poor people is good or driving car with alcohol is bad. There is always a possibility of changing our thoughts and beliefs according to our ability to pick up reasons and to evaluate them clearly in order to make good ethical value judgments. As a result, ethics deals with what ought to be the good or bad thing and just make guidance for us to judge the situation as the 'good' or the 'bad'.

On the other hand, the concept of ethics is related with a form of self-control which aims to enhance responsibility of individuals. Since, ethics includes an inward sense

of personal obligation (Eryılmaz & Biricikoğlu, 2011: 19). So, ethics cannot be defined here as a "system or code of conduct based on universal moral duties and responsibilities which indicate how one should behave", it is just about the ethical choice that can be shaped by the ongoing process of individual self-cultivation and self-constitution (Jun, 2006: 178).

To form a basis for a theoretical framework, the branches of moral philosophy are required to be examined in order to understand which specific activities philosophical ethics embraces. Pojman defines ethics as a practical discipline and divides it into two parts: theoretical and applied. The theoretical aspect meaning 'ethical theory' focuses on comprehensive theories about the good life and moral obligation. This aspect helps to analyze and constructs grand systems of thought to explain and orient agents to the moral life. That's why; it is closely interested in the concepts such as 'right', 'wrong', 'permissible', and the like. The 'applied ethics' is more related with the moral problems such as on the abortion issue, euthanasia, capital punishment, and civil disobedience (Pojman, 1995: xvi). In addition, moral philosophy is also generally divided into two main branches or subject areas by most of the thinkers: meta-ethics and normative ethics. Harry J. Gensler (2004: 13) asks some basic questions to be able to make a clear separation between these two main branches in his titled book 'Ethics: Contemporary Readings':

Is there a right and a wrong in any objective sense? If we say (for example) "Racism is wrong," are we just making a claim about our cultural standards or personal feelings—or are we making an objective claim that is true or false regardless of what anyone may think or feel? Are there objective ethical truths? If there are, how can we know them? Is there any way to reason against those who have opposing views about what is right and wrong?

According to him, above questions are related with meta-ethics. Meta-ethics focuses on the nature and methodology of moral judgments. In other words, it is interested in the meaning of words such as "good" and "right" (Richter, 2008: 5). Furthermore, it examines the moral language in the field.

The other branch of moral philosophy is called 'normative ethics' which tries to determine the standards for the rightness and the wrongness of the actions. Its subject matter may be also related with what is worthwhile, virtuous, or just in terms of moral actions. On the other hand, as noted previously, applied ethics points out that ethics is not only a theoretical science because it examines substantially specific controversial issues such as abortion, capital punishment, homosexuality, nuclear war...etc. To clarify the situation, a few examples can be given. You are dealing with normative ethics if you defend norms like "Violating anybody's natural right is wrong" or "Whatever produces the most happiness is something good" (Richter, 2008: 5). Richter asserts that normative ethics studies the strengths and weaknesses of competing ethical theories such as teleology, deontology, or virtue ethics. However, you are interested in meta-ethics if you defend opinions such as "There are objective moral truths based on God's will" or "Moral beliefs express, not objective truths, but only our personal feelings" (Gensler, 2004: 13). Normative ethics is also distinct from the 'descriptive ethics' in the sense that descriptive one executes an empirical investigation of the moral beliefs. Therefore, it describes the consequences of human actions by observing them instead of setting principles related with them. It only states factual prepositions concerning moral views and beliefs of the people.

It is now possible to fully grasp the essence related with what issues ethics exactly discusses, to which purposes ethics serve, and why so much attention is being paid to ethical matters. Not being constrained by this detailed conceptual framework, an elaboration and substantial analysis is necessary to be carried out with the help of some grand approaches in the history of ethics. Furthermore, these main approaches involve the stances or opinions of the well-known philosophers who have become very popular in their own times and also let us explore the basis of their ethical understandings in the philosophical inquiry.

### **2.2.1 The Main Approaches in the History of Ethics**

There have been lots of teachings, dialogues, and writings of many important philosophers from ancient, medieval, and modern era. Their general remarks on ethics which means their philosophical inquiry into the field of ethics constitutes the

ground of ethical debates of that time. Theories of them have attempted to constitute a systematic account of ethical thought; however, these thinkers' overall approach have been shaped by some salient concepts or their transformation of these concepts into constructed arguments hoping with coming closer to the truth. The perennial questions of life have been started to be examined through this competing philosophical inquiries. As for our expectations from moral approaches or theories regarding the controversial issues of moral conflicts, they should provide us to see the moral blind spots in our lives. Therefore, the following sub-chapters will be devoted to the evaluations of mainstream or prominent approaches in the history of ethics as in the form of duty, action and virtue-based variations trying to prove the best account of the moral life.

### **2.2.1.1 Utilitarianism**

Utilitarianism as a moral philosophy starts with the studies of Scottish Philosophers Frances Hutcheson (1694-1746), David Hume (1711-1176) and Adam Smith (1723-1790) and comes into its classical stage in the writings of English Social Reformers Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873) (Pojman, 2005: 111). Utilitarianism appeals to neither character nor reason. For utilitarians, it is important to enjoy pleasure and avoid suffering and also this situation is valid for everyone. The term 'utilitarianism' drives from the word 'utility'. Gordon Graham (2006) emphasizes the meaning of the term as 'usefulness'. On the other hand, Noel Stewart (2009) insist on the meaning of the word 'utility' as happiness rather than usefulness and claims that utilitarianism has three essential features. First of all, it is consequentialist meaning that consequences or results are determinative on the rightness or wrongness of the actions. Secondly, utilitarianism is 'good in itself'. In other words, Stewart (2009: 13) claims that "...happiness is intrinsically, or inherently, good. Everything that leads to the emergence of happiness at the end is good." Thirdly, the principle of utility should be applied to every action to be able to decide whether your actions are right or wrong. 'The greatest happiness of the greatest number' is the main discourse of the utilitarianism.

The idea of using utilitarian moral theory to maximize the total sum of the welfare among people was asserted by Jeremy Bentham. He was very enthusiastic about proposing many legal and social reform policies using the felicific calculus to bring all people to a certain level of well-being. Here, generating the greatest pleasure is related to making the best calculation. As Torbjörn highlighted, Bentham was critique of the traditional laws, institutions and customs so that he has seen the radical reforms as obligatory on the existing system (Tännsjö, 2013: 17). On the other hand, J.S. Mill articulates a more reasonable moral philosophy than those of his utilitarian predecessors. According to Mill, there is a difference between higher and lower qualities of well-being although the main argument of Mill's utilitarianism is happiness or pleasure in the end. Torbjörn points out that according to Mill's form of utilitarianism, the higher forms of well-being (happiness) should be pursued. Furthermore, Bruce N. Waller (2008: 21) states that "...for Mill, even small doses of high quality pleasure easily outweigh mass quantities of lower pleasure". In contrast to Mill's approach, Bentham is reluctant to separate pleasure into different categories.

There are uncertainties with the hypotheses of the utilitarianism since the theory seems unlikely to be applicable. Firstly, the problem that how much utility we are obliged to produce in order to get the greatest happiness for everyone is not certain. In that case, we have to choose the best option that requires a precise calculation. Secondly, what consequences we should evaluate to find out the greatest utility. Act utilitarians particularly elaborate the consequences of each individual action to decide the moral worth. However, rule utilitarians look at the consequences of adopting a rule that allows people to follow a certain way under the same circumstances. Thirdly, it is necessary to ask which consequences for whom? Utilitarianism answers this question very easily: for the people. Yet, it is a very challenging presumption for utilitarianism to include all people to the calculation of utilities. Also, we have to think about the consequences for future generations and the sufferings of all creatures outside of the people in the nature. All in all, when we look at the arguments for and against the utilitarianism, we can able to understand how utilitarians evaluate and practice their lives. According to this theory, they will

try to find out the best consequences of their actions, rules or practices through making precise predictions in which they produce the greatest happiness.

### **2.2.1.2 Kant's Moral Theory: 'The Ethics of Duty'**

Greater emphasis shifted onto the notion of right, duty, and obligation in the early modern period beginning in the 17th century (Johnson & Reath: 2009). The common aim of the philosophers of this period is to define the primary rules of the right conduct and to explain why people have to follow these rules. As the most prominent representative of that period, Immanuel Kant emerges with his moral theory called as 'ethics of duty' which is one of the most important examples of the deontological ethics in the literature. In deontology, some actions are right or wrong irrespective of their consequences meaning that no matter how morally good their consequences. The rightness of the action is related to its conformity with a moral norm or rule. In Kantian ethical system, the right has a priority over the good. Since, when the action is right according to moral rules, they do not necessarily have to produce the greatest good for everyone. As it is understood, Kant's moral philosophy tries to understand the role of duty in the moral life. In his most celebrated work, entitled as "Groundwork to the Metaphysics of Morals", Kant intends to lay out the fundamental, rational character of moral thought and action. Specifically, his ethical theory depends on three main understanding. First one is that "An action has moral worth if it is done for the sake of duty" (Hinman, 2007: 167). In other words, people actually have to perform his or her moral duty solely for its own sake. Precisely at this point, Kant's ethics of duty tells us that "...knowledge of right and wrong was knowledge of the requirements of moral law and that such knowledge was a matter of common sense" (Deigh, 2010: 140)

Since, Kant remarked that every people uses their reason to validate and justify moral precepts in order to understand whether an act meets the requirements of moral law and whether we have a duty to perform it. The process of reasoning is decisive regarding our knowledge of right and wrong. The second important point stated by Kant is that "An action is morally correct if its maxim can be willed as a universal law" (Hinman, 2007: 167). Bruce N. Waller (2008: 21) argues that the reason can

indeed provide an input to generate such absolute categorical imperatives and these imperatives are applied as universal moral rules or principles in Kant's idealist ethical system. He introduces the term 'imperative' to call for some principles of practical reason called as 'categorical imperatives' which we have to follow unconditionally or tells us to do something. Kant believes that imperatives as the products of reason are universally applicable to the rules of conduct (Pojman, 2005: 146). In other words, it can be asserted that moral law must be valid for every rational being. Furthermore, it would not be wrong to say that Kant rejects any empirical content in the formation of the moral law. As a priori, moral rules are universally valid and morally binding. As the third claim, Kant believes that "we should always treat humanity, whether in ourselves or other people, as an end in itself and never merely as a means to an end" (As cited in Hinman, 2007: 167).

There are some critical points that deserve a further elaboration. In Kantian view, ethics is universal and absolute and the principles of it are generated through the rational reasoning that excludes the feelings, desires and preferences. In that sense, Kant's theory is very rigid and does not allow to any flexibility. There is no room for the experiences and observations so that the truth is only discovered by the reason. Furthermore, Hinman (2007: 171) points out to the moral minimalism of Kant who implies "an undue emphasis on only doing what is morally required in a given situation". Duty as the only ground of moral actions leads to objections by other ethical theories. Moreover, in the situation of clashing duties, categorical imperatives remain incapable or insufficient to solve the conflicting moral state. On the other hand, Kant insists on that categorical imperatives must be rationally consistent with other maxims. It should be also noted that when we speak of universal moral truths, it is very hard for every people performing the same kind of actions with the same effects. The reactions and objections need to be ignored in that situation and only the obligations become prominent as a heavy burden to be strictly followed by the people to comply with the moral rules. Consequently, supreme principles of the morality have been tried to be put forward in Kant's ethical theory.

### 2.2.1.3 Virtue Ethics

Virtue-based ethics, sometimes called as 'aretaic ethics', focuses on the issues of character and the role of virtues in moral life (Hinman, 2007: 29). As previously explained, deontological ethics emphasizes duty over a universal moral law and unconditional imperatives; however, the morality of an action in teleological ethics is based on the good results produced by the action of the person himself/herself. Yet, rather being different from the two ethical theories, virtue ethics is related with 'the person or agent behind the actions, not so much with the actions themselves' (Steward, 2009: 55). In fact, this theory attaches importance to the feelings, attitudes, habits and lifestyles of individuals and all these factors are morally related to being good person. On that issue, Steward (2009: 55) points out that

Instead of rules, virtue ethics offers virtues, ideal character traits, that lead to and are part of the good life, but there is no moral algorithm, or set of rules that you can rote learn in order to acquire the virtues.

According to Johnson and Reath (2007: 8), the virtue as one of the traits of character is the integral part of the true human good. It is accepted as a characteristic that needs to be developed to get the highest good. Additionally, Pojman (1995: 161) clearly underlines that virtue ethics emphasizes 'being' which is related to being a certain type of person. In that sense, the main question for virtue ethics is that "What kind of person ought I become?". The answers to this question can be especially assessed through the explanations and justifications of Socrates, Plato and Aristotle.

The discussions of Socrates related with ethics can be found in Plato's 'Socratic' dialogues. For example, in Plato's *Apology*, Socrates answers the charges made against him by the city of Athens. While defending himself, Socrates questions the ways of a good life and puts forward his view of wisdom, virtue, justice and truth by stating that:

...If I say that it is the greatest good for a man to discuss virtue every day and those other things about which you hear me conversing and testing myself and others, for the unexamined life is not worth living for men, you will believe me even less. (38a)

...Telling you that virtue does not come from wealth, but that wealth, and every other good thing which men have, whether in public, or in private, comes from virtue. (30a-b)

Like other ancient philosophers, Plato maintains a virtue-based conception of ethics. That's to say, the main purpose of moral thought and conduct is the human well-being. In *Gorgias*, one of the dialogues of Plato, he explains that "...the best way of life is to practice justice and every virtue in life and death". (c83)

In fact, according to Plato, a good and true man who behaves virtuously does not hurt anyone. Aristotle, in *Nicomachean Ethics*, also argues that "happiness is activity in accordance with virtue, and this will be the virtue of the best element" (Hanbury, 2004: 189). Hanbury also emphasizes that "Aristotle felt that a happy life for a human is a life governed by reason and virtue and ethical activity" (Hanbury, 2004: 189). Here, virtue is represented by moral and intellectual excellence. That's why, to be morally and intellectually perfect depends on behaving ethically. For Aristotle, a virtuous person is at the same time a knowledgeable person. He claims that if knowledge is a cognitive phenomenon, then, ethics and virtue can be learned by every people. Lynch (2004: 34) also states that ethics of Aristotle is not only the study and practice of the right and wrong behavior but it is also to live the 'good life'. He additionally claims that Aristotle explicitly objected hedonism, as he thought that living a good life overrides the pleasure maximizing (Lynch, 2004: 34).

As a result, it is possible to explain both some of the strong points and the criticisms regarding the virtue-based ethics theory. First of all, virtue theory addresses to the people who live their life morally deeply. Therefore, there is a substantial link between our behaviors or actions and our character. The virtuous person has to have highest moral standards for himself/herself and has to decide what sort of person he/she wants to become. Virtue theory provides us thinking about our character traits

which help us to take morally right and good decisions. On the other hand, Waller elaborates that virtue ethics may include a few loose ends. Although performing the virtuous acts are inspiring in terms of living a morally perfect life, it's very hard to alter our character traits. Moreover, it is also arguable that which virtues are held to be primarily implemented in our lives. Deciding the most genuine ones create a confusion to be adopted by the individuals (Waller, 2012: 105-106).

### **2.3 The Relationship of Ethics with Morality, Religion and Law**

Ethical beliefs have many different sources. One of these sources can be related with the personal religious and moral convictions (Russell, 2010: 14). It can be stated that not only morality has normative principles but also other domains such as law, ethics, and religion produce normative principles. There are similarities and connections among all of these areas and they can be called as the directive tools to govern the conduct of society and the choices of individuals. In other words, these domains can be related to each other in producing rules of conduct which are codified into varying degrees. But, which of them can be used as an effective tool to prevent unethical behaviors is a matter of discussion.

As it is understood that there are various sources of ethical views and types of reasoning that need to be examined in this thesis in order to come to a better understanding of ethics' role in public administration. Firstly, its close relationship with the concepts such as morality and religion will be discussed. Then, ethics and law distinction will be touched upon in scope of the thesis. This distinction is very important in terms of understanding the perception of ethics by public administrators and the method of adopting ethics regulation in Turkey.

#### **2.3.1 Ethics and Morality**

Ethics generally refers to moral rules in contemporary English usage which means that when an act is evaluated as ethical, it is at the same time morally defensible in general terms (Pojman, 1995: 2). However, many philosophers prefer to make a distinction between morality, moral philosophy, and ethics despite their close relationship. One example of this distinction is that of Louis P. Pojman that generally

uses morality to refer to certain customs, precepts, and practices of people and cultures. It can be thought as a system of norms and rules formed in societies through their specific cultures (Pojman, 1995: 2). On that issue, Cevizci (2004: 18) points out that morality is largely local because it signifies the values developed by a community in relation to their wisdom of life. As viewed from this angle, morality is something historically and factually experienced or is a certain practice. Lawrence M. Hinman (2007: 4) justifies in the same way that philosophers generally underline the distinction between morality and ethics. For them, society has its own moral rules and guidelines and these constitute the limits of acceptable behavior. He maintains that (2007:4)

These rules are about behavior that might harm other people (killing, stealing), behavior that is concerned with the well-being of others (helping those in need, responding to the suffering of others, or actions that touch on issues of respect for other persons (segregation)...

In short, these behaviors are about what you ought to do or not to do. Additionally, there may be some contradictions concerning our different values and an uncertainty emerges about which value should be the privileged one. At that time, ethical reasoning began to be processed. According to Hinman (2007: 5), "Ethics is the conscious reflection on our moral beliefs with the aim of improving, extending, or refining those beliefs in some way".

Moral philosophy may be perceived as a systematic endeavor which seeks to understand the meanings of moral concepts by incorporating them into ethical theories. Thus, the words such as right, wrong, ought, good, bad and permissible are analyzed in their moral contexts. In fact, moral philosophy is intended to disclose the principles of right behavior that may be used as action guide for individuals and society. It examines which values and virtues are outstanding and important for a valuable life. The moral philosophy used by Pojman refers to philosophical or theoretical reflection on morality. More specifically, moral theories issuing from such philosophical reflection are called as ethical theories (Pojman, 1995: 2). Although moral and ethics have come from the same root, the first that comes to

mind when you think of ethics is the 'moral philosophy'. Broadly speaking, ethics as one of the main branches of philosophy is in a close relationship with morality. As advocated by Pieper, moral actions constitute the subject of ethics. Ethics discusses all problems related with morality on a general, principal, and an abstract level. Thus, it cannot be able to determine the concrete objectives one by one as the good and the worth to be adopted by everyone (Pieper, 2012: 29).

The concept of morality also corresponds to the concept of order. In other words, morality includes a set of behavioral rules and norms which maintain the order in community where moral problems have a possibility to arise. This order requires the existence of a meaning that needs to be explained and understood clearly. Here, uncovering this meaning is a philosophical activity and this activity is carried out over principles at a very large extent. It can be said that ethical domain includes these principles which enable to justify and to understand this practice or structure which has been grounded in the concept of order (Cevizci, 2014: 17). According to Pieper, layout concepts such as state, information, and art create a sense of whole through several empirical data from a certain angle. For example, the state as a concept can be defined as a model that arranges the legal, political, and economic relations in community. The intended "order" in such kind of concepts relies on an indisputable existence of an ambiguous meaning. This interpretation is also valid for the 'moral' one. Justification of such meaning can be substantiated through the principal concepts which are capable of grasping the situation as a whole (Pieper, 2012: 46).

On the other side, the content of morality may vary historically between various groups, countries, and cultures. Additionally, it undergoes a transformative change in the course of socioeconomic, political, scientific, and other significant developments affecting the worldviews of the people. It can be inferred from that moral rules have some part of universality in terms of being renewable; however, morality mostly changes depending on the time, place, and culture but ethical principles are tried to be imposed as de facto or universal values to people. Therefore, ethics shuttles between the relative and conditional demands of moral, and the absolute principle of the morality. What is meant by that ethics has the uniqueness as a philosophical discipline and the role of ethics in such a discipline is not to develop any kind of

morality or to advise the compliance with the morality. On the contrary, the role of ethics is to obtain a general view on the nature of the moral relations. Ethics is generally used for a good purpose in life and morality with its normative content and a restrictive impact on ethics is used for achieving this purpose. Thereupon, Ricouer (2010: 233) defines the relationship between two as such: First of all, morality prioritizes ethics. Secondly, ethical objective is required to pass the filter of moral norms. As a consequence, when the moral norm practices get stuck, it is natural to apply ethics. Although morality is legitimate and indispensable part of the ethical objective, it forms the limited realization of ethics. In that sense, ethics surrounds morality (As cited in Aydın Usta, 2011: 43). All in all, transferring the meaning of moral action under a methodological and systematic manner is carried out with the help of ethics. Yet, it does not take place the moral action. It aptly finds out the knowledge-based structure of these kinds of moral actions (Pieper, 2012: 21). The questions of ethics do not deal with unique or specific cases. Yet, most part of the ethical questions is originated from the moral problems.

### **2.3.2 Ethics and Religion**

Ethical beliefs throughout the recorded history have had many different sources. One of them may be perceived as personal religious convictions originated from holy books or people etc... Therefore, they brought about that morality is closely bound up with religion and moral behavior which is generally held to be important to religious practice. Additionally, faithful people believe that religious inspirations can tell us how to act. Since, God as the creator of moral law reveals insights about life and its true meaning in the holy texts. It can be inferred from that the will of God is presented as revelation for moral rightness. Thus, there is no autonomous morality apart from religion.

Divine Command Theory of ethics also espouses that whatever is good is good only because God wills it to be good (Hinman, 2007: 81). To this theory, God's commands override the rules of morality. In other words, religion is seen as the absolute source of ethics. On the other hand, the opposing view admits that reason takes precedence over religion in case of moral conflicts and also provides criterion

for evaluating which actions are right or wrong. In fact, this perspective advocates that individuals as rational beings are capable of making decisions both maximizing their own well-being and respecting the other's well-being.

Philosophers, however, believe that ethics does not necessarily require a religious grounding. Philosophical ethics prefers to use reason and experience to decide what is good and bad, right and wrong, better and worse (MacKinnon, 2009: 4). Pojman (1995: 3) also claims that religious ethics has a vertical dimension in which divine authority and revelations are grounded but the practice of morality does not necessarily rely on religious considerations. From the philosophical viewpoint, religion is irrelevant to ethics. Although some people think that religion may still provide a motivation to be moral for some reasons, it becomes important to have non-religiously based ways of dealing with moral problems when it can be thought that we mostly maintain our lives in secular communities.

### **2.3.3 Ethics and Law**

Theoretically, ethics as one of the classical domains of practical philosophy encompasses the philosophy of law because how the 'concept of law' ought to be understood in relation to moral values has become the most important topic that needs to be discussed in this domain. Besides, some questions about what is the origin of law or is law just a matter of social fact or does it have some essential contact with morality have raised by philosophers in order to define and analyze the concept of law and its relations with other concepts.

Contemporary English legal philosopher H.L.A. Hart signifies certain features of the law. Firstly, he defines the law as a tool for social control which gets people to do things they would be unlikely to do if left to personal inclination alone despite endorsing the existence of other methods of social control such as morality or mere force (As cited in Murphy and Coleman, 1990: 6). Although he accepts that there is so much similarity between morality and law in terms of issues concerned with duty, rights, obligation, and responsibility, he advocates that they are in some sense different even if they are closely related (As cited in Murphy and Coleman, 1990: 7). He gives an example related with one of the differences that law is necessarily

backed up with force or the threat of force but morality is not. Despite the fact that law and morality have common point about the 'obligation', something which is morally obligatory does not have to be necessarily supported by the laws as Hart said. For example, the law generally does not require acts of charity or assistance. Mark Tebbit (2005: 4) draws the following conclusion from this example that "law operates a minimal morality, based primarily on the need for restraint". Tebbit also talks about a modern claim that every student in this subject area encounters an argument that 'a systematic analysis of law requires the separation of law and morality'. He aptly states that (2005: 3) "This is frequently referred as 'the separation thesis', and it is generally held to be the defining characteristic of legal positivism".

The positivist separation thesis insists that the law is different from morality and also the moral evaluation of law is a separate matter. Although the connection between morality and law is contingent, there is no necessary relationship between them because laws do not always coincide with moral values. Likewise, there may be some aspects of morality that are not covered by the law. For instance, while lying is accepted as usually immoral, there is no law against it, except in special cases such as perjury.

There is a general perception in society that law and morality have a common purpose. On that issue, Pojman asserts that morality is closely related with law and some people perceive these two as equal to each other. Since, law can enhance the well-being and social harmony and resolves the conflicting interests, just as morality does. He also agree on that there are considerable differences between two and explains in the following way that ethics may judge some laws to be immoral without denying that they are legally valid. For example, the advocates of anti-abortion can believe that the law which allows abortion is immoral (Pojman, 1995: 3-4). Furthermore, Mark Tebbit evaluates from a different point and makes a clear assessment on the issue that legal norms substantially diverge from moral norms. Thus, he claims that laws in many respects are less demanding than any serious moral code. Moreover, the great majority of laws are related to prohibitions rather than positive commands covered by the aspects of morality (Tebbit, 2005: 4). In this sense, it can be thought that moral principles differ from legal statutes because they

are generally produced as injunctions and their intent is to advise and to make guidance affecting the human actions in good and right way while laws are strictly establishing the boundaries of prohibited actions in negative sense. However, law can be more demanding than morality in such a situation when a person can break the law without doing anything morally wrong. For example, a public administrator can perform quickly his duty to serve the people waiting for the completion of his/her work regardless of bureaucratic requirements. This behavior is morally acceptable but the way of doing work may not be consistent with the requirements of the law.

Gordon Marino explicitly states in his titled book 'Ethics: The Essential Writings' published in 2010 that Thomas Aquinas and his long distance learning student, Dr. Martin Luther King, Jr., taught that "ethics provides a standard for the law". He also maintains that (2010: xiii)

Although there may be considerable overlap, ethics is neither law nor custom. Whatever else it may be, ethics is the study of ought and of relationships; that is how we ought to relate to ourselves, ought to relate the others, and as of late, of how we ought to relate to the earth.

The other important difference separating laws from moral rules is the enforcement power given by the public authority. On the other hand, while laws are regulating external behaviors of the people, moral rules are more related with the inner sense of the people (Güriz, 2003: 17). Enforcement power of the state overrides the sanctioning power of the moral rules. Besides, the limitation problem of laws has to be pronounced here. In this regard, legislative body (For example; Turkish Grand National Assembly) cannot enact and promulgate the laws for every specific social problem. In other words, every social problem disturbing the public order cannot be covered by the law.

In short, ethics is concerned with the principles of doing right and wrong to guide human actions and to contribute to produce a good character. Yet, the general aim of law is to protect the lives and liberties of individuals without violating the rights of others or providing gains to specific people or groups. The implementation of law is carried out by the judicial body and the punishments determined by the legislative

body are given to the people acting in an unjust manner but in ethics people have to question themselves by using their reason, conscience, religious beliefs...etc (Pojman, 1995: 6). Moreover, law-maker can more easily change the laws that are outdated or invalid for the time being but non-implementation of moral rules which are losing their importance occur slowly in social process. As Alasdair MacIntyre emphasized in his titled book 'A Short History of Ethics' (2004: 1-2): Moral concepts changes as social life changes" and "they are embodied in and are partially constitutive forms of social life. Consequently, moral rules are not fixed and they are constantly available to change and redefinition in social construction process".

## **CHAPTER 3**

### **ETHICS IN THE STUDY OF PUBLIC ADMINISTRATION**

Within the context of public administration, what exactly constitutes the crux of ethics is the subject matter of a number of studies. Many scholars have perceived ethics as a supplementary or an integral part of the public administration. Some of them have turned their attention into how can we exercise and maintain an ethical public administration in practice and in a complex working environment, involving challenges of discretion, ethical dilemmas that public administrators confront, multiple responsibilities, accountability problems...etc. D. Geuras and C. Garofalo (2010: 7) question the function of ethics in public administration and argue that the role of ethics in public administration changes according to the specific agency involved or the multiple approaches and perspectives implied. Despite the variety of answers, they accept the legalistic or compliance side of ethics in public administration and claims that ethics means oversight, controls, and sanctions. According to them (2010: 7), the choices of the public administrators should include both compliance and judgment; however, it is very hard to perform an independent judgment. Nevertheless, giving a legalistic character to ethics is not suitable to the nature of ethics since ethics is highly personal; that's why, it should be thought as a guidance for the human actions to contribute a good character.

Some public values extensively lie at the core of ethics discussions such as public interest, virtue, constitutional values, social equity, and citizenship and so on. All these form a part of the content of the administrative ethics. Therefore, it is important to discuss the role of public administrators as independent moral agents in administrative ethics. Because, ethics focuses on how public administrator should perform public works by examining the acts of them and by investigating the different types and levels of public morality such as honesty, conformity to law, public interest, fairness, equal treatment to citizens, responsibility and the many other

ethical orientations. Furthermore, ethical concerns of public administrators gain importance while they are formulating the public policies under the direction of political processes, pressures and other dominating factors. Especially, balancing the ethical orientations is a challenging situation for them due to meeting the exact needs of the public.

On the other side, government policies require a certain level of compliance so public administrators are inherently expected to be accountable. Hence, the capacity to make moral decisions is essential to public administrators while dealing with the complex problems of the public organizations. They may sometimes feel themselves as trapped in between serving the general interests of society and serving the specific group or individual interests. The administrators have to be also very consistent and impartial in their dealings with the public. Since, they are expected to behave justly and not to violate public trust. Public trust is important in democratic states due to the promises given by the governments to their citizens. Here, the entailments of making promise are actually fulfilled by the public administrators. On the other side, citizens have expectations from public officials and they want to see trustable people which can be able to make ethical judgments and to implement decisive actions in public services.

Today, the study of ethics in public administration is mostly associated with increasing political and bureaucratic corruptions and the prevalence of unethical acts and behaviors in all categories of government agents both at organizational level and individual level. Richard K. Ghere also underlines that the themes of morality due to the issues of government corruption have a constant effect on the public and force governments to reconsider the moral conduct in this changing public environment (Frederickson & Ghere, 2005: 3-4). In fact, the moral tone has been adjusted according to the behaviors of public administrators who are truly perceived as having a tendency to advocate political favoritism and to involve in corrupt behaviors whenever there is an opportunity to follow individual gains. That's why; the question of morality which seeks to keep the behavior of public officials consistent with the public interest has become a significant issue in modern administrative processes as one of the various control mechanisms through the ethics regulation. On the other

hand, the powerful and pervasive influence of neo-liberalism and globalization on public administration should not be ignored and the underlying reasons on the persistence of ethical management should be deeply investigated.

Public administrators feel the emerging tension between the "officially sanctioned morality" by the government and their individual sense of moral responsibility originating from their life experiences, their relationships with the environment, religious beliefs, and reasonable acts. Suffice is to say that ethics regulation in public administration is very problematic to achieve the intended purposes. The unethical behaviors of public administrators cannot be prevented by the ethics regulation such as ethics laws having so-called sanctioning power or regulatory bodies having an oversight function. In Turkey, this institutional structure has been wrongly established from the very beginning. Since, the establishment of the regulatory body in Turkey with its formation, organization, powers and duties, and also members does not meet the requirements that need to be carried by the other regulatory authorities in Turkey.

As a consequence, this chapter is intended to provide an overview of what should be the main function of ethics in public administration, how ethical values appeared in public administration, can it be an effective control mechanism like laws to refrain public administrators from engaging in unethical behaviors, does ethics regulation work properly and achieve its objective? There are a variety of answers by scholars to above mentioned questions in the study field.

### **3.1 Public Administration: The Main Objectives and Functions**

Public administration is both an area of substantial academic activity and a field of practical work. It formulates, manages and implements administrative policies and practices. At the same time, it is responsible for the delivery of public services to society in an equal treatment through the state mechanism depending on the changing relationships between the certain kinds of groups. Furthermore, public affairs also range across the varied interests of the government while growing in its scope and its substance. The increasing bureaucratization and professionalization prove that the scope of public administration has been extended since the rise of

modern administrative states. Now, modern states have a paramount importance in the conduct of human affairs that could be seen in a variety of public laws, in the growth of public profession, and in the socio-economic reconstruction of the state. Moreover, globalization of market economies and information technology developments require public administration to develop operational and practical tools to be able to provide proper answers to the reactions and the demands of the public.

These emerging developments also force them to be more open and transparent to their environment in which they directly interact with other public institutions and citizens. That's why; it should be widely considered that public administration should find the equilibrium between the certain sections of society and should handle the problematic cases in the most sound and responsible way producing administrative solutions equally applicable to all related parties. But, it is a tough process for public administrators to choose the best policy option satisfying the needs of all people.

The 'public' aspect gives the special character to the discipline and calls for a unifying set of themes and principles to endorse the significance of public values for the advancement of the common good. Hence, the main objective of public administration should be the enhancement of life standards for all citizens. Public administration as an aspect of governmental activity also aims to maintain law and order to promote the public trust. Maintaining law and order implies that state firmly has to deal with the control of crime, occurrences of theft, repression of violence, overcoming crisis creating social unrest in the public through enforcing penalties under the laws. In the complex structure of the state, legal dimension of the administration has been primarily emphasized and concerned with the implementation of laws. The law is crucial in order to regulate the growing socio-economic functions of the state and to keep the relationships stronger with the society. Furthermore, laws are effective to restrain the misuse of the state power which has been especially vested in the public authorities and institutions. Since, administrative powers should be kept within the boundaries of the law to ensure the proper functioning of the government.

Public administration executes all the government activities in public interest and responds to variety of public needs promoting plans and programs of the state administration. Therefore, public institutions of the state are obliged to form an order in which the majority of the people respect the rule of law for the inner peace in the country. Such a peaceful order also helps public institutions to be seen as the guarantors of the good lives. Woodrow Wilson inarguably acknowledges that

Administration is the most obvious part of government; it is government in action; it is the executive, the operative, the most visible side of government and is of course as old as government itself. (As cited in Braman, 2003: 62).

Because, public administration is a part of our daily life and to a large extent governs us. In this regard, Peters and Pierre (2003: 2) argues that

(...) public administration is an explication of the collective interest and that its legitimacy to a significant extent hinges on its ability to play a part in the pursuit of those interests.

Dwight Waldo being as a representative of a particular perspective in public administration also talks about two different usage of the 'public administration'. The first one is used for "an area of intellectual inquiry, a discipline or study" and the second meaning specifies public administration as "a process or activity- that of administering public affairs" (Waldo, 1955: 3). Public administration as a discipline or a government activity basically deals with the formulation, implementation, coordination and control of the public works for the common interest of its citizens. By the 1950s, the prevailing opinion has been that the public administration is comprised of only the operations of the administrative branch (Denhardt & Denhardt, 2005: 7). In fact, as pointed out by W.F. Willoughby,

In its broadest sense, it denotes the work involved in the actual conduct of governmental affairs, regardless of the particular branch of government concerned...In its narrowest sense, it denotes the operations of the administrative branch only" (As cited in Urmila Sharma, 2002: 8).

Increasing duties and responsibilities of the government due to trade and commerce activities in the market, national policy requirements and the international policy challenges originated from the specific memberships have enabled public administrations to undergo transformative changes in time. In this context, public administration tries to adopt a systematic approach for the complex structure of its multiple tasks through the political and legal settings. At that point, administrative ethics has been brought as one of the control mechanisms against the potential distortion of this structure especially by the bureaucrats. Decreasing the unethical acts of public administrators and creating awareness on ethical responsibility, governments have promoted ethics regulation aiming to shape them into desired forms. Thus, the grounds of the public administration have begun to be reinforced by the external intervention of ethics regulation specifically after 1980s. Shortly, administrative ethics as the product of a long period of time has been at the target of the new order to deal with the faults of the global system.

The sources, incentives, motivations, and reasons behind the recent growth of interest regarding the subject of ethics in public administration needs to further examination. Since, the main concern of this chapter will primarily be the assigned role of ethics in public administration from the early years to today's public administration in a new socio-economic environment. To easily comprehend and discuss the insistence on ethics regulation in Turkey in the following chapters, we have to know the practical and theoretical developments in the field.

### **3.2 Different Views of Ethics in the Early Years of Public Administrations**

The driving force behind the government programs was the reformist idea during the Progressive Era (1890-1920). However, as the twentieth century came to end, ethically-driven reforms were at the top of the reform agenda of the governments due to the scandals involving elected officials. This populist political trend came out as a result of the political corruptions in public administration. Restricting the maneuver area of public officials through ethics regulation was regarded as a solution to prevent political manipulations and to promote the worsening public trust. Indeed, as Polatoğlu (200: 48) said that the intention was to make the executive stronger, to

dispel the patronage, and to constitute a qualified civil service system. For example, widespread governmental corruptions especially in 1840s -1870s have been criticized by Wilson who has a great impact on the evolution of the intellectual identity of the public administration. In the early 1940s, the relationship between accountability and ethics were central in public administration due to Friedrich-Finer debate emphasizing the differences between internal and external controls on the acts of public administrators. Friedrich claimed that If people do not internalize the ethics, nothing apart from around-the-clock surveillance can force them to behave appropriately (As cited in Menzel, 2009: 4).

For Friedrich, the self-control of public administrators while fulfilling their responsibilities has had a primacy rather than external control on their behaviors. However, Finer has emphasized the weakness of internal controls and urged upon 'the necessity for political control of public administrators through laws, rules and sanctions' (Cooper, 2001: 5). On the other hand, Fritz M. Marx has made a call for an ethical code in 1949 and stated that public administrators are required to be 'conscious agents of a democratic community', not the followers of their personal preferences (As cited in Martinez, 2009: 3).

All in all, in the early years of public administration, there were a few classical studies to raise the ethical concerns in administration. Nevertheless, the synthesis of disparate studies to extend the investigation area of administrative ethics has not been so successful in producing more academic work until the 1970s.

### **3.2.1 Politics-Administration Dichotomy: Distrust against Politics**

In the classical period, the early proponents of politics/administration dichotomy advocated that public administration should be separated from 'politics' hoping to construct a science of administration which discovers the general principles of administration. For example, emphasizing the distinctive features of public administration vis-a-vis politics, Wilson explicitly admits that "public administration lies outside the proper sphere of politics" (Wilson, 1887: 210). According to him, politics determines the tasks of administration but it should not intervene in internal working of the administration. The science of public administration needs to be

developed in this direction, as well (Leblebici, 2004: 9). Goodnow taking further the ideas of Wilson claims that while politics can be defined as 'the expression of the will of the state', administration is in relation to 'the execution of that will' (As cited in Aykut Polatoğlu, 2000: 49). Furthermore, Wilson reflects the arguments of the American Progressive reform movement in his book titled as "The Study of Administration". The distinctive feature of that reform movement has been the implementation of efficiency principle underlying the characteristics of good government and developing a scientific approach to public administration in order to achieve better outputs in public services.

On the other side, the politics-administration dichotomy has been substantively criticized by different theoreticians who try to understand the role of public administration in the political process. It is the fact that public administrators both execute and make policies in a collaborative effort to achieve the common goals in the interest of the public. There could not be a clear cut separation between the tasks of politics and those of administration; since, the final aim must be the same for both sphere: the public interest. Nevertheless, both elected and appointed public officials sometimes try to exercise administrative power while they are formulating policies and use administrative discretion in the policy implementation period. In such a situation, it is impossible to separate politics from administration. Furthermore, Fry and Raadschelders (2008: 12) assert that keeping public administrators which are responsible for serving to public out of political matters destroys the creative input of the society and ignores their legitimate demands.

Politics/administration dichotomy indispensably reveals itself as a mostly thwarted approach in the academic environment. Wilson's ideas in that sense can be admitted as reformist who proposes solutions for inefficiencies within the administration. In addition, R. B. Denhardt and J. V. Denhardt (2005: 2) agree that Wilson advocates to implement business-like methods in public administration since his aim is to eliminate the possible corrupting effects of politics on administration. But, Wilson's solution can be evaluated as very pragmatic and effortless. It is very unrealistic to accept that there are no any other way to prevent the unethical acts of public officials.

As a result, administration requires a constant interaction with politics since elected political officials as the representatives of the public are responsible for being responsive to the needs of the public. Also, they determine the general framework of the public policy during the political process. On the other side, increasing involvement of administrators in shaping and formulating the public policies is inevitably contributive through their technical skills and commitments.

### **3.2.2 Scientific Management: Ignorance of the Moral Aspects**

The next period in public administration was dominated by the scholars who are 'less politically active'. They mostly focused on applying scientific methods to exterminate inefficiencies and to increase the productivity in public administration. Adhered to the rationalized view of administration, they aimed to achieve greater efficiency through scientific management approach. In fact, the scientific management through the managerial focus confirms the business-like methods in public administration. The method which seeks for the greatest efficiency ignores the human behaviors. In that sense, the studies of Frederick Taylor had a sizable effect during the period between the two world wars. The main concern of Taylor's scientific management is the technical efficiency. Here, the public administration is characterized by 'one best way' approach and thus undermines the humane factors so that the ethical concerns in the organization become meaningless (Cox, Buck & Morgan, 2011: 22). Moreover, Taylor neglects the human values, the relationships he met in his work or his attitudes toward morale treating the workers as supplement to machines (Polatoğlu, 2000: 22). In addition, Wilson's emphasis (1887: 209) relies on the idea that "the field of administration is a field of business". Such kind of a scientific management perspective would form a source of inspiration for the efforts such as reinventing government, productivity and performance management, client service, customer satisfaction...etc in later times.

As a result, scientific management approach does not identify morality as a necessary motive for the actions of public administrators and just demands obedience to the principles of managerialism, division of labor, and one best way approach. Shortly, it obliges public administrators to act in accordance with the principles of scientific

management. The expected work from public administrators is not to make moral reasoning while they are making public policy decisions. On that issue, J. Michael Martinez (2009: 2) emphasizes that

(...) public administrators focused on the questions of efficiency as though individuals staffing public agencies did not exercise discretion in decision-making. (...) An ethical administrator was someone who sought to understand the legislative will or the orders issued by administrators ranked higher in the organizational hierarchy and act quickly and efficiently as possible.

Consequently, scientific management approach focusing on the technical efficiency paved the way to a profound impact on public administration. Societal needs and values are ironically underestimated through efficiency maximization. At that point, Martinez (2009: 2) aptly claims that

The progressives at the end of the nineteenth century professed their concern for the injustice of machine controlled politics and sought ways to root out cronyism and corruption from the public sector.

It would not be wrong to say that dealing with management and organization methods obviated the importance of public policy and program outputs for the benefit of society. Prescribed rules for the effective functioning of public administration became central and privileged matter in that period excluding the humanistic ways of doing public works.

### **3.2.3 Weber's Bureaucratic Model: Constraints on Discretion**

Cox, Buck and Morgan (2011: 21) claims that the argument on the separation of administration and politics have already led to waste of a long time in public administration discipline. As we leave the discussion on this issue aside, we also have to abandon the 'idea of moral neutrality'. Since, they believe that "administrative actions are of ethical as well as political concern". Just being a government bureaucrat lays a burden on that people and this people differ from ordinary citizens in that sense. However, some practitioners try to ignore moral

aspects of their jobs applying the ethics of neutrality (Cox, Buck & Morgan, 2011: 22). In fact, the ethics of neutrality refers to staying neutral. In that situation, people do not assume any responsibility to act. For example, if you see a dying person in the street, you prefer to stand still or not to act to do something. It is arguable that the ethics of neutrality is applicable for every specific situation because people can hardly to stay neutral without having to be involved in such kind of situations.

In public administration, the ethics of neutrality means that public administrators follow the orders of their superiors and policies as requested. They do not introduce their personal feelings or moral judgments into public policies, objectives and decisions given by the superiors. For example, Weber's bureaucratic model carries out certain characteristics such as 'established norms of conduct and adherence to rules, hierarchy, separation of office and incumbent, and specialization of tasks and selection by merit' (Polatoğlu, 2000: 51). Individual morality and personal inclinations become independent variable in both formulation and implementation of the public policies. For Weber,

The bureaucrat should be neutral servant of his political masters, which is precisely the position embodied in the classical politics-administration dichotomy (As cited in Fry & Raadschelders, 2008: 5).

Consequently, Weber's bureaucratic model addresses a kind of control on public administrators. He substantially restricts discretion by using impersonal mechanisms such as prescribed rules and standardized procedures that provide indirect control.

### **3.3 The Emergence of Codes of Ethics as a Moral Discourse in Public Administration**

Although ethics is a very old phenomenon in human history as mentioned in previous chapters, the discussion of ethics as a field of study within public administration goes back to 1940s. According to Nigro and Richardson, the administrative ethics has been a matter of discussion at least since the founding of Public Administration Review (PAR) in 1940 (As cited in Cooper, 2001: 1) In the beginning of the 1940s, Carl Friedrich and Herman Finer debate have raised key questions regarding

democratic accountability (Denhardt & Denhardt, 2003: 124). They focused on the question that 'where does administrative responsibility reside in the operations of the administrative state?' Friedrich believed that internal controls represented by professional values, standards, and ethics should guide the public officials while they are dealing with the administrative problems. On the contrary, Finer emphasized the external controls such as laws, rules, and sanctions and required the political control of public administrators through those tools (Cooper, 2001: 5). While Finer adheres to the neutrality of the public administrator giving more importance to the external control mechanisms like legal regulations, Friedrich reaffirms the importance of inner checks by ethical decisions to ensure the responsible administrative conduct. Furthermore, ethical values, virtues, and visions infused into the procedural aspects of public administration were elaborated in PAR and assumed a core position in the development of a sense of public good in which public administrators exercise an important role in shaping the public policies having an administrative discretion. Within the public domain, the study of existence and influence of ethics codes has led to pressures on public organizations (Garcia-Sanchez, Rodriguez-Dominguez & Gallego-Alvarez, 2011: 190). In such an environment, emerging codes of ethics were evaluated as the integral part of the excellent functioning of public administration.

The first code of the ethical conduct was produced in 1924 by International City Managers' Association and these codes were the professional codes to be followed by public administrators (Plant, 2001: 309). In 1958, federal government in America adopted a code of ethics for its employees and officials. In 1961, President Kennedy issued an administrative order extending the scope to high level presidential appointees. In 1965, President Johnson keeping key restrictions requested from thousands of employees and officials to file annual confidential disclosure statements (Handlin, 2014: 401). Following process has continued with the intense codification. Ethical concerns were reflected into legal regulations besides the codes of ethics which aims ethical guidance to public administrators.

Ethical codes incorporated into a systematic body of regulations under the exhaustive reform packages were promulgated to reveal the basic responsibilities of the public administrators so that they were obliged to practice these regulations in order to

grasp the so-called 'spirit of common sense'. Furthermore, James H. Svara (2014) in his article titled "Who Are the Keepers of the Code? Articulating and Upholding Ethical Standards in the Field of Public Administration" discussed that creating a code of ethics is very hard to implement in public administration. Since, it is hard to articulate clear and meaningful standards of behavior and thus upholding a code of ethics. On the other hand, he distinguishes the codes developed by the American Society for Public Administration from others and claims that ASPA codes with revisions over time provides standards for public officials and increase ethical awareness in public administration (Svara, 2014: 561-562).

Limited objectives of the codes need to be elaborated in detail and also application of them into every administrative action seem very problematic in terms of giving morally mature answers to the problems. Gilman accepts that the role of the codes is to impact behaviors. Also, he makes a difference between purely aspirational codes and purely applied codes. Since, some public servants only want to know "is it against the law or regulation?" while others want to understand what principles underlie specific elements of the code. Nevertheless, codes of ethics are tend to be remain superficial. On that issue, Cooper addresses to certain imperfections concerning the code of ethics. He finds them as "vague, abstract, and lofty" so that they are unlikely to be used in special cases (As cited in Geuras & Garofalo, 2010: 155). Public administrators are not particularly interested in codes of ethics while they are conducting administrative works although they are accepted as necessary part of the professionalization. It should be acknowledged that codes are symbolic and not helpful on every topic to public administrator. Cooper (2001: 30) explains the underlying reason that "...day-to-day ethical decision making is so complex and nuanced that a clear normative ethical consensus may never be achieved". On the other hand, Chandler (2001: 192) claims that codes of ethics as 'deontological tools' cannot prevent moral ambiguity and cannot be as effective as behaving personally, courageously, responsibly and creatively.

Today, codes of ethics are accepted as an integral part of the public administration in the world. To be supported by ethics trainings, they are transferred into the discipline of public administration. However, ethical codes do not have enforcement power like

laws so they remain mostly as proactive in public administration to solve emerging conflicts in a certain way. It is suffice to say that ethical codes are not guarantee of the good conduct as long as public administrators do not internalize them.

### **3.4 The Study of Ethics as a Systematic Field in Public Administration**

According to Kernaghan (1980: 207), 1970s may aptly be described as 'the ethics decade' in the historical development of study and practice of public administration. Since, high profile government scandals which are most frequently associated with Watergate case unseated elected officials from their offices. As a result of scandals, confidence in government decreased and strengthened rules were imposed on government administrators (Sitting, 2013: 77). This good government reform movement actually punished the officials trying to get personal gains by manipulating the administrative system. It is very important to note that the legitimacy of the reform movement was supported by ethics regulation with established commissions or councils in Western world aiming to uncover government corruptions through the philosophy of ethics.

The reflections of the reform movement of 1970s in public administration have caused an intensive ethical discourse which has been produced with a growing literature through newly emerging paradigms in public administration. As one of them, new public administration came out as a reaction to the wrongdoings in government. Through a distinctive set of values, the new movement evoked the feelings to serve the public in an equitable manner. Besides, training courses emphasizing moral values were opened in the schools of public affairs (Stavisky, 1979: 375). To give an example, Rohr's "The Study of Ethics in the P. A. Curriculum" aimed to integrate the study of ethics into public administration (Rohr, 1976: 398). However, the problem was not related with including ethics courses to the public administration curriculum but more related with how to teach ethics. Furthermore, in the post-Watergate era, Graham (1974: 90) contributed to the ethical studies in public administration through his article titled as "Ethical Guidelines for Public Administrators: Observation on Rules of the Game" claiming that public administrators were expected to act within the limits of their delegated discretionary

powers. Additionally, it was assumed that public administrators having responsibilities were obliged to be wise, equitable, reasonable, and rational.

It is also necessary to mention John Rohr's contributions to the administrative ethics as a field of study. In his classic work "Ethics for Bureaucrats", Rohr addressed ethical dimensions and suggested a more permanent foundation over incidents of official misconduct (Stavisky, 1979: 375). Rohr also (1988: 67) advocated that "Ethical reflections must be soundly rooted in principle if they are to yield the moral vigor necessary in public life". Fredrickson (2010: 38) also touches upon the moral aspect of the public administration as follows:

Public administration is, in many ways, the vehicle for implementing the values or preferences of individuals, groups, social classes, or whole societies.

Consequently, it can be easily understood that social equity, as the common concept of this new paradigm, stays in the centre of ethics discussions and all these debates promote administrative ethics as a field of study. Therefore, it is important to point out that administrative ethics throughout the 1970s has been philosophically formulated under the new public administration. The details of the new public administration movement and its link with radical ethical considerations of that time will be examined under the following sections. Then, the status of ethics will be elaborated under the impetus of new public management policy implemented popularly throughout the whole world in the early 1990s. Additionally, the role of two major philosophical stances in administrative ethics will be raised and assessed under this section.

### **3.4.1 New Public Administration and Its Revolutionary Ethical Platform**

The Minnowbrook Conference and the subsequent meetings held by different intellectuals proved that the conference was particularly important to understand public administration and its urgent need to change in a time of turbulence. Therefore, the younger students of public administration initiated this radical movement to reveal the dissatisfaction with the status-quo in the field. Although

there was no agreement on the image of 'new public administration', this movement indicated that "It was a case of the more things change, the more they stay the same" (McSwite, 1997: 205). As Fredrickson accepted that the aim of the movement was to provoke and draw attention. Since the movement did not last too much due to its broad and provocative nature (Fredrickson, 2010: 4). Nonetheless, the dominant theme raised in new public administration came out as 'the concept of equity' which was set forth by George Frederickson who was one of the conference organizers.

The definition of the social equity is important in terms of the positions defended by the new public administration. In the panel established by the National Academy of Public Administration, social equity was described as follows:

The fair, just and equitable [emphasis added] management of all institutions serving the public directly or by contract; and the fair and equitable distribution of public services, and implementation of public policy; and the commitment to promote fairness, justice and equity [emphasis added] in the formation of public policy. (National Academy of Public Administration: 2010)

In public administration discipline, social equity permanently was settled as "an operational definition of the public interest for administrators" (McSwite, 1997: 212). Frederickson also argued that social equity perspective should have been integrated into the classic public administration as the third objective. To him, while the classic emphasizes the efficiency and economy, new public administration questions whether public policy increase social equity or not. According to Wooldridge and Gooden (2009: 222),

It is a narrative largely constructed through the values and principles of the continuous search for social justice and the improvement of our social fabric.

Besides, new public administration movement is an escape from the traditional politics-administration dichotomy and it refuses the neutrality of public administrators. (Norman-Major, 2011: 233) The classic discourse of politics-

administration dichotomy has been surpassed by the new public administration. According to Minnowbrook perspective, public administration was not only the instrument to perform public policy, it took an active role in setting the public agenda and forming the societal values (Denhardt & Catlaw, 2014: 121).

New public administration also supported that public administrators as competent individuals are influential in policy making so that they should embrace the public values and be committed to equity in the process of implementation and design of the public policy. Indeed, the main objective of new public administration concentrates on how public organizations are restructured to ensure greater involvement and participation without simply using managerial perspective (Denhardt & Catlaw, 2014: 125). Being highly affiliated with normative concerns, new public administration displayed a paradigmatic challenge despite "a loosely knit of collection of commentaries" for the public administration theory (Denhardt & Catlaw, 2014: 126). Consequently, the importance of new public administration movement lies more on the social equity concept and its value for the study of public administration. Further elaboration was made by Rawls' 'justice as fairness' principle and Rohr's regime values perspective.

#### **3.4.1.1 Rawls's Theory of Justice**

'Rawlsian social equity' has become central ethical concept of the new public administration movement (Cooper, 2001: 11). His theory encompasses two primary principles: equality and fairness (Gaynor & Schachter, 2014: 440). The first one refers that each person has an equal right to basic liberties and the second denotes that administrator makes his job under his responsibility complying with the rules of the administration. Nevertheless, Michelman (1973: 964) describes these two principles as 'a few abstract statements' which are combined with a weak and broadly acceptable posits. Indeed, the original position is assumed to be appropriate initial status-quo in which fundamental agreements made are fair (Rawls, 2009: 15). This is because, the people in the 'original position' are believed to be mutually disinterested and rational people. Michelman (1973: 964) continues to discuss that these two principles should be totally appropriated by the administrators whose character traits

correspond to the original position. Moreover, John Rawls (2009: 135) in his book titled as "A Theory of Justice" overemphasizes 'a workable theory of justice'. It is important to state that his theory of justice has been presented as an alternative to utilitarian thought and also it has been criticized on the grounds that how this sum of satisfaction is distributed among individuals (Rawls, 2009: 20-23). His ideas mainly elaborate the distributive claims for the disadvantaged so public administrators are nominated to manage the public services in an efficient and effective way taking the notion of equity, fairness, and justice into account (Gaynor & Schachter, 2014: 441).

Hart (1974) also contributes to the social equity arguments in public administration literature. He provides a challenging idea urging upon the problems originated from existing American value paradigm. First of all, he emphasizes that "...legitimacy of partisan (or advocacy) public administration is denied". Secondly, he claims that "There is a persuasive evidence that public confidence in the American value paradigm is rapidly declining" (Hart, 1974: 3). Moreover, Harmon (1974: 11) finds Rawls analysis as important in term of its suggested results such as 'proper roles of public organizations and administrators in the equitable distribution of social goods'. However, he claims that Rawls theory of justice have to be inevitably associated with the public administrators' role in resolving the moral and political aspects of just distribution (Harmon, 1974: 11). Whereas, social equity should be ensured with a public commitment to internal organizational democracy or participative management resulting in greater productivity, efficiency and even organizational loyalty (Harmon, 1974: 12).

As a result, Rawl's theory of justice has been apparently influential on new public administration movement. As a philosophical basis for this movement, the notion of equity has been presented as an ethical guideline for public administrators maintaining a stance against to old public administration in which public service has been purely perceived as value-neutral technical process and the administrator accepted as an expert without assuming any discretion (Denhardt & Denhardt, 2003: 74).

### 3.4.1.2 Rohr's Regime Values

John A. Rohr puts the concept of 'regime values' to the center of administrative ethics. His distinctive work focuses on the constitutional legitimacy by making a normative explanation for the role of constitutional values in American public administration (Arnold, 2014: 161). Thus, the expectation here is that government should carry out its duties in a consistent manner with the constitutional values. Rohr's constitutionalism is actually perceived to be congruent with the limited government theory. Furthermore, Okçu (2002: 103) refers to the role of new public administration philosophy in Rohr' work and points out that

[Although], he recognized the contributions of the NPA in his article on 'The Study of Ethics in the P.A. Curriculum', he found himself 'somewhat at odds with dominant trends' in NPA literature.

Since, the main academic foundations of new public administration are originated from political philosophy and humanistic psychology. Yet, Rohr seems critical to the social equity literature whose moral position relies on normative political theory and humanistic psychology to a considerable extent and questions the appropriateness of them in terms of being reference to ethics education for bureaucrats. Moreover, he has been firmly insisted on that the content of social equity is egalitarian in principle and redistributive in policy. In other words, it is unable to go beyond the classical norms of efficiency, economy, and coordinated management to be used as performance indicators for public administrators. Additionally, he claims that the normative insights of the humanistic psychology can be useful for organizational life not for the 'public aspects' of public administration requiring the inquiry of law and politics. That's why, Rohr suggests regime values as an alternative to the political philosophy and humanistic psychology in order to integrate the study of ethics into the curricula of public administration (Rohr, 1989: 68).

In detail, Rohr specifies the concept of regime values in his work of "Ethics for Bureaucrats: An Essay on Law and Values" in which he tries to make an analysis from where ethical values need to be actually derived. According to Rohr (1989: 68),

Regime values refers to the values of the political entity that was brought into being by the ratification of the Constitution that created the present American public.

Overeem (2015: 47-52) basically defines the legacy of Rohr as the collective benefits sublimated by a given political order and the American Constitution, its Supreme Court interpretations, and the oath of office are the epitomes of the American “state”. On the other hand, Uhr (2014: 143) tries to draw attention that

The changing balance between responsibility and accountability through this innovative concept of “regime values” as the center of bureaucratic ethics.

Furthermore, Green (2012: 630-632) discusses the kinds of morality emphasized by John Rohr and proceeds with the centrality of the public morality in his work. Also, he seeks to find distinctive obligations and characteristics of public administrators from his point of view forming the public morality sphere as follows:

- Constitution orients the government to protect liberties and enhance material prosperity.
- Public administrators have responsibilities to conduct the things for us that are not actually necessary or may not even be acceptable in private life.
- Due to the substantive and procedural principles of law, public administrators should make their decisions elaborately and carefully when compared to private life.
- Due to the principle of equality before the law, public administrators have to be more impartial.
- Public administrators have to cope with public matters in a best way by leaving aside their own causes or convictions.
- The expectations related to accountability in government result in double standards for public officials, some of which can be quite troubling.

- All public administrators are obliged to represent the interests of their own people first, sometimes to the exclusion of others.

Consequently, all above obligations are normatively determined as a foundation for public administrators which are indeed applicable to American values. In particular, the concept of social equity supported by new public administration takes its place also in regime values advocated by John Rohr, albeit from a critical point.

### **3.4.2 New Public Management and the Changing Conception of Ethics**

In public administration literature, it is theoretically important to understand the attitudes towards new public management (NPM) influence on ethics-related outcomes or decisions. In fact, the analysis of the rationale behind NPM will help to discuss the status of ethics in public administration and will also stimulate the reconsideration of moral issues in a rapidly changing public life. Furthermore, it is hard to define NPM since there is no exact definition of it in the literature (Lane, 2005: 5). The term “new” does not prove that NPM doctrines emerged for the first time in the 1980s. Many of them are repeating ideas adopted in public administration from very beginning (Kolthoff, Huberts & Van den Heuvel, 2006: 406).

NPM has been theoretically evolved from practical developments in public organizational operations and a range of reforms originating from the Western public sector. These reforms specifically target to revitalize and stabilize the welfare system in the West due to the overproduction. Through these reforms, it seeks to introduce new ways of thinking on the role and nature of public administration. It is thought as a global action or as a response to fiscal and political crisis confronted during 1970s. Pollit and Bouckaert (2004: 8) explain more specifically what is intended by new public management that

Public management reforms consist of deliberate changes to the structures and processes of public sectors organizations with the objective of getting them (in some sense) to run better.

The problems within the public organizations can be concerned with the inefficient use of resources and ineffective implementation of public policies (Denhardt &

Catlaw, 2014: 130). These problems stimulate the restrictions on government growth, privatization of the state assets and contracting system encouraging the direct service provision (Denhardt & Catlaw, 2014: 130). Enhancing the market values to the contrary of organizational humanism advocated by new public administration, new public management sublimated rationally self-interested actors and committed to the private sector objectives and methods which are in search for efficiency in public organizations. It is so evident that NPM brings important ideological, economic and political changes on public organizations. Encompassing different theoretical perspectives, NPM finds its economic roots in new right policies within the scope of minimal state understanding in the world politics.

However, the specifics of NPM can be identified with some key words such as service to customers, entrepreneurship, contracting, governance, and re-engineering government (Lane, 2005: 5-6). In addition, NPM was aptly affected by the ideological movement known as neo-liberalism growing increasingly during the 1980s and 1990s. According to Lægreid & Christensen (2011: 17), its multifaceted nature and various manifestations reflect its separate intellectual origins which are more based on practice rather than theory. According to them (2011: 17),

The government officials and advisors who helped craft and implement the major NPM reforms of 1980s and 1990s drew their inspiration from a range of sources, including at least three distinct analytical traditions: the managerialist tradition of administrative theory; 'the new institutional economics' (NIE) or 'the new economics of organizations, with its various tributaries such as agency theory, transaction cost economics and comparative institutional analysis; and the public choice (or rational choice) tradition.

Managerialism has been introduced together with the decentralized management environment for the justification of the new public management. Hood (1991: 4-5) in his article "A Public Management for All Seasons" lays emphasis on the primary characteristics of NPM that contains applied and entrepreneurial management; specific standards and measures of performance; output controls; desegregation and

decentralization; competition in the provision of public services; implementation of private-sector styles of management; and discipline and cost-cutting in resource allocation. Hood (1995: 93) also claims that greater number of OECD countries adopted NPM approach together with its related doctrines of public accountability and organizational best practice during the 1980s. However, Ongaro (2009: 8) discusses about 'global pressures' leading to change in public administration and 'forms of coercive policy transfers' promoted by international actors like OECD and World Bank.

Although the principles of the traditional public administration rely on bureaucratic hierarchy, planning, centralization, direct control and self-sufficiency, they are evidently replaced by the market-driven public management approach. As a result, the emphasis has been on the particularistic advantages of the managerial class not the public good (Hood, 1991: 9). It is fairly self-evident that this paradigmatic shift triggered the pace of corruptions in public administration. Therefore, it is very important to analyze the continuing impact of NPM leading to increase in ethical concerns pertaining to moral conduct of government. Since, NPM reforms actually undermine the ethical conduct and limit the ethical capacity of public institutions.

The dominance of business values while planning and implementing public policies leads to put aside public values and brings the pragmatic trade-offs in public administration. To be clearer, the question of how public administrators decide on specific public issues are important because if they perform their tasks supporting the private sector or following the individual interests, there is a high possibility to disregard the needs of society. The implications of their behaviors gain importance precisely during their decision making process. Since, when we think of morality as a personal matter, individual moral judgments and responsibilities come into scene. Public administrators are expected to behave as moral agents who are interested in common good instead of business values. Since, private sector ethics statements aiming profitability are entirely different from the ethical aspects of the public administration targeting the full commitment to serve public interest. Moreover, public administrators should be concerned with protecting public trust and they are obliged to keep expectations of the citizens alive.

NPM espouses pursuit of technical efficiency in the provision of goods and services. Lane (2000: 95) identifies a number of means to enhance the efficiency and these include the privatization, incorporation for public enterprises, the introduction of internal markets, the employment of the purchaser- provider separation, contracting out, the use of massive contracting, bench-marking etc... This idea is mostly criticized 'on the expense of democratic processes and of social values' (Agheorghiesei, 2015: 105). On that issue, Richard (1988: 9) emphasizes that

Whatever the political system, it should be noted that the values associated with democracy are widely recognized and stated as goals to be sought, even where they do not already condition day-to-day administrative processes.

All in all, the so-called new public management reforms have failed and caused new problems, 'resulting in unintended consequences' (Liff, 2014: 474). Very interestingly, ethical dimensions in this reform movement have been brought by the post-NPM measures (Christensen & Lægheid, 2011: 467). In fact, new public management has undermined the public interest and decreased the ethical capacity in public institutions. So, it would not be wrong to say that NPM is not much dealt with ethical issues but the failures of this movement can be indirectly reconciled by the ethical measures or standards and provide basis for ethics regulation in the world.

### **3.5 Two Major Philosophical Stance in Administrative Ethics**

Terry L. Cooper claims that ethics can be seen either or both of two major orientations: deontological and teleological. To him, deontological approaches to ethics center upon one's duty to apparent principles such as justice, freedom, or veracity disregarding the consequences of one's conduct. Whereas, teleological ethics takes a close interest in consequences of one's conduct. This stance links with the utilitarianism and its calculus for the greatest good for the greatest number (Cooper, 2012). Public administrators can use these two different philosophical perceptions while they are making decisions in a concrete situation and also they can evaluate which stance will be more indispensable to do the morally right thing while they are choosing one of them.

In addition, according to Murat Okçu (2002: 12), both approaches 'constructing the basis of bureaucratic and democratic ethos' constitute the foundational moral theories and argues that

These foundations are general or abstract laws, principles, rules or standards. Ethical behaviors and judgments are derived from these foundations.

Rawls in his 'Theory of Justice' mentions the distinction between deontology and teleology which become very prominent in the political conceptualization. He calls such theories which give priority to the right over the good, as 'deontological' (Kymlicka, 1988: 175). Rawls believes in the concept of a natural duty of justice to solve the problem of political obligation (Höffe, 2013:129). However, Ronzoni (2010: 453) is decent from the 'priority of right' claiming that "deontological theories do not necessarily assign priority to the right over".

In fact, public administrators benefit from deontological and teleological philosophy evaluating the appropriateness of administrative behavior in a given situation. Ethical judgments of the public administrator in this evaluation process become prominent and they can be based on either deontological or teleological considerations. They are actually a method used when trying to explain the right and wrong or good and bad for the administrative actions. Ralph C. Chandler (2001: 179) associates the difference between the two with a kind of questioning that how public administrators view and practice moral responsibility and defines this distinction as "colorations of ethical thought and traditions of inquiry and action that plumb the depths of human experience".

In order to comprehend the philosophical roots of the administrative ethics to be able to choose the good reference for the morally good administrative actions, it is important to explain philosophical stances in administrative ethics in detail under the following headings.

### 3.5.1 Deontological Theories

The word deontology derives from the Greek words “*deon*” which is binding or needful. Therefore, it is appropriate to conceptualize deontology as 'the knowledge or the study of the moral obligation or commitment'. However, Ralph C. Chandler (2001: 179) defines deontological ethics as 'the ethics of duty or principle'. This implies that administrative actions are implemented in a principled way. From another point of view, deontological approaches to ethics try to ascertain the content of duty without considering the consequences of particular ways of acting (Macdonald & Beck-Dudley, 1994: 615).

It is assumed that deontology is introduced with Immanuel Kant in the history of ethics (Macdonald & Beck-Dudley, 1994: 615). Kant's ethics relies on moral absolutes because of philosophic study of the duty. According to his approach, deontology is based on highest universal rules, namely the 'categorical imperatives'. These are the moral principles guiding the actions of administrators which are similarly implemented for all the members of society (Denhardt, 1988: 46). In short, moral order are composed of universal moral principles in which public administrators are abided by their actions. As Frederickson (2010: 155) claimed that

[We] have an impressive deontological array of constitutions, laws, and regulations that codify our values and define the principles of right and wrong as we see them.

Codes of ethics have been primarily used by the private companies to enhance the potential for ethical decision making and to keep the employees outside the corrupt activities which harm the profit maximization of the company. Especially, during the reform period, they have been preferred to be also used in public administration to reduce the corruptions and to increase the legitimacy of the ruling party. Thus, the moral reasoning of public administrators would have been improved and this situation would have been resulted in efficiency increase.

In public administration, deontological tradition signifies certain rules providing basis to guide the decision-making efforts of administrators. Moreover, it gives a

moral foundation and legitimacy to administrative practices. Nevertheless, it is advocated that public administrators are not value-neutral people. Also, they have discretionary powers on public policy decisions. In fact, they use this power within the scope of their tasks and responsibilities determined by the laws. For example, they can prefer to solve administrative problems by sometimes giving their expertise on the subject matter or sometimes searching political support just behind them.

Regardless of laws, ethics regulation today codifies moral values as a control mechanism on public administrators by emphasizing the duties and obligations of them. They are forced to behave in morally acceptable ways although ethics does not necessarily have such a role. Ethics is in fact not related with making moral norms and it is not in attempt to expose norms as in the case of professionalism. Rather, it is about moral knowledge and this knowledge is used to evaluate these emerging norms in terms of their moral values.

### **3.5.2 Consequentialist Theories**

In consequentialist or teleological theory, the actions are judged by their consequences. If the results of an action provide the greatest good, than it is morally right to do this action. Consequentialism as the influential approach to moral questions discusses that the right thing to do in any situation is the act with the best consequences. From a different point of view, teleological ethics is the ethics of purpose (Brady, 2003: 528). In his article titled as "A Teleological Approach to Administrative Ethics" and published in Handbook of Administrative Ethics, Pops (2001: 195) contends that

This philosophy of ends is measured by the "comparative amount of benefit produced or expected to be produced - the goodness or badness of the consequences of the decision.

According to Pops (2001: 195), teleology in the context of public administration is mostly associated with the achievement of public policy goals, satisfaction of citizen's demand and so on...Therefore, the possible results of the public policy and

programs based on calculations are important to determine the morally right and good.

The idea of utility can be defined as a primary source to understand two basic indicators of teleological ethics in philosophy. The first one is utilitarianism which was elaborated by Jeremy Bentham and John Stuart Mill and the second one is egoism which was discussed by Niccolo Machiavelli and Max Weber (Chandler, 2001: 179). In utilitarianism, as the most prominent one, the greatest happiness of the greatest number principle dominates the decision making process of public administrators while they are designing the form and content of the public policy. Therefore, it is critical for public administrators to pursue long-term effects of the actions in order to promote the happiness of all. This seems to indicate that happiness of the maximum number of people justifies the morality of an action on the basis of its consequences.

Moral reasoning in teleological approach just depends on the utility level of the consequences arising from happiness or pleasure. However, the conclusions of policy decisions may not be always calculated correctly in public administration or may not be foreseen whether these decisions directly serve or not to the main purpose of the implemented policy due to various reasons. But, the objective of the public administration can be differentiated by the followed principles, interests or the preferences of the public officials. Therein lies a tension and this can be mitigated with adopting some values such as equity, justice and public interest etc. However, following such kind of core values cannot precisely overcome the specific problems or individualistic cases.

Moreover, administrators may not be able to cope with the limitations based on resources and weaknesses resulting from unforeseen circumstances even if they insist on their right way of doing to achieve the best results and desirable outcomes. It is acceptable at that time that they make references to such kind of values provided that these values are compliant with their life perspectives or experiences. In fact, they may prefer to justify their decisions by consulting to their conscience, social mores, religious beliefs, economic conditions or legal rules while performing the actions. It

is also worth noting that how and to what extent these values are internalized and individually respected by the public officials is other important issue to question the role of ethics in public administration. As a matter of fact, ethics refers to character or personality. Therefore, ethics actually concentrates on the individual moral questioning. But, public administrators as the responsible members of the society are constantly reminded in an effort that they have to make the good and right choice for the public interest to protect public values as the guardians of society.

### **3.6 The General Theoretical Evaluation of Ethics in Public Administration**

The systematic study of ethics has been amongst the latest topics to be examined in philosophy. Similarly, moral standards in administrative thought have been also very lately started to be discussed among the scholars. Now, there is a lot of talks in public administration to improve the administrative ethics through greater regulation and oversight functions for those who have taken part in unethical acts.

Ethics as the most effective self-regulatory mechanism has been embraced by the public administration and supported by laws putting limits and boundaries to the moral choices of the people. However, the regulation of ethics in public administration has not been questioned adequately. It was not given enough attention to this matter that whether the imposed external rules can prevent unethical behaviors of public administrators or not.

An understanding of ethics is very crucial and important for individuals in terms of forming the basis of our relations with others. Furthermore, ethics is not only concerned with the intrinsic links but also "it is about the quality of the links" and creates "the very essence of a civilized society" (Eduard, 2009: 27). That's why, ethics is a philosophical activity encouraging ethical behaviors. It is not a law to be respected at the same degree by every public administrator or not a list of principles to be achieved at the time.

There is a continuity in ethical activity since it perpetually supports public administrators in their activities for the benefit of public interest; however, its function cannot be establishing a control mechanism on bureaucrats to ensure

efficient, effective and economic functioning of public institutions. In a wrong way, ethics is tried to be promoted within the aspect of law so that public administrators would be obliged to adopt ethics as in the case of law. By doing that, governments expected to fight against corruptions or unethical acts but it was not the solution. Laws do not motivate public officials to apply ethics in every decision making process but it just dictates the obligations and responsibilities of the public administrators.

Whereas, ethics in philosophy concerns the inner world of the people shaped by the conscience, religious beliefs, life experiences and so many different sources and it is used for a moral inquiry about the quality of life. But, its importance gradually shifts to functional and structural aspects within the administrative thinking in time and then to the proper conduct of public administration based on certain universal ethical standards required to be also strictly followed by the public administrators. It is very clear that the changing mentalities in public administration point out the transformation of the conception of ethics from something meaningful for the quality of life to empty and abstract tool giving hope to fix improper conduct in public administration by closely controlling the behaviors of public officials.

Unfortunately, it has long been recognized that upholding codes of ethics is necessary for the effective functioning of the state, ensuring the public trust in government and avoiding the high levels of corruptions. Ethical considerations now can be hardly overlooked to ensure the proper conduct of public administration due to prevalence of the corruptions in political and bureaucratic system. Furthermore, it is even commonly used in the anti-corruption strategies of both developing and developed countries.

But, there is a lack of common theoretical framework for ethics due to an enduring and unprecedented level of concern for it in public administration. Nevertheless, common ethical understanding can only be translated into actual conduct through the individual moral values that guide the actions. Although ethical theory seems multifaceted and blurred due to the complexity of the opinions regarding its conception and understanding, ethics in government should be associated with a

consistent approach. For example, creating moral consciousness can be provided with ethics trainings in public institutions. However, as a further implication, ethics should not be perceived as a punishment and reward system which has been tried to be implemented through ethics regulation in Turkey but rather it is a matter of voluntary choice of the good which is consistently reflected to the actual conduct in public administration.

The ethics regulation as one of the external control mechanisms of the government for public administrators focuses on the normative dimensions of the right conduct. However, how and to what extent ethical aspects are internalized and respected by public administrators is actually ignored and unforeseen. Since, there is no unified and comprehensive definition of ethics for public administration. Furthermore, the formalization of ethics as in the form of regulations does not provide a rational foundation to ethical issues and creates an ephemeral and pointless effort for the reasoning of public administrators. Since, achieving morality in public administration firstly depends on the moral values adopted or internalized by public officials rather than the statutes. While regulation entails specific situations, values guide people in any situation or subject they want to get involved. Therefore, ethics regulation is not a successful measure for the morally problematic practices of public administrators as ethics is up to integral moral perceptions of them and does not accept external intervention. Public administrators are forced to bear external responsibility.

Not surprisingly, ethics regulation in Turkey also seeks to govern bureaucrats in terms of unethical conduct which is very prevalent in the country. Different from the law, ethics focuses on the individual morality which is very relative to different people. Yet, it could be said that the law establishes the minimum standard of morality and ethical violations are described in several laws in legal system of Turkey and the punishments are known to everyone. Thus, the law for public administrators prevails ethics regulation and have more clear systematic solutions. Actually, public officials do not recognize or know ethics as much as the law in Turkey. That's to say, although ethics is intensely regulated by the Turkish government, public administrators confuse due to different usages of ethics in public administration. Ethics is sometimes described as both 'law (and rules)' and

'expectations (ideals)' (Boling & Dempsey, 1981: 11). What the administrative ethics is in public administration requires that public administrators receive help from the guidance of ethics but it cannot be imposed through ethics regulations as an external obligation. Since, ethics indicates how to use and apply the knowledge, experience and expertise in administrative works to be able to make the good choice or preference for the benefit of the public.

## **CHAPTER 4**

### **THE EXISTING INFRASTRUCTURE OF ADMINISTRATIVE ETHICS IN TURKEY**

In recent years, ethics has come to the forefront as one of the interest areas of the public administration. It is also continuing to take place more increasingly in the study field of the different disciplines (Uluğ, 2009: 4). When it is searched for the reasons of this special interest for ethics in public administration literature, it would not be wrong to say that the necessity to change is evoked by the widespread corruption allegations which are driven by the market forces and the dominance of market values in public administration due to the implementation of new public management approaches.

In the name of getting away from the detrimental effects of the corruptions in public administration systems, administrative reform movements have begun to spread all over the world. Especially, the capitalist Western world have intensively concentrated on ethical measures during the 1980s and 1990s by mainly focusing on the efficient functioning of the public administration. As one of the consequences of these administrative reforms, not only in the world but also in Turkey, ethics-based management approach had been gradually integrated into the public administration system through ethics regulation.

As a solution to emerging contradictions of new public management approach, especially after the deepening economic crisis in Turkey from the early 2000s, 'ethical management understanding' has been tried to be placed in public administration reforms. However, the global representatives of the capitalist class meaning 'international policy-making actors' have an important role in taking the ethics regulation into government's agenda and its adoption in Turkey. Although the applicability of codes of ethics remains still as a questionable phenomenon in terms of solving the problems of public administration in this newly changing order, ethics

management discourse and ethics regulation increasingly enjoyed popularity both in the world and Turkey. The increasing interest can be explained in such a way that new management models emerging in public administration like market-type implementations of public services based on economic interests have caused to the deterioration of public values. This transformation in the public sphere is directly related with the new accrual forms of capitalist class and its invading effect on moral values.

Today, social life is under dominance of the capitalist relationships so that there is an inevitable conflict between moral values and materialistic values. In other words, capitalist base of society shapes the moral superstructure. The existence of such an environment implies that social relationships are reproduced by the appropriation of the market values. Therefore, people have become more interested in the pursuit of temporary relationships based on mutual interests and in calculation of the conditions bringing the most advantageous and profitable objects or situations to them. So, the implications of this transformation are also felt by public institutions and lead to public administrators to be more customer-oriented rather than citizen-oriented. Then, it is necessary to ask the underlying reasons on why governments prefer to regulate ethics in public administration. Since, it is thought that there is a need for public administration to appear more public-friendly rather than market-friendly in order to ensure its legitimacy in the eyes of the public.

Furthermore, as Demirci and Genç (2007: 423) stated that rebuilding the trust of public has become almost a global concern for the public administrations. To be more understandable, increasing corruptions have paved the way to moral decay in society as a result of the crisis of neo-liberal economy policies. As a matter of course, the adverse effects created by this environment contradict with the common good understanding in public administration. That's why, governments hoping to slow down these corruptions prefer to use ethics as a supervising or controlling tool for public administrators. However, ethics as the branch of the philosophy is not a convenient field to be regulated as a control system by the government. Very clearly, ethical review is made through the inner moral checks of public administrators not the formal rules and procedures. The formalization of ethics over law cannot solve

our moral problems as it is expected. Furthermore, institutionalizing ethics through the regulatory bodies is also the wrong way to deal with the unethical behaviors of public administrators. Most importantly, ethical perceptions of the individuals are essential to determine the degree of the moral disorder when we think of the individual at the center of the society. Therefore, the administrative decisions challenged by the unethical acts are directly related to the ethical perception of public administrator whether his or her value judgments primarily rely on the individual interests or public interests. Under the effect of the new management mechanisms in public administration, it was agreed on the necessity of ethics regulation which has been developed under the reform process as a solution to the administrative problems of the governments. Since, the public administration has been thought as incapable to react the problems and answer the demands of the new order emerging in the world.

It is also assumed that the practicality and functionality of the ethics regulations adopted as additional and supportive to the existing laws which already define the standards or the limits of the good conduct for public administrators can be questioned in terms of efficiency and effectiveness of the public administration. It is very interesting that not only in Turkey but also in developed and other developing countries have considerably invested in establishing ethics management in public administration despite the fact that there has not been any instrument or methodology to measure the possible positive effects of ethics regulation on the behaviors of public administrators.

In general, ethics has been mostly presented as a prescription to widespread corruption allegations by international or regional policy-making actors. According to these actors of the new order, the only solution is to abide public administrators with a set of ethics rules. Thus, the states are forced to adopt and implement ethics regulations dictated by the international or regional policy actors such as WB, IMF, UN, EU and OECD without questioning in any way. Indeed, they have formed the legal and institutional basis of the ethical infrastructure targeting the effective functioning of public administrations. The intended purpose of this ethics regulation has become to shape public administrations as they wish in order to serve to the

apparent or implicit crisis of the capitalist system built on neo-liberal economy policies in the world. According to Lewis and Gilman (2012: 6),

What makes ethics so important to public service is that it goes beyond thought and talk to performance and action. As a guideline for action, ethics draws on what is right and important...

Nevertheless, the assigned role for ethics in public administration and the logic behind it is not so innocent as stated above because ethics regulation is used as a forceful mechanism to be moral. As previously said, ethics questions the morality itself and deals with how we should maintain our lives within the framework of the 'good' understanding. As a matter of fact, the deterioration of the moral values in public administration which is mostly triggered by the market values is tried to be ameliorated with the formal exercise of the ethics in the form of laws aiming to enhance avoidance and deterrence in public administration.

As Caiden (2001: 432-433) argues that although there is an extensive list of corruptions which harm the interest of the whole society; however, scandals take place even in the most mature democracies. When we think of the requirements of the democracy, prominent values are considered as freedom, equality and equity. Even in a democratic environment, digress from the purpose of serving to the interest of the public is not avoidable. That being the case, the universal ethical principles produced under the ideology of new forms of government and globalization are incorporated into laws and other measures such as ethics contracts. Furthermore, the existence of these principles is justified by the establishment of ethics councils or commissions which supervise the behaviors of public administrators. However, these measures cannot become effective as long as they are not internalized by the public administrators.

Despite a number of mentioned pragmatic and formal solutions to unethical acts, the reform efforts remain futile and corruptions continue to undermine the public interests due to prevalence of market-based values and implemented business management techniques focusing on profit maximization in public administration. Furthermore, it would be appropriate to claim that as long as the restructuring of

public administration continue to rely on neo-liberal policies, the principle of social state will be far from being applicable and public services will not be for the benefit of the public but for the economic advantage of the private sector organizations. Within all these developments, the studies related to ethics regulation have been also made in Turkey to ensure the ethical behaviors of public administrators and to prevent the corruptions in different levels of government. Taking into account the effects of globalization in general and EU membership process in specific, Turkey has been forced to adopt ethical principles in the form of laws and to prepare the institutional and legal infrastructure of ethics management in its public administration system through the implementation of ethics regulation by the establishment of the Council at the highest level and the commissions in public institutions at the lowest level. However, administrative ethics in Turkey has not been theoretically comprehended in the right way. What is more, ethics has been tried to be institutionally or structurally regulated through the law in Turkey. Council of Ethics for Public Officials was established with 5176 numbered law. Whereas, the decisions of the Council do not have the enforcement power when there is a non-conformity with the ethical principles stated in the law. Moreover, the Council does not act independently as the other regulatory bodies in Turkey since the decisions of the Council are communicated to the Office of Prime Minister. In other words, it works under the authority of the Prime Ministry.

On the other hand, the Council exercises its authority within a limited realm and competence. Since, the citizens can apply to the Council for only the administrative acts of senior public officials serving as general directors or above levels in terms of violating certain ethical codes. In addition, the Council does not have its own sufficient number of qualified personnel since these relatively less number of personnel come from different public institutions. Nevertheless, similar regulatory bodies in Turkey have been authorized to impose penalties in case of any noncompliance with the rules or provisions promulgated by the related laws. That's why, ethics regulation under the supervision of the Council has been wrongly established since the very beginning in Turkey despite the fact that ethics is a totally

personal intellectual moral inquiry concerning the values required to be explored for the ways of living a good life.

In public administration, it makes sense that public officials have to serve the public and fulfill the expectations of the citizens as required by the public office together with the ethical considerations. However, every people have a distinctive set of values so that government cannot externally intervene in their moral beliefs through ethics regulation so that they cannot be forced to act in accordance with the standard behaviors of conduct. It is actually not the task of ethics since it just guides public administrators and prompts their moral sentiments to motivate them making the good and right demeanors or choices for the public. However, it is not expected that all people will think about ethics in the same way or have the same depth of ethical knowledge in order to morally justify the good and right way for the benefit of the public.

Furthermore, public administrators from low to high ranked in Turkey do not have a clear idea about ‘What should ethics mean for public administration?’ and ‘What can be the main functions of it for the benefit or common good of the society?’. Today, many public institutions are implementing codes of ethics, but there is no interest or affinity among public administrators to such kind of ethical codes. Also, there is no good or bad reaction by public administrators to ethics regulation in Turkey. Since, the investigations of the Council do not cover all the public administrators. On the top of it, there are other effective ways to supervise the unethical behaviors of both high and low rank public officials such as disciplinary mechanisms and legal processes before the courts leading up to criminal sanctions in the end. At that situation, ethics and law are intertwined so the law as the powerful tool accepted and respected by everyone dominates the field of ethics. Shortly, Turkey has substantially legal means to address corruptions. However, ethics regulation supported by the institutional means such as the Council and the ethics commissions are not successful in Turkey.

From the other side, it should be accepted that Turkey seeks to adopt ethical understanding and practices of the Western societies having different socio-economic

structures and cultural peculiarities. Although Turkey prefers adherence to these ethics regulations as the extension of the Westernization movement in the name of administrative harmonization with the EU, public administrators can resist to accept ethical values and to internalize them, as well. Raising awareness on ethics is something good in terms of decreasing arbitrary behaviors of the public administrators and closing the asymmetrical relationship between them and citizens but these values are not completely enough to stop unethical behaviors as long as public officials do not care of or give importance to these values.

In fact, very differently from the Western countries, Turkey has sui-generis cultural characteristics such as traditional and authoritarian practices embedded in its political and administrative structures. For example, gift giving is a common traditional situation in Turkey but it should not be essential to administrative relationships due to ethical considerations. It is also worth to emphasize that particularistic relationships and especially clientelism dominantly take place in the political tradition of Turkey. The imposition of Western values ideologically forces Turkey to 'change' and to create a modern administrative environment in which the state and the private sector accompany to each other. However, this situation is also very challenging because the newer areas of corruption emerge as the integral problem of the developed countries especially together with the appearance of new public management techniques.

Despite the fact that there is a lack of an agreed definition of ethics in public administration system of Turkey, ethics is constantly emphasized by the government officials in the most discursive way. However, the Council emerged as the result of the ethics regulation in Turkey was not empowered at the beginning to function effectively to ensure the duties given by the related laws and regulations. Furthermore, jurisdiction area of the law contradicts with the investigations regarding the ethics violations. Nevertheless, the decisions of the Council are not binding and it just informs the relevant authorities concerning the results of the investigation. Therefore, the legal mandate attributed to ethics cannot be a preventative solution for the unethical behaviors of public administrators in Turkey. There is no way to solve the problem of ethics and law conflict in Turkey unless there is a clear distinction

between them, especially in terms of functions and duties. Since, ethics is 'emptying the concept of law' due to its tasks undertaken by the Council. For this reason, the distinction between 'law' and 'ethics' is required to be carefully examined and the necessity of 'ethics regulation' needs to be reevaluated in Turkish public administration. Since, it is important to emphasize that as long as public administrators faithfully adopt the provisions of the existing laws and internalize them to serve the interest of public, it is possible to have a properly functioning public administration system not only in Turkey but also in the world. That's why, perfunctory implementations in Turkish public administration taking the West as a role model and seeing the public administrators inclined to corruption do not provide intended consequences for an undisrupted moral order at public administration level in today's globalized and capitalist world.

The perception of ethics and the formation of ethics regulation in Turkey have started with the adoption of ethics codes and continued with the introduction of 'ethics regulation' in order to control public bureaucrats through non-conventional ways and to incorporate new ways of thinking of the new order into the systematic functioning of the public administration. As a matter of fact, ethics based on transparency, accountability, impartiality, integrity, and objectivity principles should guarantee public benefit during the execution of the public services. However, the overall objective of ethics concentrated on the prevention of corruptions in Turkey due to prevalence of unethical behaviors. Therefore, ethics regulation in today's public administration system deals with the attitudes and behaviors of the public officials and it does not actually concerned with the systematic roots of the ethical problems.

It is worthwhile to criticize whether a culture of ethics can be created or not by the ethics regulation in Turkey. In that respect, ethics regulation seems to be far from being realistic and useful for public administrators. Because, inner motives instead of external controls provide more concrete and applicable solutions. Moreover, it is expected that ethics in public administration fills the gap if the legal rules or provisions are inadequate but it must be kept in mind that ethics as a personal matter including much work on morally good and right choices of the individuals going along with the conscience.

Ethics is expected to increase public confidence in the public service and also creates a favorable environment for business enabling to better functioning of the markets and thereby contributes to the economic development. However, the main purpose of ethics regulation whether it is as in the form of law or not should not serve to the interests of the private sector but serve to the public good to protect the right of citizens as expected from rule of law in a state.

Before moving on to discuss ethics regulation in Turkey together with the opinions of the interviewed including high and low rank public officials in different public institutions of Turkey, it is first necessary to examine the legal and institutional basis of ethics in Turkey towards an ethics-based management which has been very popular through the implementation of new forms of government in our country. Specifically, ethics legislation based on national/international laws/conventions and institutional formations regarding the ethical infrastructure which is mostly encouraged by the international or regional policy making actors. Then, it has to underline the implications of the ethics management in Turkey as a part of the administrative reform movements in the worldwide which transform the public administration through the ideological dominance of the neo-liberalism and globalization.

#### **4.1 Towards an Understanding of Ethics Management in Turkey**

The mentality change for the field of public administration in the world has been directly reflected into the reform movements of Turkey. Ethics as one of the important part of these reform processes has been used by the government in the name of reestablishing the public trust. Because, Turkey has encountered with new common problems which are also prevalent in other nation states since the end of the 20th century. It can be easily understood that ethical management system in Turkey has arisen due to some external effects and it has been specifically implemented by top to down structural reforms imposed by the international and regional policy making actors.

The emergence of the ethics management in public administration system of Turkey corresponds to the early 2000s and mostly relies on extensive ethics regulation in the

country. However, this regulation is void of being contentful due to many reasons. When the ethical practices are evaluated and the regulation concerning ethics is even shallowly examined, it can be easily understood that the emergence and establishment of ethics regulation in Turkey is mostly concerned with being enthusiastic about the reflection of new management approaches into public administration. In this regard, it cannot be said that ethics regulation is voluntarily appropriated by public administrators but mainly the ideological discourse of the ruling government under the effects of globalization has required the adoption of ethics regulation in Turkey without having clear idea what should be the main function or duty of ethics in public administration. In a way, public administrators are forcefully obliged to accept the existence of ethics regulation in Turkey but the implementation side totally belongs to their ethical background and conscience.

It would not be wrong to say that some negative characteristics of the people in a sense of social behavior can also lead to emergence of negative peculiarities in organizational sense (Kılavuz, 2002: 259). In this regard, Usta (2011: 40) additionally claims that contradictions experienced in today's modern society destroy the real values and moral behaviors to a large extent. As a result of these contradictions or conflicts, moral degradations become a part of the public life, as well. Very clearly, moral disruptions are automatically returned into public domain and influence public institutions structurally and functionally (Usta, 2011: 40). Not only in Turkey but also in all over the world, serious loss of prestige and trust in public institutions with all these reasons have pushed governments to take some corrective actions or measures as a non-conventional way through the so-called ethics regulation stimulating the pace of reforms, as well.

It is easy to assert that the above-mentioned problems facilitated the integration of administrative ethics into public administration system and ethics-related issues became a part of the public administration in Turkey. But, very interestingly, the applicability of the ethics regulation in general is not directly concerned with enhancing the 'public benefit' or 'common good'. On the contrary, these rules are introduced in order to cut off any moral wrongdoings which in fact harms the efficiency and effectiveness of the public administration in today's globalized and

capitalist world. However, reconciling the administrative performance with the implementation of ethics regulation actually does not serve to the public interest and thus performance-based management techniques are not compatible with the enhancement of the common good. Nevertheless, according to Eryılmaz (2008: 3), it is also important to emphasize that the minimization of the state and the privatization policies implemented by the governments do not decrease the responsibilities of the state; on the contrary, it empowers the rights of the people before the public administration system. This situation is closely associated with the substantial effects of the private actors in the public realm and generates ethics regulation as a new form of oversight for public officials whose relationships are increasingly evolving with the business environment or private sector in Turkey instead of being commitment to public interest and politically neutral to every people in the country.

Furthermore, as Kelemen and Peltonen (2001: 152-153) agreed on that people live in a post-industrialist world and organizations, too and this means that "news forms of production and distribution" have come into existence through the "network organization, the process-driven organization or the virtual organization" by replacing the bureaucratic organizations. That's to say, it is now generally accepted that all the changes observed and experienced by the public administrations today entail the interests of the market actors. Especially after Fordism have left its dominant position to the flexible production regime or post-Fordism from the 1970s, perennial changes have become the driving force of the post-Fordism. Such a radical understanding has led to "conceptualization of ethics along the logic of the market putting efficiency on a pedestal at the expense of other values" so that "it fails to account for relationships that are not necessarily governed by the market..." (Kelemen & Peltonen, 2001: 153). It can be inferred from that situation, Weberian style of government has given its place to entrepreneurial forms of organizations in the modern era. In this regard, Peters (2002: 85) supports this idea claiming that

The emerging conception is that government can perform better with more open and entrepreneurial organizations than it will deal with the familiar bureaucratic style.

As a result, trying to put emphasis on informal ethics codes and moral integrity, governments have chosen to adapt to broader systematic changes in public administration for a possible efficient, effective and economic ways of public service. However, such kind of a codification of morality under the name of 'ethics regulation' cannot be grounded in law as a moral dictation for public administrators. Since, public officials have the ability to reach out their inner moral sentiments while they are doing their works on behalf of the public. It is a matter of how we perceive our behaviors as right and wrong or good or bad. It would not be wrong to say that public administrators are ultimately responsible for all actions within the public institution but the ethics regulation cannot be prompted on these grounds for dealing with the unethical violations of public administrators. Because, the laws and morals keep our behaviors and attitudes in check even if we choose to opt out from having public values for the benefit of society. Furthermore, there is a concept of moral relativism referring to several philosophical positions associated with the differences in moral beliefs among the people; however, it does not mean that people do not have an ethical knowledge, at all. In that sense, the meaning, functions and the role of ethics for public administration should be very clearly explained to guide public administrators in their ethical decision making. Since, the problem lies in personal understandings or beliefs. From an ethical framework, people should be the guardian of themselves through their moral beliefs and practices despite being subject to provisions mentioned in the law or the investigations of the Council as one of the surprises of the ethics regulation in Turkey.

It is also very important to point out that the impact of globalization has been felt more on Turkey's ethics management understanding and this trend has been increased by the implementation of neo-liberal policies in the country's economy. At that point, Farazmand (2002: 128) specifies the globalization as one of the two prevailing trends:

[L]eaded by the Western instrumental rationality especially through the current government reinventing, re-engineering, structural adjustments, privatization and redefinition of public-private sectors configurations designed and led by corporate and government elites.

The pressures of the globalization at the one side and the NPM reforms on the other side lead to value-based public management system embedded into the public administration structure of Turkey. In parallel with this situation, a regulatory basis for ethics in Turkey has been required to observe and detect the unethical violations of public administrators. Through these reasons, an actor or a regulatory body in the government field, namely the Council of Ethics for Public Service, with specific powers has been formalized by the government but this regulatory body established in the institutional administrative structure of Turkey is limited to address every unethical act or even scandal of every public administrator. The decisions of the Council are only applicable for the senior public officials.

Furthermore, applications cannot be made to the Council or the authorized disciplinary committees which are currently being examined by the adjudication bodies or that have been bound by a verdict by the adjudication bodies. Thus, the delegated powers to the Council are not similar to other regulatory bodies in Turkey in terms of imposing sanctions. Moreover, the existence of the Council creates a tension and confusion for the public officials. Since, the Council cannot work like a court and also the decisions given by the Council are not notable for the laws. There seems a tension between ethics and law in Turkey and this conflict is originated from the judicial and organizational failure of ethics regulation in Turkey.

Unfortunately, unethical activities in public administration are observed quite commonly in Turkey. As in other states managed by the neo-liberal ideology, public administration system in Turkey has been tried to be restructured on the basis of neo-liberal economy policies especially since the January 24 Decisions of Turgut Özal who has opened up Turkey's economy to liberalization, competition and concomitantly to privatization. This situation has triggered a series of administrative and political corruptions in the country. Since, evolution of the market-based interest relationships has been started to transform moral values in Turkey, as well. Furthermore, the measures taken against to moral decay have seemingly institutionalized in recent years by the establishment of the supervising body, namely the Council, in Turkey as it is also emphasized before. This situation indicated that unethical acts of public administrators in Turkey are no longer an individual problem

and every public administrator is now treated as having a tendency to participate in morally corrupt activities.

Turkey, as a country whose bureaucratic tradition of administration has been formerly stronger, is now vulnerable to the ideology of the capitalist and industrialized Western societies. Since, Turkey is now subject to structural changes due to European Union membership process. This situation has resulted in many reform packages required to be adopted by Turkey. Through this way, Turkey has directly integrated Western values and perceptions into its administrative institutional structures from top to down methods without evaluating the functionality of them due to desire for the continuation of its westernization efforts.

As a result, Turkey has aptly transferred ethical principles from Western countries built upon their values. On the other hand, it can be apparently evaluated that these principles and values such as accountability, participation in administration, right to access information and transparency have further reinforced the position of citizens against to the supremacy of the public administration. But, the observation of these principles under ethics regulation dominates the main function and importance of these principles and values for public administration in Turkey.

As a result, it is important to introduce and explain the legal and institutional basis of the ethics regulation to be able to analyze the overall impact of economic and political global concerns regarding the moral decay in Turkey and to reveal the underlying reasons concerning the malfunctioning of the ethics regulation in Turkey from the very beginning. In parallel, legal and institutional arrangements leading to the consolidation of administrative ethics in Turkey will be examined in detail. Then, the implications of moral reform based on these legal/institutional arrangements and global concerns will be discussed in terms of its effects on public administrators under the existing ethics management system in Turkey.

#### **4.1.1 The Impact of 'Governance' on Administrative Ethics in Turkey**

The idea that governments as the main actors determine the public policy options and influence the economy and society through the policy implementations is challenged by the hegemony of the market forces promoted by the global neo-liberal policies. In today's world, national governments are very amenable to international capital markets and supranational organizations (Peters & Pierre, 1998: 223).

In this global environment, there is a tendency in public administration to form policies in cooperation with various market actors through decentralized organizations which seem sensitive to participation, accountability, transparency, ethics, result-orientation, customer orientation and openness. Actually, the shift from government to governance in the world is mostly concerned with the transformation of the capitalist system itself. It would not be wrong to say that the collapse of the Soviet Bloc in the late 1980s also contributed to the formation of a neoliberal uni-polar world order (Zengin, 2009: 11). By re-defining itself, capitalist system changed into world economic system through the effects of globalization (Aksoy, 2004: 33).

The governance as a new and different suggested model for the sustainability of the neo-liberal economic order in the world has become a commonly used concept or approach in public administration literature since the 1990s. In this regard, it does not differentiate itself from other approaches like 'new public management' and 'reinventing government' which are supported by the neo-liberal policies, as well. Therefore, the ideological roots of the governance should be traced back to the new public management and reinventing approach which seek to enhance private sector management understanding and its techniques in public administration.

The emergence of governance model as in the case of new public management approach is mostly related to the crisis of the neo-liberal policies which make an incredible pressure on the administrative structures of the states to be more responsive to the citizens. On that issue, Vigoda (2002: 527) asserts that there is a tension between "better responsiveness to citizens as clients" and "effective collaboration with them as partners" in modern public administration. The crucial thing here is that governments redefine their roles leaving aside the main focus on

efficiency, effectiveness, reduction of the cost, and productivity. As Demmke and Moilanen (2012: 139) claimed that they seek for the "new accountability mechanisms, ethical standards, antidiscrimination rules, diversity policies, transparency policies, citizen orientation programs, etc."

Actually, the term 'governance' implies different meanings for a variety of scholars. According to Rondinelli and Cheema (2003: 195),

Governance is the system of values, policies and institutions by which a society manages, its economic, political, and social affairs through interactions within and among the state, civil society and the private sector.

In a different way, Lynn, Heinrich and Hill (2000: 235) defines that

Governance refers to the means achieving direction, control, and coordination of wholly or partially autonomous individuals or organizations on behalf of interest to which they jointly contribute.

However, Rhodes and Rhodes (1996: 653) focus on different usages of the term 'governance' such as "the minimal state, corporate governance, good governance, a socio-cybernetic system and self-organizing networks", favoring the last one. As it is understood, there seems to be no consensus on the exact meaning and function of the governance for public administration. Although Loorbach (2010: 161-163) claims that 'top-down steering by government' and 'liberal free market approach' are the outdated management mechanisms due to enabling to solve the problems at public level, he insists on the usage of the governance approach together with the others. Consequently, governance is practiced as a mitigation tool for the crisis of neo-liberal policies and perceived as a market-friendly model that has not been 'so good' at serving the public interest, so far. Governance merely targets to strength the existing forms of government, not to increase public interest in this global capitalist world.

To be clearer, now, there are a number of players in governmental system since many different groups and organizations continuously try to affect the policy

outcomes. Denhardt and Denhardt (2003: 83) believe in valuing citizenship over entrepreneurship emphasizing the changing role of government in complexity of the modern era. They continue to emphasize that government is not the only decision-maker anymore and its role is to bring different players to the table to solve the problems of the society together. However, they assign an active and participatory role to all the concerned parties in policy making process in the name of serving the public. (Denhardt & Denhardt, 2003: 83) It is definitely controversial that how the changing relationship between 'the rulers' and 'the ruled' affects positively the outcomes of the policies for the benefit of the society and to what extent the cooperative work between government and other actors, mainly the market actors, will serve to public interest in an accountable and responsive manner?

When it is traced back to the development of governance, international organizations come out as the main contributors to this concept in order to expand their areas of intervention, especially in developing countries. WB, UN, IMF, and OECD seem to agree on the main principles of the governance such as decentralization and privatization, transfer of the capital from state to the private sector through the public sector reform, and 'state for the market' understanding. For example, Bayramoğlu (2005: 47) clearly explains that World Bank has been interested in the participation of market actors to the administrative processes and thus it has been needed to transfer power and resource to the local authorities for a more competitive environment. According to him, OECD's approach to governance is similar to WB but its contribution to the governance approach is mostly based on decision-making processes enhanced by the 'regulatory reform program' by the OECD. (Bayramoğlu, 2005: 47)

Neo-liberal reforms aiming to restructure of the state organization in public administration have been continuously affecting the public sector in Turkey, as well. However, Turkey has practiced 'the formal proposals of the Weberian bureaucratic model' such as decreasing public expenditures and investments, implementing control mechanisms, stopping the public official recruitment and so on to solve the problems of public administration until 1980s. Yet, the impact of global dynamics with allegedly finding durable solutions to the problems have compelled Turkey to

admit public administration reform policies. At the time, the notion of governance in public administration has been firstly introduced into the political agenda of Turkey together with the stability program implemented by IMF (Bayramoğlu, 2005: 291). Furthermore, World Bank has provided loans worth 759.6 million dollars to support this program (Bayramoğlu, 2005: 291). In fact, these two international organizations have supported Turkey in order to ensure successful market reforms emphasizing the public-private collaboration. Thus, Turkey is deemed to recover the poor economic performance through the given funds. On the contrary, these reforms have actually deepened the economic crisis in Turkey.

The concept of 'ethics' has been promoted by the governance model in public administration system of Turkey. This situation has contributed to the development of market approaches in public administration. To be clearer, the priority of the market-based approaches is generally associated with the profit maximization and ethics is regarded as a supportive tool to generate a set of advantages for private sector organizations by ensuring the good and proper business relationships. That's why, governance model does not actually serve to public interest; instead, it concentrates on the interests of private firms engaging in good relations with public institutions. It is important to guarantee ethics in business work in order to deal with dysfunctional behaviors of employees and managers (Simpson & Taylor, 2013: 73). Since, ethics management relies on more profit which cannot be accepted as the ends of public administration.

Generally speaking, the functioning mechanisms of the economic systems affect people and society in general. The existence of market economy and its supporting government models or tools, as one of them 'governance' here, do not bring social equity and wealth to public and they make public administration more vulnerable to unethical acts. Although ethics in public administration has an extra importance to achieve the common good, it becomes increasingly irrelevant by the values of the market such as competition, exchange values, transaction costs, and so on.

#### **4.1.2 The Impact of Regional and International Actors on the Ethical Agenda of the Turkey**

Regional and international actors have been very influential in the establishment of 'ethics management' in Turkey. These actors are Organization of Economic Cooperation and Development, European Union, World Bank, United Nations and Council of Europe. Generally speaking, they all try to create legal and institutional infrastructure in order to combat increasing number of corruptions through various conventions, resolutions and recommendations, action plans and programs. At the same time, they seek to impose ethics regulation to member countries on behalf of the 'new order'<sup>6</sup>.

First of all, OECD seeks to constitute common approaches in public management reform contributing the global trend. Especially, it works on the efficiency of the public services, increasing the confidence in public institutions and decreasing the cost of public transactions<sup>7</sup>. Since, OECD adopts an integrity based approach to fight heftily with corruptions in public administration. For that reason, the Public Management Committee established within OECD guides the member states regarding ethical behaviors and follows principles stated below (Kılavuz, 2003: 257):

- Ethical standards to be applied in public services should be clear and understandable.
- Ethical standards to be laid down for public officials must remain within the legal limits.
- Public officials should know their rights and obligations about unfair actions made against them.
- Political comments about ethics should encourage public officials regarding the ethical behavior.
- Administrative arrangements and procedures must address corruptions.
- The process of political decision-making should be open and transparent.

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<sup>6</sup> The concept of new order corresponds to capitalist order in the world which has been created by the capitalist class and transformed by them.

<sup>7</sup> Retrieved May 25, 2015, from <http://www.oecd.org/corruption/ethics/>

- Policies based on the relationship between public and private sector should be clear.
- Administrative policies, procedures and practices should promote the ethical behaviors.
- An effective supervision and accountability mechanism should be implemented by the provisions of the public services.

As it is seen above, these principles are ready to support the new forms of government coming together with the reform processes in the world. Turkey, as one of the member states which wants to be articulated to this changing environment, has an obligation to follow these principles. Armstrong (2005: 4) argues that

The OECD countries also adopted the principles for managing ethics in the public service in 1998 and issued guidelines for managing conflict-of-interest in the public sector in 2003.

The situation implies that these principles constitute a guide for the member states to strengthen their national 'ethics infrastructures'. However, all the recommendations made by OECD relating to awareness-raising programs about ethics aim to protect transactions of the international corporations so that the relationships between public and private directly serve to private sector.

Furthermore, OECD Working Group on Bribery monitors the implementation and the enforcement of the Anti-Bribery Convention through the site visits due to the serious concerns about the prevalence of unethical acts in Turkey. For example, the last report<sup>8</sup> reviewing the situation of Turkey in terms of legal and administrative arrangements to be made against corruptions published in 2014. Through this report, OECD evaluates and makes recommendations to Turkey regarding the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Taking inspiration from the OECD recommendations, European Union have also carried out a range of initiatives and reforms regarding the ethical framework of the Commission. Although the EU member states have already adopted the OECD principles, 'An Ethics Framework for

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<sup>8</sup>Retrieved May 29, 2015, from <http://www.oecd.org/daf/anti-bribery/TurkeyPhase3ReportEN.pdf>

the Public Sector<sup>9</sup> has been adopted by the Directors General responsible for public administration in the member states and the institutions of the European Union. In this framework<sup>10</sup>, there are a number of general core values and specific implementations which are identified by 'models of good practice' of public administrations of the EU member states.

In this framework, EU also emphasized the integrity of the public sector. It would not be wrong to say that 'ethics management in public administration' can be regarded as a way to integration with national administrations in the EU. To be applicable in all member states, EU tries to form a 'European Administrative Space'<sup>11</sup> in which beneficiary countries can search for good governance examples to improve their administrative efficiency and to promote adherence of public sector staff to democratic values, ethics and respect of the rule of law. Therefore, EU has immediately requested from Turkey as a candidate country to adopt administrative capacity building reforms. Also, EU supported the "Project on Ethics for the Prevention of Corruption in Turkey"<sup>12</sup> (TYEC) in collaboration with the Council of Europe. As it is understood, Council of Europe<sup>13</sup> also supports the ethical structure in public administration system of Turkey through the projects. In addition, the Council arranges 'global forums'<sup>14</sup>, prepares special 'handbooks'<sup>15</sup> for the public

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<sup>9</sup> Ethics Framework for the Public Sector has been proposed by the Dutch Presidency. For more information, Retrieved June 4, 2016, from [http://techcrunch.comhttp://www.eupan.eu/files/repository/Main\\_features\\_of\\_an\\_Ethics\\_Framework\\_for\\_the\\_Public\\_sector\\_as\\_adopted\\_22.11.04.doc](http://techcrunch.comhttp://www.eupan.eu/files/repository/Main_features_of_an_Ethics_Framework_for_the_Public_sector_as_adopted_22.11.04.doc)

<sup>10</sup> The framework is voluntary and non-legally binding.

<sup>11</sup> See for example OECD-PUMA, 'Preparing Public Administration for the European Administrative Space', SIGMA Papers, Paris, No 23 (1998).

<sup>12</sup> The project is funded by the European Union (90%) and by the Council of Europe (10%). It is implemented by the Council of Europe's Directorate of Co-operation (Economic Crime Division). The project's main counterpart institution is the Council of Ethics for Public Service at the Prime Ministry of Turkey. Retrieved July 15, 2015, from [http://www.coe.int/t/DGHL/cooperation/economiccrime/corruption/projects/TYEC/TYEC\\_en.asp](http://www.coe.int/t/DGHL/cooperation/economiccrime/corruption/projects/TYEC/TYEC_en.asp)

<sup>13</sup> The Council of Europe includes 47 member states, 28 of which are the members of the European Union. Although Turkey is not a member of the EU, it became the member of the Council of Europe on 9 August 1949.

<sup>14</sup> Retrieved August 16, 2015, from <http://www.coe.int/en/web/world-forumdemocracy/2012/programme/wednesday-10-october-2012>

officials and monitors the compliance with the standards adopted with the help of Group of States against Corruption<sup>16</sup> (GRECO). It aims to improve the capacity of states to fight against corruption both internally and externally. Council of Europe has a higher degree of influence on Turkey and it monitors the comprehensive reform movements realized since the late 1990s in Turkey.

On the other hand, Turkey has been involved into new international economic order and monetary system through the credits received from the World Bank and International Monetary Fund. These organizations which are the two hegemonic powers in transnational politics impose their value judgments into developing countries. Indeed, they actually force them to make structural adjustments in their economic, political and administrative fields as in the case of Turkey. For these organizations, it is right to say that they expect from Turkey to reduce the administrative corruptions by implementing the anti-corruption initiatives in order to dispel the negative effects of corruptions on global management system.

In today's world, it is true that global interactions are unavoidable. As a result, Turkey has been already on the way of integrating into capitalist system through the effects of globalization. Also, the ideology of the system was introduced with a variety of 'harmonized laws' and these laws are integrated into the administrative structures of Turkey. Ethics as an important means to promote ethical behavior are obviously regulated in Turkey creating a tension between ethics and law. Hoping to get rid of the negative impacts of corruptions, Turkey apparently pursued an ethics regulation policy creating a regulatory body as in other developed Western countries to augment the capacity of government in order to deal with contemporary unethical challenges of the new order. But, this institutional design for ethics is inappropriate for its loose position in public regulatory environment.

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<sup>15</sup>For the full version of the Handbook, please follow the link. Retrieved August 23, 2015, from <https://wcd.coe.int/ViewDoc.jsp?Ref=Hbook/Ethics/2006>

<sup>16</sup> GRECO was established in 1999 by the Council of Europe to monitor States' compliance with the organization's anti-corruption standards.

## 4.2 Consolidation of Ethics in Turkish Public Administration System

Turkey has encountered with serious ethics crisis since the 1970s at an increasing rates. According to Ömürgönülşen (n.d.), this situation is both a reflection of ethics problems all around the world and a result of the unique historical and cultural conditions of Turkey.<sup>17</sup> That's to say, ethics crisis are not only the part of global ethics crisis but also it is the consequence of large scale structural and functional impairment of the Turkish political-bureaucratic system.<sup>18</sup> Since the early 1980s, rapid economic transformation with 'the contributions of the global competitive environment' has led to erosion of societal values in Turkey. Specifically, the economic, financial and administrative policies of the neo-liberalism has given way to new forms of institution building in public administration and transformed Turkish public administration system structurally. Thus, better administrative performance should has been achieved in line with the efficient and effective policies aiming better quality service delivery for the citizens namely 'the potential customers'. That's why, ethical approach in administration signifies an important matter that needs to be seriously taken into consideration by the government policies to build the public trust again. As a result, ethics management in Turkey has been adopted to alleviate the criticisms from citizens to the state.

In the last quarter of the century, the political-bureaucratic corruptions in Turkey have been observed primarily in the field of public works, public procurement, energy sector, banking sector, health sector and customs transactions due to unethical relationships between politicians, bureaucrats, and businessmen. Without debating the philosophical foundations of the administrative ethics, government are forced to regulate ethics in Turkey by establishing the legal and institutional infrastructure for ethics management. Especially during the early 2000s, significant progress has been realized and government has taken serious steps to combat with the corruptions

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<sup>17</sup> Retrieved September 7, 2015, from [https://www.tbmm.gov.tr/etik\\_komisyonu/belgeler/sunum\\_TurkiyedeEtikKamuYonetimininKurulmasi.pdf](https://www.tbmm.gov.tr/etik_komisyonu/belgeler/sunum_TurkiyedeEtikKamuYonetimininKurulmasi.pdf)

<sup>18</sup> Final Report of the Project called as 'Technical Assistance for the Needs Assessment of the Public Ethics Commission', 2011. This project is co-financed by the European Union and the Republic of Turkey.

under the influence of IMF<sup>19</sup>. For example, an 'Action Plan on Increasing Transparency and Enhancing Good Governance'<sup>20</sup> accepted in 2002 by the Council of Ministers including preventive provisions to address and oversee the political corruptions in Turkey. Furthermore, Turkey have promised to make progress through further steps by the end of 2002 in the IMF Letter of Intent such as improvement of the public sector personnel system, including passage of legislation to establish a code of ethical conduct for civil servants and public administrators and also increase in access to information, through the preparation of an Information Act, defining the rights of citizens to request information and the obligation of public organizations to provide information. The transformation in Turkish public administration with the serious impact of the external factors has created pressure on the government and legislative acts have been prepared to be included into reform packages.

For example, as stated above, the Right to Information was enacted in 2003. Furthermore, the Council was established within the Prime Ministry in 2004 with Law No. 5176 referred as the “Establishment of Council of Ethics for Public Service and Making Amendments on Some Laws” to fight against corruption and to ensure ethical culture among public officials. Besides, the pressures from international policy-makers have forced Turkey to promulgate ethics laws. For instance, European Union obliges Turkey to lay down ethics laws in the name of 'administrative harmonization'. From a broader perspective, Turkey followed the EU, OECD, WB and IMF guidelines regarding ethics to be able to increase its administrative capacity and to facilitate its adaptation to global world. Moreover, Turkey changed its national law in order to implement international conventions and standards in line with the policies of these international organizations.

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<sup>19</sup> Turkey made a commitment to IMF through the Letter of Intent dated as 3 April 2002 like that “On February 13, the Council of Ministers adopted a decree spelling out an action plan to enhance transparency and good governance. This plan is part of a broader public sector reform effort, encompassing also public expenditure management and civil service reform. To oversee the implementation of this plan, a Ministerial Steering Group for public sector reform, as well as a subcommittee to provide support to the Steering Group in implementing the action plan to enhance transparency and good governance, will be established by end-April 2002 (new structural benchmark)”

<sup>20</sup> Retrieved October 4, 2015, from <http://www.masak.gov.tr/media/portals/masak2/files/karar.pdf>

As it is understood, ethics within a regulatory framework has been as an ongoing concern in Turkey to avoid the unethical behaviors of public administrators having a possibility to harm the efficient functioning of the administrative system. However, public administrators have an obligation to follow the ethics related-provisions of the existing laws in Turkey such as Civil Servant Law, Turkish Penal Code, the Right to Information Act and so many other laws and regulations which will be examined under the following heading in detail. That's to say, a number of provisions in various Turkish laws determine the limits of unethical behaviors. For example, unethical acts which can be defined as crime for public administrators have been already found in Turkish Penal Code. Also, unethical acts which can be considered as a specific obligation for public administrators have been found in Civil Servant Law. A particular interest can be given to the existing definitions of unethical practices stated in different laws in Turkey instead of legal adoption of universal ethical principles in a formalized way. Although these ethical principles are reflected into guidance documents concerning ethics and into procedures relating to professional ethics, compliance with these guidance documents or procedures are based on voluntary basis so that they are not legally-binding for public administrators. Therefore, it can be argued that the ethical provisions in Turkey integrated into different laws and even ethical principles stated in different guidance materials have to be intrinsically internalized by every public administrator. Even though Western societies enact ethics laws in a legal basis and establish ethics councils or committees as an institutional mean to regulate ethics in today's globalized and capitalist world, they continue to encounter with many different and constant problems concerning the misbehaviors of public administrators.

Indeed, contrary to what is mostly assumed, deregulation and privatization as the two important tools of the neo-liberal ideology have paradoxically formed the conditions for the rise of regulatory state<sup>21</sup> since the 1980s. When it is spoken about the regulation, Veggelang (2009: 1) makes four categorization for the explanatory conceptions of regulation as follows:

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<sup>21</sup> Regulatory state is enhanced by a variety of social, political and economic substantive and procedural controls on all of the state structures and public.

Law-directed conception: regulation as authoritative rules

Economics-directed conception: regulation as efforts of state agencies to manage the economy.

Politics-directed conception: regulation as mechanism of steering and democratic control.

Sustainability-directed conception: regulation as means to handle environments threats and the risk society of the new modernity.

As stated above, the law-directed conception of regulation gives way to the rise of the regulatory state which can be directly linked with the increasing importance of the public administration which enables to make more laws on ethical matters. Also, Veggelang (2009: 3) urges that "The commencement of the regulatory state meant an embracing of institutional innovation in the Western world".

Here, the innovation represents the 'new institutional solutions to new international and national economic problems' during the 1970s. Very clearly, governments sustainably attempt to change the behaviors of the public administrators and to adapt them into new institutional formations through the laws, standards, partnerships, contracts and so on. This period, in which market relations penetrate the smallest unit of the social relations, witnesses to the reshaping of the public structures according to the requirements of the capital. (Bayramoğlu, 2005: 219) New forms of organization in public administration are supported by the creation of new supervisory and controlling bodies. Veggelang (2009: 4) confirms that this regulatory innovation is reinforced

By the methods of regulatory governance, the use of the principles and measures of new public management, market-type mechanisms, arm's length bodies in the public sector and legal control.

It can be argued that the dominant tendency in that period has emerged out in a way of passing laws aiming at strict controls over the public administration in order to keep the market orientation at the center. However, ethics as one of the tools of that legal control has failed to prevent moral decay not only in Turkey but also in all over the world despite the suggestions of the Western developed countries and

international organizations. In reality, the solution proposed by the West in order to deal with the unethical behaviors did not go beyond to be remaining suggested guidance for Turkish public administration system. Even though the public administrators take the laws seriously rather than principles or standards, the establishment of legal basis of ethics in Turkey did not express any meaning for public administrators. On the top of it, the efforts to institutionalize ethics in Turkey through the establishment of ethics council cannot be an effective mechanism for the improper functioning of public administration. It is essential to understand that the regulation of moral considerations which are very specific to people's understandings cannot provide an accurate picture and observable improvement regarding unethical behaviors of public administrators in Turkey.

It would be right to say that the legal basis of administrative ethics in Turkey and its institutional practice through the Ethics Council at the highest level and ethics commissions at the lowest level are directly concerned with the useless policy remnants of the Western society, the interests of the transnational corporations and finally the harmonization efforts of the Turkish government within a competitive market environment. Consequently, ethics regulation did not spontaneously come out in the political-administrative agenda of Turkey. Nevertheless, the government in Turkey is very enthusiastic about following the neo-liberal administrative ideology, policy and strategy in the world which enable to uncover the crisis of the market through the moral mechanisms in which laws deviate from its basic aim, 'protecting the public interest'.

#### **4.2.1 Legal Basis of Administrative Ethics in Turkey**

Public administration system in Turkey has been forced to change due to policy recommendations of the international organizations of the existing world system through the transfer of a series of reform policies (Güler, 2004: 26). It is no coincidence that the reform movements in public administration have instinctively come into place in the country. These reforms appeal to variety of interests in line with the global market trend. Furthermore, general aim of the reforms are directly linked with the restructuring of the public administration along with the mentality

shift. Since, the functioning of the capitalist system in the world has been evolved over the new roles and responsibilities of the government mechanisms.

It can be claimed that the stable and effective functioning of political and economic institutions in public administration contribute to coordination and facilitate collaboration between national actors, international policy making actors and transnational corporations which are economically influential in worldwide. However, public-private partnership or collaboration is in tendency to immersed in scandals and corruptions with the help of governance and new public management models. As Sözen (2012: 168) states that the administrative reforms of the new order can be grouped into two categories in terms of their content. These are the 'managerial reforms' which focus on 'improving economy, efficiency and effectiveness of public sector' and the 'governance reforms' which try to achieve transparency, accountability, responsiveness and participation in public administration (Sözen, 2012: 168).

Although these principles are regarded as the central pillars of the good government, private sector is mutually reinforced by these public initiatives or reforms. Thus, public sector is primarily open to the influence of business corporations through the disclosure of information regarding public plans and actions. Moreover, they get the opportunity to use public means and resources with economic and institutional advantages provided by the occupation of public domain at the expense of citizens. On the other hand, these reforms in fact dissolve the moral foundations of society in a more connected world despite the fact that they are intended to avoid bureaucratic corruptions, abuse of political power, interest maximization and so on. This situation creates an important obstacle before the achievement of a just society. Therefore, Turkey is both encouraged by the international policy making actors to articulate into globalized world and also is very eager to use ethics legislation to decrease the reactions from the society and promote government image in the eyes of the public. Since, the ethics scandals in public administration system of Turkey have led to form a basis for lower levels of confidence in government prompting the criticisms from the public. As a measure against these situations, ethics regulation has been commonly used by the Turkish government to suppress the impacts of contradictory

ideologies or policies of the new world order and to strength the link between government and society in Turkey.

Considering that legal system in Turkey has been already dominated by ethical provisions in different laws and regulations, there has been given an extra special importance to specific ethics legislation and accordingly a regulatory body has established as a result of the specific ethics law in Turkey. Exaltation of ethics over the law is actually an inappropriate situation since they have different philosophies despite having commonalities. But, the most significant distinction is that while the law includes an obligatory attribute, ethics relies on voluntary basis due to involvement of conscience and moral beliefs of people into individual moral evaluation. However, it should be accepted that ethics is one of the politically significant but legally questionable topic because of the efforts to regulate and institutionalize it in public administration system of Turkey. Ethics is more concerned with personal implications and reveals case-specific results. On the other hand, law is unlikely to follow the particular moral arguments having more general or universal claims. In general, ethical questions contains value judgments and belief systems supporting or helping to form a particular view of morality.

To clarify the existing situation of administrative ethics in Turkey, there is a need for a detailed examination of ethics legislation. In fact, specific ethics regulation in Turkey has been formed especially after the 2000s. Government promulgated legally enforceable rules regarding the ethical behaviors of public administrators under the supervision of the Ethics Council. Until that time, it might have been questioned whether Turkey has legal measures or tools against to unethical acts or not. As an answer, there are huge amount of laws and regulations concerning ethical issues in Turkey. Nevertheless, there has never been a uniform body of ethics regulation in Turkey which are applicable for every unethical behavior of public administrators with different levels. That's why, ethics legislation in Turkey creates a confusion among public administrators mostly due to the incomprehensibility of the concept of ethics.

Before the ethics legislation has been examined in detail, it is appropriate to start with the Public Administration Basic Law<sup>22</sup> and its purpose of preparation as an important elaboration of the new period in Turkey. Although the subject law has been remained in a draft position, it is important to understand the incremental effects of the global reform movements on Turkey and the so-called readiness of Turkish public administration to radical transformation experienced in the world. Indeed, this law was an attempt to rebuild the entire public administration system aiming to put forward common basic principles in public administration such as “entrepreneurship, free trade, private sector and development of market economy, strengthening of civil society, law reform and good governance” (Güler, 2004: 26-61).

However, these principles ensured by managerial and governance reforms focus on the market rationality in public domain. Even though this law does not enter into force for various reasons, many laws and regulations which are directly or indirectly related to the prevention of corruption and the promotion of ethical values in public administration have enacted in Turkey. In fact, these attempts prove that Turkey has gradually carried out further steps towards filling the lack of legal infrastructure of ‘ethics management’. The aim is to prevent the undesired behavior of the public administrators and enable them to develop positive behaviors while they are dealing with administrative works. However, the regulation of ethics has been performed by the codification of ethical principles and the establishment of supervisory agency in Turkish public administration. The creation of the actual ethics infrastructure in public administration system of Turkey has been ensured by the ‘The Law about the Council of Ethics for the Public Service’ in general and the ‘Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials’ in specific framework. On the other hand, there are a number of laws which deal with the unethical behaviors of public administrators besides the specific

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<sup>22</sup> Public Administration Basic Law had aimed not only to build a different management system in Turkey fulfilling the requirements of the new order but also to redefine the place of Turkey in global world. According to B. A. Güler, the draft law brings three fundamental changes. The first one is the privatization. This refers to the disappearance of the attributes of the social state. The second one is governance through which the private sector is rendered as direct and explicit government partner. The final change is the decentralization which is based on the principle of subsidiary.

ethics legislation as stated above. Some examples of these laws are given in Table 1 as follows:

**Table 1: The Number of Laws Regarding Ethics**

<b>The Laws Including Ethical Provisions</b>
The 1982 Constitution
The Civil Servants' Law
The Law about the Prohibited Activities of Former Public Servants
The Law for Financial Disclosure and Combating Bribery and Corruptions
The Law about the Trails of Civil Servants and Other Public Servants
The Turkish Penal Code
The Law about to Right of Access to Information
The 1982 Constitution
The Civil Servants' Law

Source: [www.etik.gov.tr](http://www.etik.gov.tr)

In order to well comprehend the necessity of the ethics regulation in Turkey, it might be good have a close look to the important provisions<sup>23</sup> of the 1982 Constitution, Civil Servants' Law and Turkish Penal Code. The provisions of the 1982 Constitution relating to promote ethical behavior and prevent corruptions in Turkey are stated in Table 2 as follows:

**Table 2: Ethical Provisions in 1982 Constitution**

<b>The Number of Article/s</b>	<b>The subject of the Article/s</b>
<b>Article 10</b>	State organs and administrative authorities are obliged to act in compliance with the principle of equality before the law in all their proceedings.
<b>Article 125</b>	Recourse to judicial review shall be available against all actions and acts of administration.
<b>Article 137</b>	Unlawful orders cannot be fulfilled in any way

Source: 1982 Constitution

The Civil Servants' Law also underlines the specific ethical obligations and responsibilities of the public officials. These are stated in Table 3 as follows:

<sup>23</sup> Please see the link for more information: [https://www.tbmm.gov.tr/etik\\_komisyonu/mevzuat.htm](https://www.tbmm.gov.tr/etik_komisyonu/mevzuat.htm)

**Table 3: Ethical Provisions in Civil Servants' Law**

<b>The Number of Article/s</b>	<b>The subject of the Article/s</b>
<b>Article 3</b>	The Principle of Merit
<b>Article 6</b>	Loyalty
<b>Article 7</b>	Neutrality and Commitment to State
<b>Article 8 and 9</b>	Appropriate Conduct and Cooperation
<b>Article 10 and 11</b>	Duties and Responsibilities of Public Officials
<b>Article 12 and 13</b>	Financial Accountability of Public Officials Against the Administration and Citizens
<b>Article 14</b>	Property Declaration
<b>Article 15</b>	Unauthorized Disclosure of Information to the Press
<b>Article 16</b>	The Return of Official Document, Tools and Materials

**Source: Civil Servants' Law**

Provisions of Turkish Penal Code contain the most severe penalties against unethical behaviors of public administrators within the Turkish law. Embezzlement, malversation, failure to perform control duty, bribery, misconduct and so on can be given as the examples defined in the criminal code. Beside the different ethics-related provisions in different laws as stated above, Turkey preferably formed 'ethics management' system through specific ethics legislation substituting ethics with the law. In other words, Turkey has adopted ethics in the form of law. The current situation indicates that the promulgation of specific ethics legislation in Turkey can have a number of underlying reasons such as external pressures due to the commitments and advisory decisions of the international and regional organizations due to the need to increase the public trust at the country and global level. Furthermore, Westernization efforts of Turkey as one of the reasons contribute to the transformation of ethics into law. In fact, ethics should be the freedom area of people to be able to have more knowledge about values such as virtue and happiness guiding them in life and determining their quality of life in this materialized world. As a result, the enactment of these values through the laws are the result of ethics understanding imposed globally to Turkey. Precisely at this point, Yüksel (2006: 201) argues that considering the legal infrastructure of ethics, it is understood that universal understanding of ethical behavior is tried to be captured by Turkish public administration system. From a different point of view, even though Turkey draws a

universal framework of ethics in public administration, the non-enforceable control mechanisms in our country, where lawlessness has almost become a norm, are prone to be a fact (Yüksel, 2006: 201).

Nevertheless, the main issue to be discussed here should be whether ethical awareness can be placed with a set of specific ethics legislation? When it is thought that ethics was put on the agenda of Turkey in the early 2000s in order to solve the moral distortions originated from the problems of economic field and their reflections into social area, the integration of ethical values into public administration has been a serious attempt to debate ethical considerations thoroughly. However, a good functioning ethical system in public administration is totally related with the moral reasoning of individuals who have an ability to evaluate bad or wrong consequences of their behaviors, even in a sustained market rationality in the capitalist world. The greater levels of ethical awareness can be achieved if public administrators give importance to moral priorities firstly on an individual basis. The value statements of the public administrators are determinative in their decisions for public. That's why, they should be aware of that 'public interest' understanding should be always in the essence of their works. The dispersion of this understanding throughout the public institutions can provide a strong foundation to form an ethically mature environment in which ethical experiences are shared by all public administrators. Nevertheless, Turkish administrative culture is not responsive to such an idealistic super-structural situation which is practically implemented from top to down manner. Therefore, in reality, the existence of specific ethics regulation which aims to keep human behavior under control does not mean a lot to public administrators. Just for the sake of being one of the modern Western societies, Turkey should not necessarily follow the ethical guidelines dictated by Western world. On the other side, international policy-making organizations have given priority to ethical studies to obviate the corruptions and to ensure the implementation of good management which is compatible with the new economic order due to the fact that prevalence of corruption problems has decreased the confidence of public in government and lead to loss of prestige in public administration. Supporting that point, Amstutz (2013: 1) states that moral values are an important part of the

international relations so that “international ethics is foundational to global politics”. In addition, he talks about a basic ‘moral vocabulary’ which needs to be shared by the states to deal with ethical challenges (Amstutz, 2013: 1). On the contrary, the moral contradictions of the new economic order have given rise to questions about moral foundations of the rules and structures of the global actors. Since, they try to impose common moral norms in order to justify moral obligations imposed on the states. It can be perceived that these obligations generally correspond to the requirements and demands of the new economic order so that they have been reduced to ethical discourse corroding the important values for public administration. That’s to say, ethical values by being transformed into goods are rapidly consumed. Furthermore, ethics now is in a fragmented situation for public administration in Turkey since arbitrary meanings are attributed to it as examples of the different conceptions of ethics. In fact, the law emptying the content of the concept of ethics has led to a sense of confusion in Turkey.

Ethical studies in Turkey have shown that ethics management in public administration has been shaped by the global actors having vital concerns regarding their economic interests in the global market. At that point, related with how to secure these economic interests, ethics regulation was primarily embraced by the industrialized countries and then the developing ones by the suggestions of these global actors. Being as from the second group, it is foreseeable that Turkey has been in an effort to be articulated to the political and economic international world order through the laws and regulations meaning international conventions and decisions of that mentality. A new global moral order has been created as a result of the efforts to make safe and to facilitate the transfer of international money transactions for the proper functioning of the global market. However, such a new moral order created in the world has been dictated to Turkey through various so-called administrative reform policies or harmonization packages. Therefore, it can be said that ideological roots of the establishment of ‘ethics management’ in Turkey are the legacy of international and regional policy actors. The discourse of ethics in numerous countries in the world has led to use of ethics in Turkish public life intensively. As a strategic title discussed in a critical way in other countries, ethics has been attached a

broad meaning under the umbrella of international legal context. The main focus was to advance the impact of ethics on corruptions in every country via powerful measures such as laws and regulations in addition to international conventions and decisions with regard to ethics. Thus, the term of ethics has been grounded in a universal context so that ethics would be specifically a powerful tool of the global world by the approvals of the national authorized institutions. Following the other countries, the legal basis of ethics in Turkey has taken its roots from the international conventions and decisions stated in Table 4 as follows:

**Table 4: The Number of International Conventions and Decisions**

<b>The Dates</b>	<b>International Conventions and Decisions</b>
1 February 2000	OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. (Approved by 4518 dated law)
8 March 2001	Council Decision on National Program of Turkey for the adoption of the Acquis Communautaire, application, coordination and monitoring of National Program of Turkey for the adoption of the Acquis Communautaire
17 April 2003	The Council of Europe's Civil Law Convention on Corruption (Approved by 4852 dated law)
10 December 2003	United Nations Convention against Corruption (Approved by 5506 dated law)
14 January 2004	The Council of Europe Criminal Law Convention on Corruption (Approved by 5065 dated law)
1 February 2000	OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. (Approved by 4518 dated law)
8 March 2001	Council Decision on National Program of Turkey for the adoption of the Acquis Communautaire, application, coordination and monitoring of National Program of Turkey for the adoption of the Acquis Communautaire
17 April 2003	The Council of Europe's Civil Law Convention on Corruption (Approved by 4852 dated law)
10 December 2003	United Nations Convention against Corruption (Approved by 5506 dated law)

Source: [www.etik.gov.tr](http://www.etik.gov.tr)

Turkey decisively continues to follow the ethical guidelines produced by these organizations to be included into its anti-corruption strategy. The situation indicates that Turkey cannot produce its own moral values and similarly solutions to its moral problems so that it confines itself to the moral ideology of the Western societies. Consequently, ethics is always at the center of the people's lives and constantly experienced by them. However, it is handled as a tool by public administrations within the legal theory and practice in order to control public officials dominating every sphere of the administrative life in line with the utilitarian ideologies of the capitalist system. Ethics having ancient roots in teachings of important philosophers has been tried to be reshaped or redefined in Turkish public administration as in the form of law serving the interests of the capitalist system, as well. It is totally alienated from life by being transformed into legal rules.

#### **4.2.2 Institutional Basis of Administrative Ethics in Turkey**

Considering that ethical studies in public administration focus on the behaviors of public administrators due to the corruptions affecting the world capitalist system deeply, the institutional regulation of ethics is regarded as necessary for the enforcement of ethics legislation promulgated in Turkey. In fact, ethical values as a source of a perfect model of behavior in public administration have been stealthily used to manage market relations in a more efficient and effective way. Elevating the market values in public administration just as in the Western countries, the government has become the main actor seeking to establish an ethical management system in Turkey. That's why, the ethical problems have been taken under the supervision of the Council. Thus, the Council has been formed as a supervisory body to deal with the unethical behaviors of public administrators determining the codes of conduct.

The Council holds the central position at the highest level as a special institution with the different assigned roles regarding ethical matters in Turkey. Actually, the Council was designed for regulating the ethical behaviors of public officials. After the legal basis of ethics have been formed as the first step, the development of an organizational mechanism was the second step to regulate and enforce these laws so

that ethics regulation would be strengthened as a means of giving public a message regarding that government works will be executed in a transparent manner by not letting any corrupt behavior in public administration.

Nevertheless, the institutional structure of ethics in Turkish public administration does not enable to prevent unethical behaviors and corruptions. The ethics management in Turkey has lagged behind the rest of the developed countries in terms of its regulatory powers. The acceptance of applications or the results of the investigations prove the weak structure of the Council. Therefore, ethics regulation in Turkey is highly tended to be regarded in a backward and vulnerable situation by the public administrators. Behind the Prime Ministry, the Council does not have an autonomous structure so that it does not give its decisions freely.

Furthermore, ethics commissions in Turkish public administration system can be thought as an important formation which needs to be established at all state institutions having public entity. These official bodies are established by the authorization of the specific ethics legislation in Turkey referred as 'Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials'. Nonetheless, the main function of these bodies is more about to give advices to public administrators and to make guidance regarding the ethical problems they may face. Therefore, they do not have regulatory functions as similar to the Council. However, the Council utilizes commissions to monitor the ethical codes in public institutions.

In this part of the thesis, the ethics regulation in Turkey is specifically analyzed over the functions of the Council with a better understanding of its dynamics and shortcomings for the public administration. Since, the meaning attributed to the concept of ethics is tried to be institutionalized by the Council in Turkey; however, it is not clear in ethics legislation that what would be the function of the Council. Thus, it is very important to understand that it has an ephemeral position when compared to other regulatory agencies in Turkish administrative structure. Therefore, the nature of ethics regulation and its inherent limitations need to be evaluated and questioned in detail within the administrative context of Turkey.

#### **4.2.2.1 The Council of Ethics for Public Service**

The Council in Turkey was created in 2004 being asked to oversee and regulate the behaviors of public administrators beside the traditional institutions settled in administrative system of Turkey through its constitutional order, parliamentary system, administrative courts and disciplinary bodies. However, ethics regulation has been regarded as necessary to appease the public distrust after serious scandals occurred during the 1980s and 1990s through the liberalization process in Turkey. As a response to systematic deviations of neo-liberalism with the reflection of new public management understanding into public administration system of Turkey, the Council has been embraced by the government under the ethics regulation.

Moreover, the circular with respect to Council of Ethics for Public Officials, numbered 2004/27 and published by Prime Ministry, highlights the birth of new public service understanding which is more responsive to the demands of the community, giving importance to participation and adheres to the objectivity, transparency, accountability, and honesty principles in public administration due to social, economic and cultural transformation experienced both in the world and in Turkey. 2005-2015 activity report of the Council pointed out that ethics in public administration has to be designed as a system rather than as a discourse or a matter of faith. In addition, it is stated in the report that preventive mechanisms against corruptions occurred at a growing rate in the world should be included into the administrations of the countries.

With the intentions to promote the measurements against corruptions, the Council has been established in order to perform trainings to place the ethical culture, to investigate the ethical violations, to determine the ethical principles to be abided by public officials in Turkey. Its jurisdiction entirely relies upon the specific ethics legislation including codes of ethics related to practices of public administrators. More specifically, the establishment of the Council is based on 5176 numbered and 25/5/2004 dated law in Turkey referred as 'Law Related to the Establishment Council of Ethics for Public Service and Making Modifications on Some Laws'. Furthermore, the 1<sup>st</sup> article speaks about that “The aim of this Law is to determine the

establishment, duty and working procedures and fundamentals of the Council as to adopt and observe the implementation of ethical attitude principles such as transparency, impartiality, honesty, accountability that should be abided by the public officials”. In addition, 3<sup>rd</sup> article mentions that the Council is commissioned and authorized to determine, with the regulations it shall prepare, the ethical attitude principles to be abided by the public officials. Through the authorization, Council prepared the 'Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials' in 2005. It is necessary to mention the provisions regarding the establishment and duties of the Council in order to analyze the capacity of the ethics enforcement by this formal regulatory body while performing its duties stated in the law. For that reason, the institutional characteristics of the Council needs to be elaborated.

First of all, the Council includes eleven members who are elected for four years and assigned by the Board of Ministers. The members who are elected to the Council come from different institutions with different backgrounds. For example, these people have acted generally as a Minister, a Provincial Municipal Mayor, a member of Court of Appeals, State Council and the Supreme Court of Public Accounts, a Rector or Dean, and a top level manager in a professional organization with public institution status according to the law. Furthermore, it should be noted that the model embodied in Turkey has been established under the structure of Prime Ministry so that it does not have public entity to act financially freely for its expenditures. But, a certain subvention has been put into the budget of the Prime Ministry. Thus, the Council comes into existence as a primary compliance body in line with the views of government. Furthermore, the secretariat services of the Council are fulfilled by the Prime Ministry General Directorate of Personnel and Principles. According to the statistics of 2005-2015 activity report of the Council in the table below, there are sixteen staff on duty except the President and the members of the Council as stated in Table 5.

**Table 5: The Distribution of the Staff according the Positions Stated in 2005-2015 Activity Report of the Council**

<b>Title</b>	<b>Number</b>
Head of Department	1
Prime Ministry Experts (Reporters)	10
Press and Public Relations Consultant	3
Investigator	1
Chief	1
<b>TOTAL</b>	<b>16</b>

The staff numbers prove that the Council lacks of sufficient personnel to execute its main functions such as organizing trainings for and making investigations on public administrators stated in the law. That's to say, the number of staff is insufficient to resolve cases of misconduct and to raise ethical awareness. To be a highly respected body, the Council should reveal to public that there is a strong and independent Council which are able to protect the interests of the public and put its authority on public administrators without any limitation.

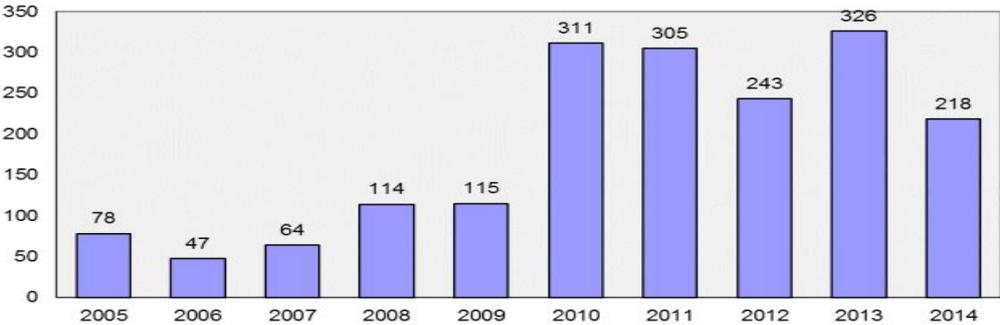
It is also critical to assessing the powers, duties and the responsibilities of the Council to comprehend the nature, outputs and effectiveness of the ethics regulation in Turkey. Three main tasks are given to the Council by Law No. 5176. The first of these is the determination of ethical principles that need to be observed while public administrators execute their duties. According to the 2005-2015 activity report of the Council, this task was carried out through the publication of the Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials entering into effect in 2005.

The second task is about overseeing the implementation of ethical principles in Turkey based on the applications upon claims regarding ethical violations via ex-officio examination. Although the Council is empowered to investigate violations of ethics legislation, the task of the Council is only limited to reporting the results of investigations to the relevant authorities and Prime Ministry. Based on the applications to be received, the Council carries out the investigations and researches

in the context of whether the principles of ethical behavior are violated or not. In addition, the Council has to complete the investigation and research within 3 months. However, it cannot implement any legal sanction upon the completion of the formal investigation to public administrators such as administrative fines or punishments like other regulatory bodies authorized in Turkey.

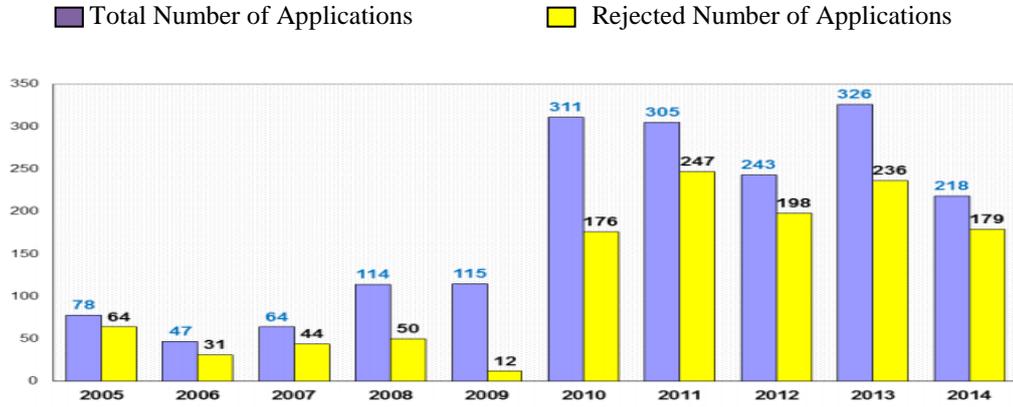
In the administrative structure, the Council does not set forth any legal conclusion in regard to ethics violations and does not impose any penalty since the mandates of the Council are not clearly well-defined and especially there are any specific penalties defined in the ethics legislation for public administrators who violate the ethical principles. However, applications that possess the aim of aspersing the public officials that are not based on a just claim and at which sufficient information and document has not been submitted regarding the subject of application are not taken into evaluation. Nevertheless, the applications can be directed to the Council regarding public officials having position at least as general manager, or higher than this level. In addition, applications which are currently being examined by the adjudication bodies or that have been bound by a verdict by the adjudication bodies are not evaluated by the Council. As a consequence, the comprehensiveness of the ethics regulation in Turkey has been impaired by the various limitations on the scope of the law and this situation directly affects the powers of the Council. Although there is an increase in the number of applications in last five years as it is seen in Table 6, the number of rejected applications seem more than the accepted ones in Table 7.

**Table 6: The Number of Applications to the Council between the Years 2005-2014**



Source: 2005-2015 Activity Report of the Council

**Table 7: The Number of Applications Rejected by the Council on the Grounds of Procedural Violation between the Years 2005-2014**



Source: 2005-2015 Activity Report of the Council

According to the statistics of the Council, the total number of applications between the years of 2005-2014 is 1821. However, 555 out of 1821 were rejected on the basis of being found below for the position of general manager or its equivalent. In addition, the most complaint ethical violation between these years became the negligence/breach of duty. Furthermore, 15% of the applications which are received and examined between the years of 2005-2014 by the Council were decided as ethics violation.

**Table 8: The Number Decisions in relation to Ethics Violations among the Reviewed Applications**



Source: 2005-2015 Activity Report of the Council

The statistics stated above indicate the limited capacity of the Council due to the fact that ethics law only applies to senior public officials and because of resources made available. The volume of the ethical work in relation to investigations is immense but the outputs are not satisfying in order to prevent unethical behaviors in this ten year period. Therefore, the regulation of ethics within the institutional structure naturally fails to address ethical problems in Turkey.

It can be inferred from that the legal and administrative enforcement capacity of the Council have been almost absent in public administration system of Turkey. Since, the decisions of the Council have been remained very symbolic and non-binding for public administrators even though the Council is created by the legislative and executive branch in Turkey to oversee the unethical behaviors. Also, the announcement of ethics violations by the Official Gazette as ‘the only enforcement mechanism of the Council’ was repealed by the Constitutional Court in 2010. The allegations involving criminal signs are under the responsibility of Prosecutors’ Office for both high and low rank public officials. The Council has not imposed any sanction for public administrators until this time.

On the other hand, it is highly possible that the appointed members of the Council have strong ties with the politicians who form the institutional basis of administrative ethics in Turkey. This situation can confine the investigatory powers of the Council due to close relationships of the members with the political-administrative elites or bureaucrats. Thus, the Council is not perceived as a serious threat for the public administrators. The political influence on the Council should not be disregarded which is able to affect the span of duty of the Council.

The ethics regulation in Turkey does not allow for the investigation of unethical behaviors of every high level bureaucrat. Since from the very beginning, a certain segment of the senior public officials has been kept out of the investigations of the ethics regulation. Although the ethics regulation needs to be subjected to all public officials in Turkey, the scope of the ethics law is not applicable for the President of the Republic, members of the Grand National Assembly of Turkey, members of the Board of Ministers, members of the Turkish Armed Forces, members of the judiciary

and the universities. Together with all the reasons stated above, it is very clear to comprehend that there is a discriminatory approach in ethical practices and implementations which are actually unethical for the society in Turkey. This situation indicates that the political and administrative elites in government keeps the Council under its control, in fact so that it does not contradict with the interests of the certain segments of society.

As a result, the ethics regulation compatible with the new public management approach has not been successful in Turkey due to many reasons. From a legal point of view, the scope of the ethics law is too broad including materials pertaining to codes of ethics which have been already performed by other legislation such as the Civil Servants Code, Criminal Code and so on. In other words, in case of ethical violations in Turkey, various criminal sanctions such as imprisonment and fines and administrative penalties are applied through national legislation. Furthermore, the ethics law and regulation do not provide clear responsibilities for the Council since the ethics is not actually appropriate to be regulated by the laws. While ethics encourages good behaviors which is very personal in nature, the laws punish the unwanted behaviors with clarity and definition through the courts on behalf of the public. Also, the laws have to be enforced objectively for everyone according to the limits stated in the law, but ethics relies on personal interpretation for the wrongdoings. In this regard, empowering of principles of ethics within a specific law is unenforceable due to the nature of ethics in public administration. That's why, the Council as a distinct agency of the government do not have jurisdiction over public administrators.

In the institutional context, the Council has been structured under the Prime Ministry. Furthermore, budgeting needs and the source of the staff are fulfilled by the Prime Ministry. In addition, its staff profile corresponds to carrier public officials seconded without selection and on a temporary basis leading to increase in political influence on them. Through its imperfect organizational structure, the Council is not an independent body in relation to its investigative role since it conducts the investigations on an ad hoc basis by not having desired type of expertise. Also, its

relation with other investigatory bodies and ethics commissions is not clearly determined by the subject law and regulation to be able to function effectively.

Consequently, ethics regulation in Turkey is doomed to fail from the very beginning due to its contradictory legal and institutional basis and characteristics within Turkish public administration system. In fact, the main function of administrative ethics regulation should be directly serving to the public interests. Public service is a must for the public trust so that it is important to serve public with fairness and to manage public resources properly. However, building trust in public institutions is regarded as a clear advantage for favorable business environment contributing to well-functioning of market mechanisms and economic development. Although ethics is regarded as a prerequisite for building trust, it is used as an external control mechanism for public administrators at the expense of public but in favor of private sector within capitalist society.

#### **4.2.2.2 Ethics Commissions**

The Council in Turkey has been charged with establishing the ethical culture within the public administration and supporting the studies to be performed in this regard. To adhere to this objective, the ethics regulation has given way to the establishment of ethics commissions in public institutions having public legal entity. According to the 29<sup>th</sup> article of the 'Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials', the purpose of the establishment of ethics commissions is to place and develop ethical culture in public institutions, to guide and give recommendations to public administrators regarding the ethical problems they may face and to evaluate their ethical practices.

It is required to have a closer look to the structural characteristics of the ethics commissions in order to address the effectiveness of ethics regulation at the lowest level. First of all, the members of the ethics commissions are selected from the top executive of the institutions and consist at least three people. In addition, the term of office for the members of the ethics commission is decided by the top executive of that institution. The subject regulation also speaks about that ethics commissions work in collaboration with the Council. As being one of the new institutions of the

external administrative control in Turkey, ethics commissions are expected to contribute to the prevention of corruptions in public institutions beside the Council at national level.

As a complementary institution to ethics management in Turkey, public ethics commissions have been remained very intentional and calm in preventing unethical behaviors and established to take a good ethical record from the international authorities such as OECD, WB, IMF, EU, and Council of Europe. Indeed, ethics commissions at lowest institutional level can be also regarded as the expansion of good governance practices to restore the public trust in Turkey. Since, the intended objective of the Turkish government has become mainly to demonstrate that

Good government is always worth promoting and actively pursuing, as are laws that deter and punish those who manipulate the system for personal gain (Sitting, 2013: 79).

However, ethics as an instrument to promote good government is used to favor the capitalist system. In reality, the proper functioning of the administrative system prevents the manipulation of the capitalist system serving to private interests. Furthermore, public institutions prefer to use other ways of dealing with the unethical acts of the administrators. The best desirable way is basically to apply for the legal processes and the second option is about disciplinary procedures and measurements against to unethical behaviors of public officials which have been already defined in national legislation. Since, each ethics commission formed in public institution is neither empowered to deal with applications from public officials nor has the opportunity to investigate the case of the concerned people. But, one of the reasons of the establishment of ethics commissions is to increase ethical awareness at institutional level in Turkey. However, administrators are not fully aware of the existence and responsibility of the ethics commissions in Turkey.

The establishment of ethics commissions can be thought as an opportunity to look more closely to the breaches of ethics, particularly regarding the prevention of conflict of interest and corruption situations and also to oversee the risky areas for the possibility of improper functioning. However, the vagueness in the duties of

ethics commissions similar to the Council is the most important obstacle in front of the ethics regulation in Turkey. It is very difficult for members of the ethics commissions to understand what they will do in relation to ethical works or practices in their institutions. Furthermore, there is no actually an organic link between the Council and ethics commissions established by the ethics regulation to coordinate the ethical issues in a proper way. Finally, the disciplinary boards instead of ethics commissions are empowered to make ethical inquiry and to evaluate the claims regarding the misconduct of public administrators. This situation indicates that there is no suitable working environment for the ethics commissions in the administrative structure of Turkey. On top of it, ethics commissions do not actively work in relation to ethical matters and do not deal with the problems without sanctioning powers. Instead, they are assigned to make advices to public administrators and to form an ethical culture. As a result, the ethics regulation in Turkey both institutionally and legally is not well-planned and desirable even if it has been tried to be strictly implemented in Turkey as in other developed countries in the Western world.

#### **4.3 The Implications of the Moral Reform in Turkey**

Pervasive and systematic corruptions have emerged across historical periods, geographic areas, and political-economic systems in the world. But, in the administrative context, this situation has become more peculiar to the state governments of the modern era. Ethics regulation as a solution has been handled by the government in reform movements to deal with the misconduct of public administrators. In general, moral reforms in the world seek to impose a code of behavior on public administrators. In a similar way, the national reform movement in Turkey aimed at regulating the code of behaviors of public administrators by passing laws and establishing supervising bodies (the Council and the ethics commissions in public institutions) has been designated to promote ethical behaviors. As stated above, the ethics regulation in Turkey fails due to its non-existent jurisdiction over public officials and its dependent weak structure among regulatory bodies. However, it is more important in this part of the thesis to question why ethics matter and what implications ethics regulation seem to bring into Turkish public administration system.

Within the scope of the administrative reforms, the relationships between government and citizen, actually the customers in the new public management understanding exalted by the Turkish government, have been rearranged on the basis of transformed moral structures within the capitalist mode of production, especially through the impacts of transformation over the economic relations in the global world. The ethics legislation as external control mechanism to the systematic deviations of the capitalist or market relations has resulted in some implications with regard to moral reform in Turkey. As a result, ethics has become a suggested guidance for public administrators through the moral reform movement in Turkey. As Plant (2001: 309) described, "codes of ethics as the systematic efforts to define the acceptable conduct" have been persistently emphasized by the excessive codification within Turkish public administration system. Furthermore, the codes of ethics have been popularly grounded in professions and have also become important for public professionals. Consequently, the outputs of the reforms in Turkey have affected the public services and the way of doing it in moral scope leading to significant implications in public administration.

#### **4.3.1 The Ethics as a Suggested Guidance for Public Administrators**

The model or type of the public administration has begun to be questioned through the effects of economic crisis of 1970s in all over the world. In this regard, a large-scale globalization process has channeled many countries to deal with the bulky structure of the public sector. As a result, reform movements have quickly expanded and dominated the political agenda of many governments in order to eliminate the adverse effects of the crisis.

It can be anticipated that the main reason behind these reforms finds its sources in economic approaches. Growing budget deficits have required to reduce the public expenditures and the cost of public services, as well. Providing public services less costly have brought up the search for an effective and efficient way of performing these services. In fact, public entrepreneurship has become a central issue to meet the demands of the public for the higher quality and the lower costs. All these developments lead to criticism of the current activities of the public administrations.

Since, public entrepreneurship rejects the notion of public interest highlighting the private ones. In line with this critical understanding, efficient and effective state administration is required to be questioned within the context of an objective, fair, equitable and responsible way of performing services to public.

The intent of ethics reformers in the world is mostly associated with solving the problems of new public management understanding but giving by particular importance to the so-called commonsense aspect of the ethics provisions in the legislation. Only in this way, decreasing public values could be restored and activities in public institutions could have been in accordance with the constant functioning of the capitalist system absorbing the public resources at the expense of the common good. In the meantime, Turkey keeping pace with the new world order and especially with the wealthy Western world with immense capital accumulation has appropriated ethical measures against corruptions and other unethical behaviors which harm the capitalist cycle. That's to say, ethics has been structured under the public administration system of Turkey by being adopted as one of the substantial solutions to main administrative problems of Turkey. Thus, it was hoped that Turkey would get rid of prevailing corruptions in its public institutions and would enable the functioning of the administrative system properly.

The gradual deterioration of public administration has begun to be widely discussed in academic environment and have also led to loss of trust and confidence in public due to challenges of the new public management approach. In such an environment, ethical principles enshrined into national legislation have been attempted to be imposed on public administrators. Moreover, they have been presented as core and higher values for public institutions which need to be followed in order to prevent public administrators from involving in such kind of unethical activities.

Consequently, it has been assumed in Turkey that ethical principles provide a clear guidance on the acceptable behaviors of public officials and the limits of these behaviors in administrative life for all public administrators at different levels. Thus, the promulgation of an ethics guide has been regarded as necessary to be distributed to all public administrators in order to understand the terms of ethics law and

regulation in Turkey. 'An Ethics Reminder'<sup>24</sup> was adopted aiming to strengthening the moral groundings in public administration and to prevent the unethical acts of public officials in Turkey. The rationale behind the preparation of this guide has been justified like that

In some cases, laws and other legal arrangements may fall short of defining immoral behavior in an organization. In the face of such “gray areas” where there are legal loopholes, ethical principles and standards to assist public officials are just as important as laws in the solution of dilemmas. (Ethics Reminder for Public Officials, 2014: 5)

Besides, the ethics reminder aims to give practical information through the examples regarding the ethical principles required to be abided by public administrators and to help in solving common ethical dilemmas in decision making process. Despite the existence of specific ethics law and regulation upon national legislation defining moral obligations and responsibilities of public administrators, a guidance document with regard to ethics has been found helpful to deal with the unethical practices. However, values belonging to public administrators are mostly revealed in ethical decision making so that public good is ensured by the individual commitment to ethical thinking having roots in the conscience of the people.

#### **4.3.2 Persistence on Codes of Ethics**

Due to the emergence of new functions and responsibilities brought by the new management models in public administration, codes of ethics have been intended to be used as a tool for governments to monitor public officials whether they do their work in consistence with the expectations of these new management models. Thus, the government could make sure that public administrators accomplished their tasks in compatible with a more efficient and economical way. This is why, the moral values under the name of administrative ethics become more important and are

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<sup>24</sup> This reminder has been prepared within the project on ‘Ethics for the Prevention of Corruption in Turkey’ (TYEC), funded by the European Commission and implemented by the Council of Europe in co-operation with the Council of Ethics for the Public Service of the Republic of Turkey. The overall objective of the TYEC is to contribute to the prevention of corruption in Turkey in accordance with European and other international standards through the implementation and extension of the code of conduct, and the development of anti-corruption measures.

frequently utilized by the governments in order not to get behind in the changing understanding in public administration.

Administrative ethics mainly concentrates on the obligations of public officials devoting their professional activity to their duties. However, the obligations and duties have been already stated in a set of existing statutory rules in Turkey. Moreover, although they are informed about unethical behaviors during their initial trainings in the public service, training on codes of ethics has begun to be included as a distinct part of the initial training programs in public service. Therefore, it is important to talk about how ethics trainings are covered by the Council in Turkey. When it is looked at the total numbers, the number of ethics trainers is 341 at the end of the 2014 trained by the Council. Furthermore, Table 9 shows the total number of people and the type of institutions attending the ethics trainings according to the years.

**Table 9: The Institutions and the Number of Ethics Trainings Given by the Council**

<b>The Institutions and the Number of Ethics Trainings Given by the Council</b>						
<b>Years</b>	<b>Ministries</b>	<b>Related and Affiliated Institutions</b>	<b>Governorate and District Governorate</b>	<b>Provincial and District Municipality</b>	<b>Others</b>	<b>Total Number of People</b>
<b>2008</b>	500	475	100	65	150	1290
<b>2009</b>	1415	1352	1000	2150	1098	7015
<b>2010</b>	160	4127	2081	410	1284	8062
<b>2011</b>	2780	535	963	733	1283	6294
<b>2012</b>	529	1577	360	1125	668	4259
<b>2013</b>	800	620	80	880	285	2665
<b>2014</b>	1904	891	450	360	60	3665

Source: [www.etik.gov.tr](http://www.etik.gov.tr)

Codes of ethics are regarded as important in terms of integrity in public administration to ensure the public trust. (Loskutovs, Prevention & Bureau, 2009: 38). Persistence on codes of ethics can be evaluated in Turkey as a mentoring activity within the scope of ethics trainings towards the application of these codes. More

specifically, it has been thought that if ethics codes are applied together with other tools as a part of an anti-corruption policy, ethics management in Turkey will produce sustainable results in reducing the level of corruptions. On the other side, public demand for more justice, fairness and equality has channeled the efforts of governments to create codes of ethics. Despite the fact that public officials are all subject to the same statutory rules which have to be applied precisely, codes of ethics have been perceived to be the easiest way to govern their behaviors in desired forms.

As Yüksel (2006: 168) has claimed that each period in Turkey encompasses unethical activities. There are a number of parliament members, ministers, judiciary members involving in corruptions such as bribery, bank fraud, procurement corruption, expensive gifts and so many different unethical activities (Yüksel, 2006: 168). In addition to the prescribed rules in the existing laws in Turkey, codes of ethics are applied to all civil servants to guide them in their way of doing public works. Moreover, in terms of public institutions, presence or the visibility of ethical codes proves that the public institutions are extremely transparent, accountable and responsive to their citizens by giving somehow good government image for them. However, the adoption of these codes of ethics as universal principles which are deemed to be valid for every culture cannot be a proper guide when public administrators encountered with specific situations while they are performing their duties. In that situation, it is hard to address the main ethical problem or to find the origin of the problem that they faced.

In addition, codes of ethics are valued due to the fact that they have seen as a fighting mechanism to the problem of following economic interests. As Wood and Rimmer (2003: 181) argue that "the development of a code of ethics is tangible sign that a company is thinking about business ethics". It is clear that at least in a corporate system, codes of ethics generally serve as a response to systematic deviations whose consequences are usually expensive. From this aspect, public administration differs from business management. Since, public administration follows the interests of the public and does not serve the profitability of the public institutions. While having codes of ethics may be regarded as necessary in business management, it becomes a meaningless and forcible method to deal with the unethical behaviors of people in

public administration. Beyond that matter, ethical codes are challenged on the moral grounds since it is claimed that ethics is reflexive, open-ended and intellectual activity (Teo, 2015: 78). In addition, ethical issues need to be examined, explored, discussed, deliberated, and argued. Therefore, codes of ethics cannot be forcefully implemented by the government. Codes of ethics should not be confused by law-making or rule making, policy making, and other kinds of decision making (Ladd, 1980: 1).

In Turkey, the efforts to create codes of ethics can also be justified through the implementation of new public management techniques and market economy strategies applied to the relationships between government/public administrators and government/private sector organizations. For example, public-private partnerships are one of the good examples of market economy strategies implemented in the relationships between government and private sector organizations. In the new world order, governments prefer to provide public assets or services in collaboration with private sector organizations as a part bearing the significant risks and management responsibilities instead of government. On a contract basis, these partnerships facilitate the workload of government and decrease the risk with regard to problems emerging in the provision of public services. Ethics as a control mechanism for the relations between both government/public administrators and government/private sector organizations. But continuing corruptions and unethical activities which are heard on the TV screens or unheard have proved that codes of ethics should not be regarded as an antidote to unethical problems. Since, the underlying mentality behind moral disorders cannot be cured by just laying down codes of ethics which inarguably serve as a flu-shot over public administrators or ethical principles as in the form of laws with a claim to prevent this moral decay.

In fact, the basis of ethics codes in Turkey relies on Western values that are built upon their cultural characteristics. In other words, the codes of ethics represent the Western values in Turkey. However, these codes have been regarded as suitable to the traditional characteristics of Turkish administration. Thus, the Westernization effects on Turkey and more importantly the intention of Turkey to be compatible with Western policies and strategies have opened up the administration system of

Turkey into ethics implementations. Furthermore, the implementation of codes of ethics has been justified by the prevalence of corruptions and new public management understanding in Turkey as in the case of West. Their method of dealing with the corruptions has been immediately adopted by Turkey without calculating the outputs of ethics regulation in the country.

Consequently, there is an indispensable persistence on the creation of ethical codes to establish an effective ethical system in Turkish public administration for different purposes stated above. Although there is no uniform definition of what ethics means and what purposes should ethics serve despite the existence of legal enforcements by the existing laws, codes of ethics have been adopted with a legalistic character in Turkish public administration aiming to promote desirable behaviors of public administrators. Now, the codes of ethics with the help of legal attributes are empowered by the legislators dominating the every part of public administrative life in Turkey.

#### **4.3.2 Greater Emphasis on Professional Ethics**

It is generally accepted that professional practice requires adherence to a set of values and standards. According to Pugh, code of ethics should be regarded as one of the sixth attributes of a profession. By the end of 1930s, ethics in public administration has been used in analogy to accountability principle relying on "broadly defined notions of personal propriety, neutral competence, and public interest" (Pugh, 1989: 3). He also argued (1989: 3) that

The focus was essentially legal as well as moral and negative rather than positive. Those in the field knew more about what was proscribed than about what was permitted or desirable.

Here, there is an emphasis on the rule-based conception of ethics and this leads to a complex situation between legality and morality. It can be claimed that laws are excessively surrounded by the ethics codes. Ethics for public professionals in Turkey has been also designed to increase the efficiency and effectiveness of the administrative works stepping up the pressure for public administrators through just

defining the measurements for possible moral abuses of public resources. Despite the fact that public officials have to perform their duties according to the legal rules, 'ethical values in professional standards' have been used as a supportive reinforcement mechanism besides these laws. From now on, ethics as one of the professional standards will guide the public administrators according to the new management understanding required by the modern global world. Putting in differently, professional success combined with the ethical values and principles will prevent not only professional misconduct but also bring series of desirable standards necessitated by the changing world.

The principles of professional ethics occupy an important place in the ethics legislation of Turkey. Every profession in public administrations is gradually adapting to this codification process. Therefore, it can be claimed that professional ethics in Turkey has been also used as a form of control mechanism to eliminate the reverse effects of the individual choices of public administrators. The corruptions appeared during the 1990s evidently indicated that there is a need for a proper conduct in the specific services of the public administration. However, the promulgation of circulars and directives regarding the principles of professional ethics for different professions in public administration can be especially seen after 2010. A number of public institutions formed their principles of ethics based on the main ethics regulations in Turkey. This situation has indicated that there is a deliberate effort by the Turkish government to ensure that certain professional ethical standards are in place.

## CHAPTER 5

### EMPRICAL ANALYSIS OF ETHICS REGULATION IN TURKEY

Until recently, the contemporary study of administrative ethics has been concerned with an explicitly normative agenda dealing with the search for core and higher values that ought to motivate the work and direct the choices of public administrators (As cited in Adams, 2001: 291-308). In this regard, people-oriented external control mechanisms have also given priority in recent years due to effects of the dominant capitalist ideology and its pragmatic ethics understanding in the world. Aiming at improving the personnel system, the preparation of a draft law in order to establish code of conduct for public administrators and amendment of the existing laws by the Prime Ministry and the relevant public institutions have been determined as a requirement in leading decision of Council of Ministers dated as 12 January 2002 spelling out an action plan to enhance transparency and to promote good governance in Turkey. In this regard, Lindsey Marie McDougle (2006: 3) claims that the promulgation of codes, action plans, strategies, and other guidance standards are used as the common method to expand the ethical responsibility of public officials. She (2006: 3) accordingly maintains that

There has been a proliferation of scholars and practitioners attempting to address the issue of ethics within public administration through ethical recommendations, suggestions, and various guidance principles.

Despite the normative robustness of ethics literature, it generally offers few concrete recommendations which cannot go beyond basic admonitions such as “being trustworthy, responsive, transparent, responsible, and so on” (Wart, 2003: 223-224). More than that, although the ethical principles are put into different legal texts, they just provide a written guidance for public officials whose preference to use these principles matter more extra significance. It can be argued that they increase ethical sensitivity and provide clarity regarding the responsibilities. Yet, how effective they

become in preventing unethical behaviors is a big question mark not only in Turkey but also in all other countries. Ethics is open to evaluation and free from coercion since ethics provide the knowledge regarding the values allowing individuals to make their own decisions. There is an ongoing assessment with ethics to let people find the good and right way in their works and daily lives. That's for sure that the laws speak of the rights and responsibilities or duties and obligations or fairness and justice. Although the legitimacy of public administration comes from the laws, it is accepted that ethical principles tend to be a milder instrument to cope with unethical behaviors. Because, moral behaviors of people can be originated from different sources such as following religious beliefs, conscience, and family referrals besides respecting the laws. Therefore, each source of action can be inspiring for the moral behaviors of public administrators.

Beyond that ethics in public administration has been tried to be practically implemented in structural/organizational context. Ethics is applied to public administrators to deal with their unethical tendencies under the new regulatory institutions and structures such as the Council and ethics commission in Turkey. Ascribing mainly an oversight role to the Council and the advisory role to the commissions, Turkish government has tried to keep control on behaviors of public administrators since 2004. It should be also noted that such kind of an external forcing mechanism for public administrators and tucking them into the desired behavior patterns does not yield tangible outputs and guarantee the improvement of ethical behaviors in Turkey. Thus, this chapter has been designed for the evaluation of legal/judicial and structural/organizational imperfections of ethics regulation in Turkey through an empirical analysis. In the study, the method of in-depth interviewing has been used to get clear opinions and intimate thoughts of public administrators in relation to the problematic areas of ethics regulation stated in the assumptions of the study as follows:

- There are different perceptions of ethics in public administration system of Turkey.
- There is a low rate of awareness regarding ethics regulation in Turkey.
- Ethics commissions does not functionally work in Turkey.

- There is a tension between ethics and law in Turkey.

Through this study, it has been expected to understand how public administrators evaluate ethics regulation on legal and institutional basis in Turkey and is ethics regulation really apparent and living mechanism between the public officials especially in terms of its conceptual and theoretical recognition by public administrators and its structural implementation in public institutions and organizations. Reflections of ethics regulation on high and low rank public administrators have been elaborated through the interviews and the ways to solve the problems of ethics regulation has tried to be figured out with the suggestions and recommendations of public administrators.

At the outset, the moral decline in Turkey has led to many researchers to theorize the ways of handling this problem. However, the decay of moral values has been blamed on various factors in public administration. But, it is more important to evaluate these factors together with their consequences for public administration. The moral deterioration can be linked to bringing of the new global order in which business values are utterly encompassing the world through the market mechanisms and public values are continuously trivialized by attaching more importance to private interests. Otherwise, there would be no perfect justification and intervention mean to the systematic deviations or crisis of capitalism in reference to economic system, if there was no ethics regulation in Turkey.

However, individual reasoning based on moral values is intrinsic to the nature of ethics since it is a philosophical activity. But, there have been a great deal of change regarding the meaning and perception of ethics since 1970s. In addition, ethics has been promoted with these changes and attributed a distinctive role in the new management model of public administration system. Being fundamental to the administrative area, ethics has been promoted against to the new challenges of global capitalism. At a broader level, although the aim of ethics in administrative regulatory framework seems to ensure the implementation of principles such as justice, equality, and merit, it is mostly associated with the enforcement mechanisms like laws in order to promote relationships between public and private institutions. Thus, it can be thought that ethics protects these relations for the functioning of favorable market

mechanisms by dealing with unethical actions of public administrators. However, government in Turkey has strengthened these relations by going a step further with the help of codified ethical values to be abided by public administrators. To ascribe the efficacy of ethics with codification does not ensure individual adherence to ethical values. For example, people may feel an obligation in order to make particular choices for the common good only if they internalize and adopt good values as fundamental to their actions and beliefs.

It would not be wrong to say that ethics regulation as a proposed policy of government in Turkey is unwarranted both legally and institutionally. Moreover, the substantial claims of the ethics regulation do not go further than a poor imitation in Turkey. Although the very nature or theory of ethics is not convenient to regulate, it is reproduced within current legal and institutional arrangements in public administration field. Being apart from the basic characteristics of ethics in philosophy, ethics in public administration has been provided with different functions. Furthermore, it has been institutionally and legally organized or arranged in a variety of way such as vulnerable to decisions of ethics council and ethics commissions, and also in the form of ethics law and by-law, ethics codes, principles, standards and so on.

As being an integral and permanent part of the public administration, ethics is now used by the government as a regulatory mechanism both on public institutions and administrators. Although Turkish system of public administration includes a range of regulatory bodies at arm's length, the government is intended to adopt ethics in order to ensure that governmental works are being properly exercised. However, the organizational design of ethics supported by the legislature try to deal with wider ethical matters overlapping with the jurisdiction of other public institutions. For example, Turkish Court of Accounts is authorized to fiscal performance auditing regarding the efficient and effective use of public resources. In addition, Prime Ministry Inspection Board (PMIB) in Turkey 'conducts inspections and investigations, determines general principles for efficient inspection and brings solutions both in national and international level in order to increase transparency and accountability in public sector and to ensure that the state system is effectively

executed in accordance with the rule of law'. (Mission statement of the PMIB<sup>25</sup>) Therefore, it is not easy to understand what is meant by 'ethics' in public administration due to wider context. 'Ethics regulation' as being much more difficult than that situation, it can be argued that there is no coherence and logic behind the 'ethics management system' in Turkey as a whole.

It is also crucial to talk about that insufficient attention has been paid to ethics regulation in Turkey by public administrators in terms of organizational design characteristics of the Council and its legal powers within the administrative structure. Since, ethics regulation does not have a sensible mechanism to enhance public confidence and to ensure readiness and willingness of public administrators for implementing ethics in every detail of the administrative decisions. What is more, a range of factors like administrative discretion or orders of the hierarchically superior may hinder the ethical capacity of public administrators despite the legal attributes of ethics in public administration context.

The function of ethics in a regulatory framework should be questioned on the grounds of relationships between ethics, politics and law. The policy implementations of the government are shaped within the legal system with the help of laws. At the same time, politics prescribes the laws for the citizens to regulate the conduct of government. However, the government conduct are again supervised by the laws. On the other hand, ethics is implemented against to misconduct of public administrators in government. This situation reveals that ethics regulation is intended to substitute the laws at one point. By reference to moral values, public administrators are abided by ethics regulation besides laws. Although trust-based public administration is tried to be established over the imposed ethics regulation, it generates even more mistrust on public officials by accepting them as inclined to disrupt perfectly functioning administrative order. Thus, the so-called high standards of conduct against to corrupt behaviors created in the ethical framework focus on regulating the behaviors of public administrators. Centering upon to respond the

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<sup>25</sup> Retrieved February 1, 2015, from <http://www.teftis.gov.tr/Anasayfa.aspx>

particular problems of the business environment, the hidden purpose of the ethics regulation across its concrete existence is definitely missed out in Turkey.

Therefore, this chapter will be an analysis of the implementation of the ethics regulation in Turkey in terms of its legal and institutional characteristics by the public administrators. As it is emphasized in many times, ethics regulation in Turkey based on ethics codes and principles incorporated into national legislation and together with the assigned advisory and investigatory role of the Council is not commonly adopted, properly used, and completely applied with its all settings by the government itself. Although the Council in Turkey has been established in response to political and administrative forms of corruptions such as favoritism, bribery, rent-seeking and so on, it is unable to achieve the so-called anti-corruption purposes of the government. Therefore, it can be claimed that the ethics regulation in Turkey is lack of coherence and integrity due to its legal/judicial and structural/organizational imperfections. Moreover, it has become entirely a failure for the Turkish governments since the number of unethical activities is in declining trend due to the implementation of ethics regulation in a defective way from the very beginning. The assumptions and the results of the study conducted within the scope of the thesis are tempting to argue the reasons in relation to the failure of ethics regulation in Turkey.

### **5.1 The Purpose of the Interviews**

The study will provide an empirical ground for this thesis through the interviews conducted with low-rank and high-rank public officials, namely the members of ethics commissions. The first group of people are obliged to comply with the principles of ethics and the second group are mainly obliged to both comply and also oversee the implementation of the same principles in public institutions.

The purpose of the interviews can be explained as follows:

- To explore what are the perceptions of public administrators in Turkey regarding the ethics regulation including principles, standards, practices, laws, by-laws and regulatory institutions in order to learn how they conceptualize and implement ethics in public administration while they are performing the public services,

- To discuss about whether public administrators have enough information regarding ethics regulation and whether they know that what type of studies have been made in scope of ethics regulation in Turkey in order to indicate the level of ethical awareness between public administrators,
- To uncover what kind of solutions public administrators find to deal with the ethical problems in their institutions in order to reveal how much ethics regulation in Turkey is utilized by public administrators,
- To find out how public administrators in Turkey perceive the relationship between ethics and law in order to analyze the tension created by the ethics regulation and to discuss the necessity of it in Turkey,
- Finally, to obtain information regarding the suggestions and recommendations of public administrators in relation to how unethical behaviors can be prevented in public institutions and what can be their suggestions about the adoption of ethics regulation in Turkey.

To understand the purposes of this study, different sets of questions were directed to public administrators to clarify their perceptions and opinions regarding the ethics regulation in Turkey. This study was expected to support the basic claim of this thesis that ethics regulation in Turkey is totally a failure since it is not possible to make ethics the subject matter of regulation within the scope of public administration. Ethics regulation in Turkey focuses on regulating the behaviors of public administrators. Whereas, the assigned role for ethics in public administration should be just only guiding the behaviors of public administrators to make good and right choices for the public interest. That's why, it is significant to make the critical evaluation of ethics regulation in Turkey by exploring the reasons about why was it necessary to regulate ethics in the field of public administration?

It is also very clear that Turkey wants to form a credible image in the new world order for its future policies and plans. Therefore, the good global presence existing in various administrative policy settings should guarantee this credible image for Turkey. That's why, Turkey is very eager to represent the global values peculiar to

different cultures or to imitate their policies. In this regard, Turkey is more specifically inspired by the global notions such as 'good governance' and 'new public management understanding'. On the other side, especially, the good governance movement through the complexity and unmanageability of the globalization forces Turkey to follow the new guiding principles fed by the moral values as a solution to systematic crisis of the brutal capitalism.

In Turkey, people have been unnecessarily rendered as subservient to moral values through the ethics regulation. Whereas, the systems, ideologies and values adopted and implemented by the government have led to corruptions. In other words, there is something wrong with the system followed by the government not with the people themselves. That's why, the development of ethics management understanding in Turkey has been definitely pointless from the very beginning. Regulating ethics as a further step has expectedly failed to provide an appropriate solution to unethical behaviors existing in public administrators system of Turkey.

Consequently, it is important to note that this study has enabled me to reason out the failure of the ethics regulation with regard to its institutional establishment and legal implementation in Turkey. To argue over the assumptions stated above, it is claimed that ethics due to its very nature is not suitable to be regulated as a controlling instrument for public administrators like laws clearly stating the responsibilities and obligations of public administrators. However, its main task in public administration is to serve to the well-being of society guiding the moral judgments of public administrators not actually controlling them. In fact, the role of ethics in public administration has been wrongly perceived by the Turkish governments from the very beginning leading to create a permanent tension between ethics and law. As a result, the idea that ethics can be regulated relies on the assumption that government do not have any responsibility to protect societal interests and public good through its policy implementations. Such kind of an assumption is irrelevant to the embedded nature of ethics. Ethics regulation constraints the good and right moral choices and hinders to achieve the best options for the public. Since, moral values cannot be justified by the enforcement measures and sanctions.

## **5.2 The Methodology of the Empirical Study**

The qualitative research technique has been regarded as the most appropriate method for this study. The data collection technique of the qualitative research is based on in-depth interviewing<sup>26</sup>. It is also important to benefit from the secondary data which I have a chance to get during the interviews. This type of interview enables researchers to elicit information in order to achieve a holistic understanding of the interviewee's point of view or situation. It also includes asking interviewees open-ended questions, and probing wherever necessary to obtain data deemed useful by the researcher. That's why, it was decided to use in-depth interviewing as the main method to collect data for the qualitative study. Since, it is required to talk public administrators in some depth to proceed in line with the context of this thesis and to observe also their attitudes during the interviews in order to find out the points they attached importance.

Furthermore, it has been reviewed different ways of analyzing qualitative data gathered from the interviewees and decided to use two groups of public administrators to examine whether there are any differentiating points in terms of the answers to the same questions between low and high rank public administrators. In this regard, it has been preferred to ask several questions to interviewees. The ideal number of public administrators interviewed was regarded as thirty two in different public institutions of Turkey. Twenty five interviewees are the low-rank public administrators and the remaining seven is the high-rank public administrators who are still the members of ethics commissions in their institutions. Within the scope of the study, the commission members and low-rank public administrators have been mostly chosen from the line ministries.

It has been also assured that the anonymity and confidentiality would be preserved within the thesis in terms of name, surname and position of the public administrators and also information regarding the institution. It was also regarded that each interview would last for 30 minutes period of time as an appropriate duration for the overall interview. Nevertheless, a part of the interviews was more than the specified

time. However, prolonged interviews were not interrupted to get meaningful answers from public administrators. Thus, they were able to provide information on the extent they wish to speak. However, the study has been divided into four different sub-categories which include a set of specific questions for each assumption in order to come up with the general claims of the thesis. The categorization of the questions can be also associated with the necessity to determine the specific problematical topics of the each assumption of the study. Such a design for the interview questions has been evaluated as appropriate in order to clearly assess the main topic of each assumption as a supporting claim for the problematic of the thesis. Ensuring the coherence between the questions, it has been tried to focus on the problematic of the thesis through discussing different dimensions of ethics regulation in Turkey.

More specifically, sets of questions have been prepared to address the most important points which are contributive to the main claim of the thesis to discuss legal and institutional settings of ethics regulation from a critical point of view under the each assumption of the study in detail. In addition, the questions were chosen as open-ended to allow public administrators to respond the questions in their own words. Besides, it has been tried to be flexible to a certain extent while analyzing the data gathered from the interviews. However, it has been given importance to the frequency of the specific words in the answers in order to determine the most defended opinions or insights.

As a result, critical aspects of the ethics regulation in Turkey have been tried to be elaborated with the help of the interview results. Two groups of public administrators working in different public institutions in Turkey were encouraged to respond without hesitating to say everything they know. In addition, the same sets of questions have been applied to this two different groups in order to be able to compare their judgments in relation to ethics regulation in Turkey for different topics addressed in the assumptions of the study and also to analyze whether there are any differentiation point between these two groups. That's to say, it has been interested in

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<sup>26</sup> According to G. Hitchcock (1995: 153), “interviews have been commonly used across all the disciplines of the social sciences and in educational research as a key technique of data collection”.

developing well-prepared sets of questions corresponding well to each assumption formulated under the study in order to promote the main claim of the thesis.

### **5.3 The Assumptions of the Empirical Study**

The assumptions of the study with regard to critical evaluation of ethics regulation in Turkey are necessarily confined to different dimensions of ethics by public administrators, low rate of awareness regarding ethics regulation among public administrators, dysfunction of the ethics commissions as one of the indicators of the unsuccessful ethics regulation, and finally the blurred relationship between ethics and law underpinning the failure of ethics regulation in Turkey. All these assumptions are subject to the evaluation of ethics regulation in Turkey from a critical point of view and address to the research question of the thesis. It has been attempted to understand the problematic of the ethics regulation in Turkey by asking that "Is it possible to make ethics the subject matter of regulation within the scope of public administration?" On the other hand, if ethics was a proper subject of the regulation, the concept of ethics would have been emptied by jeopardizing the actual meaning of it for public administration.

Despite the fact that ethics has been highly regulated in Turkey, its very nature as a philosophical activity is not appropriate to regulate the behaviors of public officials. At the outset, moral integrity can be hardly achieved in public administration because there is a range of formulas or policy options to serve the public interest. Since, there cannot be adopted a one way approach as in the case of the scientific management of Taylor excluding the human impact on production process. Also, the value judgments change from one person to another indicating relativity in its nature. That's why, ethics should only guide the judgments of public administrators' in their relations with the public. They evaluate the advantages and disadvantages of the produced public policy and try to resolve dilemmas, particularly those affiliated with the moral problems originated during the policy making and implementation period.

Nevertheless, ethics in government has been regarded as critical to realizing the promises of new administrative culture created by the new public management understanding and techniques in Turkey through the effects of neo-liberalism and

globalization. However, the challenging situation is that the boundaries between public services and the private provision of public services are increasingly blurring due to various administrative reform policies attaching importance to efficiency, effectiveness and economy principles which are valued more than the public interest in this new understanding.

It is for sure that failures to meet citizen's expectations and corruptions in political-administrative environment have decreased the credibility of government in the eyes of the public in Turkey. Misconduct who has been entrusted with protecting public interests has emerged out as a big problem to be solved by the government. Ethics regulation has been articulated as a solution to decreasing confidence in government as a result of the global pressures originated from the systematic crisis leading the deterioration of the moral values at the same time. To ensure the public trust, legal and institutional views of ethics have been commonly adopted by the Turkish governments. Especially with the changing role of the state, this need has increased more in the new world in order to arrange the public-private relationships in a more flexible way.

On the other hand, ethics regulation in Turkey has emerged out as a result of the reform movements during the early 2000s. The global corruption concerns as stated above and the deterioration of political, administrative and social conditions in Turkey have prompted governments to take actions against to the prevalence of unethical conduct. The ethics regulation in Turkey has been tried to be situated by legal and institutional arrangements due to the fact that the severity of the misconduct has been lately understood and actually ignored so far. Embracing various dimensions of the good governance, ethics regulation in Turkey would have constituted the essential part of the good presence of administrative system for a credible image in the eyes of international and supranational institutions beside the public. In addition, a flexible market society would have been easily performed by creating the conditions of a morally mature environment through the ethics regulation. It is no coincidence that the ethics regulation in Turkey calls for institutions to control public administrators in their relations with business environments at the expense of public. In other words, public interest has lost its

prominence together with the explicit effects of the governance models supported by the neo-liberal ideology in Turkey.

Moreover, the legal-institutional ethical structure established in the West emerged as a result of the cumulative process due to corruptions experienced in the developed countries has affected Turkey in recent years. Furthermore, neoliberal takeover both in the West and Turkey obliged the states to adopt market principles as the primary reference in public administration for the execution of public-private relationships easier. They developed a new institutional design for ethics to deal with the moral crisis situations such as ethics boards and commissions established in developed countries under different names. Thereupon, Turkey seems to have immediately implemented this institutional design for the establishment of its ethics infrastructure in public administration; however, the institutional design in Turkey does not carry some important characteristics which have been existent in other European countries such as being an independent and autonomous budgetary agency.

Nevertheless, the justification<sup>27</sup> of the 'Law about the Council of Ethics for the Public Service' in Turkey argues that administration can work efficiently and effectively for the public interest as long as transparency, accountability, impartiality, integrity and objectivity principles were guaranteed during the execution of public services. In addition, it is stated that honest, reliable, and fair public service increase the public confidence and also create a favorable environment for business. In this regard, it contributes to the better functioning of the markets and thereby to the economic development. As it is understood that administrative ethics is considered as a key of good government in Turkey. Furthermore, Council of Ministers examined the institutional organizations established in other countries to be examples<sup>28</sup> when they are preparing the draft version of this subject law. However, the problem is about how ethics regulation perceived in Turkey and can it be really internalized by public

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<sup>27</sup> Retrieved November 14, 2015, from :  
[http://www.bahum.gov.tr/bahumetik/etik\\_mevzuat/ulusal/5176\\_gerekce\\_metin.htm](http://www.bahum.gov.tr/bahumetik/etik_mevzuat/ulusal/5176_gerekce_metin.htm)

<sup>28</sup> The official bodies which supervise the ethical principles are as follows: The Office Government Ethics in USA, The Committee on Standards in Public Life in UK, The Office of the Ethics Counselor in Canada, National Public Service Ethics Board in Japan, The Public Service and Merit Protection Commission in Australia, The Public Offices Commission in Ireland, and finally The Inspectorate - General for Public Administration.

administrators? Although the government claims that the model reflected into the law is compatible with both administrative tradition and socio-economic conditions of Turkey, ethics regulation in Turkey together with its supportive legal and institutional structures is not appropriated by the public administrators. That's why, it has been formulated four different assumptions in the scope of the study to support the main argumentation of the thesis regarding that ethics is not a matter of regulation due to its embedded nature; that's why, ethics regulation in Turkey has been a total failure with its legal and institutional structures since its adoption.

### **5.3.1 Different Perceptions of Ethics in Public Administration**

The assumption of the study presents an analysis of the different perceptions of ethics in public administration. As a controversial topic to the thesis, it has been assumed that there are different perceptions of ethics in public administration since ethics as a multi-dimensional concept includes different incentives for morally acceptable behaviors. Public administrators are inspired or driven by the different ethical judgements or values. Since, ethics is a dynamic and multi-dimensional concept and shows a great variance in its definitions. According to the subjective perceptions of public administrators, ethics is actually constructed in a social process and shaped by their different perceptions. Exploration of the concept with special emphasis does not capture the full meaning of ethics since it combines a variety of value attributes and public administrators judge moralities on the basis on his/her own moral understanding. That's why, the relativistic nature of ethics indicates that the efforts to create an ethics regulation can become meaningless if ethics is handled as a subject matter of regulation which is applied to every public administrator in a standard set of values in the limits of legislation. At the end, there is a possibility of coming up with different moral conclusions by public administrators.

Public administrators hardly understand what ethics is about since it does not have an explicit and clear meaning for public administrators to comply with its jurisdiction. Therefore, the purpose of ethics regulation in public administration cannot be fully captured by them. That's why, the focus of this assumption has been directed towards *'How ethics perceived by public administrators and how they define its importance*

*for public administration?*' in order to comprehend the reasons regarding why ethics should not be regulated in public administration. If they do not capture the essence of ethics and its importance in public administration, it will be remain in an abstract level to be adopted by them.

On the other side, it will be useless for government to impose it as a controlling tool for the unethical behaviors of public administrators. Determining the ethical principles, codifying these principles through ethics regulation and finally establishing regulatory body will not be a workable mechanism as long as public officials do not internalize ethics in public administration and use it in policy decisions and implementations. Nevertheless, there have been already strong legal measures and institutional structures to deal with the unethical conduct in Turkey. They may be insufficient but if it is necessary they can be strengthened in terms of sanctions and enforcement powers.

However, ethics as the most popular concept of last fifteen years in Turkey is revamped into the administrative structure of Turkey through its new institutions and specific legislation. But, public administrators in Turkey do not have a clear idea and they are not making distinction between ethics and law. Therefore, it is very important to understand what level of knowledge they have regarding the ethics regulation in Turkish public administration. To what extent their knowledge of ethics corresponds to government efforts to create morally mature public administration allowing a good opportunity for easy functioning of the market mechanisms.

Apart from the legal and institutional enforcements against to bureaucratic corruptions in Turkey, it is apparent that administrative ethics has been actually formed to govern or regulate the behaviors of public administrators to prevent the moral wrongdoings in the field of administration. The Council as a new administrative structure was established to monitor the unethical conduct of public administrators. Furthermore, ethical principles and standards were determined by the Council with a specific legislation. Also, the Council was expected to develop an ethical culture in the field of administration. The institutionalization of ethics through the new institutional regulatory body having both oversight and advisory roles

indicated that Turkish government tries to impose global values on public officials under the name of ethical principles and standards in which there is no uniformity. Since, morally corrupt behaviors form a potential threat for the smooth functioning of the world capitalist systems. But, at the same time capitalism is a breakdown in public morality as a paradoxical situation. In other words, the moral decay in public administration is originated from a capitalist type of service production protecting the private at the expense of public. In this regard, ethics has been perceived as a savior to moral crisis since from the 1970s in the world and from the second half of 1980s in Turkey. Unfortunately, the philosophic aim of ethics in public administration has been evidently misunderstood in Turkey. By espousing the corrupt value systems of the Western world, Turkey has to adopt ethics regulation developed by them in crisis situations as a solution for the morally disrupt order in the country. Thus, administrative ethics has been wandered away from its most significant duty: Protecting the interests of the citizens! Furthermore, capitalist decadence through 2001 crisis in Turkey led to moral decline in public values and weakened the social fabric of public institutions increasing tendency to unethical behaviors. As a result, public administrations became more captive to bureaucratic corruptions.

Although the Turkish public administration system has been already protected with existing laws stating the minimum legal rules with regard to bureaucratic corruptions, the basis of ethics regulation has been established with the aim of regulating the behaviors of public administrators in Turkey. But, how successful ethics regulation is also a matter of discussion. That's why, it has been asked to public administrators that *'What should be the ethical values and behaviors adopted by public administrators while they are fulfilling the public services?'* to understand the diversifying points of ethics regulation in Turkey. Here, public administrators were expected to ascribe meaning to the concept of ethics and to evaluate its importance in public administration. To ask this question has also become necessary to understand their perception of ethics in their minds. Since ethics as a certainly personal activity cannot be shaped by the government regulatory efforts through which universal values are tried to be forcefully imposed to public administrators.

In the interviews, it is tried to be found out the general perceptions of public administrators with regard to meaning of ethics and its importance for public administrators through a set of research questions. Since, it is very important to note that public administrators are expected to understand the main role of ethics in public administration and the actual meaning of ethics as the practitioners in order to analyze the ethic regulation in a holistic way. When it is asked '*How do you explain the concept of ethics and its importance in the public service?*', a significant majority of the respondents out of twenty five low-rank public officials defined that ethics in public administration is 'to provide public services in a just and equal manner'. Besides, relatively less number of respondents emphasized that being objective, transparent and honest should be regarded as important while public administrators are providing the public services. Apart from that definitions, there are distinctive ones made by the public administrators shown in Table 10.

**Table 10: The Concept of Ethics and Its Importance in Public Administration**

<b>THE QUESTIONS</b>	<b>THE ANSWERS BY LOW RANK PUBLIC ADMINISTRATORS</b>	<b>THE ANSWERS BY HIGH RANK PUBLIC ADMINISTRATORS</b>
<b>How do you explain the concept of ethics and its importance in public administration?</b>	Different perceptions of ethics: <ul style="list-style-type: none"> <li>• <i>Ethics is the super-structural norms which are embodied in the traditional process within the framework of accumulated knowledge and experiences except written rules.</i></li> <li>• <i>Ethics is a set of rules that form the basis of relationships between people and public administrators.</i></li> <li>• <i>Ethics refers to the unwritten rules that prevent the acts of public administrators carrying out public services in their own conscience and in the eyes of the public.</i></li> </ul>	They highlighted that the concept of ethics is <i>new and not known by every public administrator.</i>

Source: Interview results

Out of all these definitions, very interestingly, one public official did not prefer to define the concept of ethics but commented on the changing meaning of it. He claimed that the content of this concept has been deformed and its meaning has been highly changed in the last ten or fifteen years. Despite this situation, the concept has been advocated all the time like that *'It should be found in every public official!'*

It would not be wrong to say that in today's globalized world, the meaning of ethics has been redefined in public administration literature in recent years. At the outset, ethics corresponded to 'what is good for the society and individuals' by prescribing what public administrators ought to do. However, its function now is to deal with 'how to control public administrators' by imposing obligation on them to refrain them from corrupt or unethical activities. Facing with the present global crises and prevalence of the principles of global governance, ethics is concerned with how to deal with corruptions originated from systematic crisis of the capitalism instead of what should be good for individuals and society.

On the other side, high-rank public administrators met at a common point on the concept of ethics. According to them, the concept of ethics is new and not known by public administrators. It can be argued that public administration in Turkey encountered with great challenges after the liberalization of the economy together with the 24 January Decisions by Turgut Özal. Through the effects of the neo-liberal economy which was opened up to the international markets, there has been a transformation in the political-administrative system of Turkey, especially since the second half of the 1980s. Global market pressures leading to high rates of corruptions have transformed bureaucratic structure of state in Turkey. A more open, efficient, service-oriented and interventionist state has been emerged out. Together with these developments, new forms of public management have been given a top priority to focus more on efficient, effective and economic use of public resources in order to ensure a stable public administration without leaving any room for the corruptions. As it is understood, ethics management in Turkey has been as subject matter of the last fifteen years. It is a brand new topic for public administrators.

When it is come to the importance of ethics, the prominent and mostly mentioned answer given by both high and low rank public administrators is '*rebuilding the public trust in government*'. This indicates that public administrators partly know the aim of ethics regulation in Turkey. Not exploiting the existing rules and increasing efficiency and effectiveness in public administration emerged as the mostly mentioned answers, respectively. This answers proves that the concepts of new public management understanding such as efficiency and effectiveness began to be commonly used by public administrators.

The discourse of ethics as a tool for increasing the public trust have been mostly used in the anti-corruption strategies of the Turkish governments. Since, Western world excellently exported this concept to all other countries in the world including Turkey despite the developed ethics management system based on institutional and legal regulation does not work in the way they wanted. Despite this situation, Turkey is very insistent still on the adoption of their values and management styles in public administration with the important effects of the global challenges. Nevertheless, their solutions with regard to the problems of public administration in Turkey are imposed by the structural reforms by the efforts of the mainstream economic and political international and regional policy making institutions.

When it is come to the question of '*What do you think about how ethical principles have emerged in the Turkish public administration?*', low-rank public officials have given quite different answers. In other words, public administrators have come up with different argumentations in their minds in relation to the emergence of ethics and made some estimation although they are not sure about the origins of ethics in Turkish public administration. The distribution of the responses according to the number of times they mentioned are stated in Table 11 as follows:

**Table 11: The Answers in relation to the Emergence of Ethical Principles in Turkey**

THE QUESTIONS	THE ANSWERS BY LOW RANK PUBLIC ADMINISTRATORS	THE ANSWERS BY HIGH RANK PUBLIC ADMINISTRATORS
<p><b>What do you think about how ethical principles have emerged in the Turkish public administration?</b></p>	<p>The distribution of the responses according to the number of times they mentioned are as follows:</p> <ul style="list-style-type: none"> <li>• <i>Corruptions (6)</i></li> <li>• <i>Bribery and favoritism (5)</i></li> <li>• <i>Administrative reforms in the EU harmonization process (4)</i></li> <li>• <i>Increase in the unethical behaviors (3)</i></li> <li>• <i>Rebuilding the public trust (3)</i></li> <li>• <i>Affording advantage and misconduct (3)</i></li> <li>• <i>Giving importance to the principles of ethics (3)</i></li> <li>• <i>The impact and decisions of the politicians and bureaucrats (2)</i></li> <li>• <i>Being an Islamic state (1)</i></li> <li>• <i>Development of technology (1)</i></li> <li>• <i>The impact of comprehensiveness of public services (1)</i></li> </ul>	<p>They focused on <i>compliance with EU Acquis</i></p> <p>There were <i>no severe criticism of unethical acts.</i></p>

**Source: Interview Results**

As it is understood, public officials at lower levels cannot be able to go beyond overt and superficial reasons with regard to ethics regulation in Turkey. Whereas, the effects of systematic deviations of capitalism leading to deterioration of moral values in public administration and also new public management techniques supporting the private interests at the expense of the public have been almost ignored by the low-rank public administrators. On the other side, high rank public officials have mainly focused on the harmonization process with EU and the alignment with EU Acquis. However, it was also observed that they basically and intentionally abstained from

involving in severe criticisms with regard to unethical relationships or behaviors having a possibility to occur or occurred in reality in their institutions. Therefore, they preferred not to mention about specific unethical acts in relation to their institutions. Instead, they gave simple examples from the Civil Servants' Law and Turkish Penal Code in Turkey.

The question of '*What should be the ethical values and behaviors to be adopted by public officials?*' was directed to interviewees. Law-rank public administrators have commonly stated that the most significant ethical behavior needed to be adopted by public officials is to avoid from following the personal interests while providing the public services. The second most repeated answer has been the principle of merit to be appropriated by public administrators. Being honest, transparent and objective are the third ones in the ranking.

Slightly mentioned ethical behaviors have become accepting gifts and engaging in unlawful acts. Moreover, both high-rank and low-rank public administrators have paid more attention to '*just and equal service to citizens*'. Being just to every citizen and giving importance to equality between them without leading to any discrimination can be regarded as one of the most significant ethical values that needs to be adopted by public institutions. According to them, complying with the laws and by-laws and being objective are the other important dimensions taken into consideration by the public institutions while they are providing services to the citizens. In this regard, public administrators in Turkey adheres to the laws and regulations which are more concrete and clear for them.

Being different from the low rank public administrators, high rank or senior public administrators have mostly focused on '*being a good people*'. In fact, they have been more aware of the source of ethical reasoning since they perceived ethics as an individual matter and commented that ethics should be individually internalized by public administrators not forcefully by the ethics regulation. Due to the fact that they were in manager position, they evaluated the ethics regulation and its implications on public administrators in detail and basically claimed that the concept of ethics does

not belong to Turkish culture. The interview results in relation to ethical behaviors to be adopted by public administrators are stated in Table 12 as follows:

**Table 12: Ethical Behaviors to Be Adopted by Public Administrators in Turkey**

THE QUESTIONS	THE ANSWERS BY LOW RANK PUBLIC ADMINISTRATORS	THE ANSWERS BY HIGH RANK PUBLIC ADMINISTRATORS
<p><b>What should be the ethical behaviors to be adopted by public administrators while they are dealing with administrative works?</b></p>	<ul style="list-style-type: none"> <li>• Low-rank public administrators have commonly thought that <i>the most significant ethical behavior that needs to be adopted by public officials is to avoid from following the personal interests while providing the public services.</i></li> <li>• The second most repeated answer is <i>the principle of merit to be obtained by the public administrators.</i></li> <li>• <i>Being honest, transparent and objective</i> are the third ones in the ranking.</li> <li>• Slightly mentioned ethical behaviors have become <i>accepting gifts and engaging in unlawful acts.</i></li> </ul>	<p>Being different from the low rank public administrators, high rank or senior public administrators have mostly focused on <i>'being a good people'.</i></p> <p>In fact, they have been more aware of the source of ethical reasoning since they perceived <i>ethics as an individual matter</i> and commented that <i>ethics should be individually internalized by public administrators not forcefully by the ethics regulation.</i></p> <p><b>COMMON POINT</b>  <i>Just and equal service to every citizen without leading to any discrimination</i> as one of the most significant ethical values that needs to be adopted <u>by public institutions</u></p>

Source: Interview Results

So, it is hard for public administrators to adopt this concept in order to use in their decisions. Since, there is no difference between ethics and morality for the public administrators. However, being ethical does not equal to being moral. There is a

confusion regarding these concepts. However, ethics as a branch of the philosophy is concerned with what is morally good and bad, or right and wrong and it is applied to question and determine the limits of morally acceptable behaviors.

Consequently, the interview results pointed out that there is a multidimensional perceptions of ethics in Turkish public administrators. More importantly, when it is looked at to the 'Law Related To The Establishment Council of Ethics for Public Service and Making Modifications On Some Laws' which establishes the Council for public administrators and the 'Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials' which determines the ethical principles for public administrators, it can be easily seen that the concept of ethics have not been defined in any place of the law and by-law. The ethical obligations are being imposed without knowing the defining the meaning and its role in these legal texts. The Regulation just defines the principles of ethical behaviors as 'the principles which needs to be complied by the public administrators'. Here, it can be inferred that 'the uncertainty of the concept' is embedded in even the legal rules.

Moreover, this situation has been detected by the EU Harmonization Committee<sup>29</sup> in the Turkish Grand National Assembly. The Committee has specified this situation as a problem regarding the draft Law on the Establishment Council of Ethics for Public Service and Making Modifications on Some Laws before it entered into force. In addition, Committee has found the concept of ethics is as a kind of disturbing word and therefore has suggested to find a possible Turkish word having the same meaning with ethics word. In addition, the Committee continued that the concept have to be defined in the law; otherwise, the serious problems can emerge in the implementation so that the aim of law cannot be anymore achieved. According to Committee, the content of the ethical principles should have been explained in detail in the draft law, as well. However, the tasks concerning the determination of ethical principles have been left to the Council by this law.

It can be concluded that the concept of ethics are implicit and not known to all public administrators in Turkey. However, the reliability of the public administration should

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<sup>29</sup> Retrieved December 26, 2015, from <https://global.tbmm.gov.tr/index.php/TR/yd/icerik/50>

be only guaranteed by the clear guidance rules which are stated in the laws and regulations. The opinions of the interviewed prove that the answers regarding the definition of ethics and its importance in public service, the emergence of ethical principles and the ethical behaviors which need to be adopted by both by public administrators and public institutions do not led to a uniform analysis of ethics in public administration. Since, regulated ethics is not possible due to its very nature. On the other hand, implicit ethical regulation creates an absurdity so ethics regulation should not be expected to be effective in preventing unethical acts of public administrators even though public administrators exactly understand the meaning of ethics in public administration.

### **5.3.2 Low Rate of Awareness regarding Ethics Regulation**

As the second assumption of this study, it is essential to analyze the level of awareness regarding the ethics regulation in Turkey through a set of interview questions directed to high and low rank public administrators as subjects of this regulation. To determine the awareness level regarding ethics regulation in public administration system of Turkey, the attention was concentrated on the question that *'Do you have any information regarding the regulations which have been formed to monitor the unethical behaviors of public administrators in Turkey?'* The opinions of the interviewed has showed a great variance as stated in the bellow table.

However, just two out of seven senior public administrators have talked about the existence of specific ethics laws and only one of them has exactly stated the name of the Law on the Establishment Council of Ethics for Public Service and Making Modifications on Some Laws. But, very strikingly, they have just heard about it notifying that *'I do not know the content of this law'*. The others have completely referred to the existing laws supervising the unethical behaviors of public administrators. From a general perspective, the distribution of the answers according to the number of times high and low rank public administrators mentioned are stated in Table 13 as follows:

**Table 13: The Level of Awareness Regarding Ethics Regulation**

<b>THE QUESTIONS</b>	<b>THE ANSWERS BY LOW AND HIGH RANK PUBLIC ADMINISTRATORS</b>
<p><b>Do you have any information regarding the regulations which have been formed to monitor the unethical behaviors of public administrators in Turkey?</b></p>	<p>The opinions of the interviewed has showed a great variance. The distribution of the answers according to the number of times they mentioned are as follows:</p> <ul style="list-style-type: none"> <li>• <i>Law and by-laws (7)</i></li> <li>• <i>Ethics Council (5)</i></li> <li>• <i>Unknown (5)</i></li> <li>• <i>Ethics Commissions (4)</i></li> <li>• <i>Right of petition (3)</i></li> <li>• <i>Prohibition of receiving gifts (3)</i></li> <li>• <i>Ethics contract (2)</i></li> <li>• <i>Directives and circulars (2)</i></li> <li>• <i>Comments, feedbacks and complains of citizens (1)</i></li> </ul> <p>However, just two out of seven senior public administrators have talked about the existence of specific ethics regulation and only one of them has exactly stated the name of the Law on the Establishment Council of Ethics for Public Service and Making Modifications on Some Laws. The other have referred to other existing laws and by-laws.</p>

**Source: Interview Results**

In addition, one out of twenty five low-rank public administrators has underlined that duties and powers of public officials have been already limited by the constitution and existing laws such as Criminal Code and Civil Servants' Law in Turkey. This situation proved that ethics regulation is known little by public administrators with its legal and institutional basis. Since, very interestingly, more than half of the public administrators have informed me like that *'I do not know what exactly ethics*

*commissions and the Council do in Turkey*'. Furthermore, a few number of public administrators have interchangeably used the word 'ethics councils' and 'ethics commissions' mixing up their positioning in public administration. On the other hand, due to the fact that high rank public officials had already taken place in ethics commissions of their institutions, they have had more specific knowledge about the institutional and legal basis of ethics regulation.

Besides, most of them have stated that *'When I am invited to meetings arranged by the Council, I can rarely attend these meetings due to my work load'*. However, they are very aware of the existing laws in Turkey which already deal with unethical behaviors of public administrators such as the related provisions of Civil Servants' Law in terms of disciplinary offences and the provisions of Turkish Penal Code in terms of criminal offences. It was also important that almost all of senior public officials have given very specific examples from these existing laws instead of 'Law on the Establishment Council of Ethics for Public Service and Making Modifications on Some Laws' and 'Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials'. In that situation, it is understandable that public administrators do not have a settled ethics perception in their minds. As a result, the level of awareness regarding ethics regulation by public administrators is very low in Turkey. The personal priorities of public administrators may be determinative while they are doing their works or the demands of the superiors may limit their administrative choices in public works.

To determine the role of the public institutions in increasing ethical awareness among public administrators and to analyze to what extent they engage in ethical activities or events, it is required to ask interviewees that *'What kind of activities or events are organized by your institution in order to inform you regarding the ethical principles? Have you ever participated in these activities or events?* Based on the question, law rank public administrators have mostly stated that *'I have no idea about what kind of activities regarding ethics organized in my institution'* and *'I have never been attended to such kind of activities in my institution'*. In general, the results of the interviews regarding ethical awareness can be seen in Table 14:

**Table 14: Kind of Ethical Activities Performed by Public Administrators**

THE QUESTIONS	THE ANSWERS BY LOW RANK PUBLIC ADMINISTRATORS
<p><b>'What kind of activities or events are organized by your institution in order to inform you regarding the ethical principles? Have you ever participated in these activities or events?</b></p>	<ul style="list-style-type: none"> <li>• Law-rank public administrators have mostly stated that <i>“I have no idea about what kind of activities regarding ethics organized in my institution”</i> and <i>“I have never been attended to such kind of activities”</i>.</li> <li>• One out of twenty five low-rank public administrators has underlined that <i>duties and powers of public officials have been already limited by the constitution and existing laws such as Criminal Code and Civil Servants' Law in Turkey</i>.</li> <li>• More than half of the public administrators have informed me like that <i>'I do not know what exactly ethics commissions and the Council do in Turkey'</i>.</li> <li>• A few number of public administrators have interchangeably used the word 'ethics councils' and 'ethics commissions' mixing up their positioning in public administration.</li> </ul>

**Source: Interview Results**

A small number of public administrators have underlined that *'There were some posters and brochures on the bulletin board in my institution'*. These activities may be associated with the ethics day and week which have been celebrated since 2008 in Turkey. The Council is authorized to make efforts on placing the ethical culture the in public institutions or to support the work to be done in this regard within its jurisdiction to oversee unethical practices. Furthermore, the Council regarding the specific ethical issues, for example prohibition of receiving gifts, make announcements to be attached importance and implemented by public administrators.

One of the public administrators have commented on that the ethical issues are not perceived as important due to time and man hour availability in my institution. This situation proved that ethics is disregarded by the public administrators due to the fact that there is no legal enforcement of ethics regulation in Turkey. For example, the Council can accept 'resolutions' with regard to the problematic areas detected by the Council. In this context, the following Table 15 shows the distribution of the numbers of resolutions by the Council over the years.

**Table 15: The Number of Resolutions Given by the Council**

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
0	0	0	2	0	1	2	1	1	6

**Source: 2005-2015 Activity Report of the Council**

In addition, the Council is authorized to give opinions to public institutions for the problems they encountered with applying the principles of ethics. They are related with employment of the contracted staff, bank promotions, gift accepting, lodging implementations, professional ethics, and so on. The most important resolution of the Council in relation to publication of ethics violations decisions in the Official Gazette was annulled by 4/2/2010 dated and 2010/33 numbered decision of the Constitutional Court. From now on, the ethics violations decisions will be published at the official web site of the Council without specifying the name, explicit title and place. Thus, the Council has lost its only enforcement power since 2010.

Trainings and seminars are amongst the awareness raising efforts of the Council regarding to teach the role of ethics in public administration. For example, ethics has been included into basic and in-service training activities in different public agencies and institutions especially in Ministry of National Education and Presidency of Religious Affairs according to the activity report of the Council. Whereas, ethics should be included into the training programs of institutions to which having more sensitive to financial or fiscal considerations due to their tasks and structures such as

Public Procurement Authority, Court of Accounts, Ministry of Finance, Ministry of Customs and Trade and so on. However, a part of public administrators interviewed in the study have pointed out that *'The ethics seminars rarely takes place as being from time to time'*. Although some public officials have participated to one of these seminars, they have not found it useful. In this regard, the methods and strategies related to ethics trainings in Turkey should be further improved.

For awareness raising activities, the question in the interview has been asked in a different way to high rank public administrators. The question was changed into that *'What kind of activities are performed related to ethics in your institution and how often do you organize these kind of activities?'* There are three different answers here as stated in Table 16:

**Table 16: Ethical Activities Performed by the High Rank Public Administrators**

<b>THE QUESTIONS</b>	<b>THE ANSWERS BY HIGH RANK PUBLIC ADMINISTRATORS</b>
<p><b>'What kind of activities or events are organized by your institution in order to inform you regarding the ethical principles? Have you ever participated in these activities or events?'</b></p>	<p>There are three different answers here.</p> <ul style="list-style-type: none"> <li>• As the first group, two of the high rank public administrators have highlighted that <i>my institution generally arranges seminars in the 'ethics week'</i>.</li> <li>• As the second group, two of the public administrators have stated that <i>the information about ethical issues is given over the intranet to public administrators such as the announcement of ethics circulars but no more than that.</i></li> <li>• As the third group, three of the public administrators have stated that <i>there is no planned and performed activity with regard to ethics in my institution.</i></li> </ul>

**Source: Interview Results**

Consequently, interview results have actually highlighted that there is a low rate of awareness on ethics regulation in Turkey especially among low rank public administrators. Since, they have just heard about the names such as 'ethics council', 'ethics commission' and so on. They do not know sufficiently the content of ethics or

its role in public institutions. It was also observed that laws, by-laws, directives and circulars were mentioned in general but there were no sharp and meaningful differentiation between the ethics regulation and the existing legislation in relation to ethics which are considered to be preventive for public administrators in terms of engaging unethical activities. In addition, raising awareness activities organized by the ethics commissions seems proportionately very low compared to the activities of the Council. However, the activities of the Council are also seen insufficient by public administrators. Especially, the answers of the high rank public administrators have endorsed this situation since two institution out of seven only organize seminars one time in a year and three of them generally post some notices which do not go beyond some basic announcements on the web page and the remaining ones do not organize any activity or take actions in any other ways to inform the public administrations regarding ethics. Unlike low rank public administrators, high rank officials are intrinsically aware of the ethics regulation in Turkey but they commonly use other ways of supervising unethical acts through other institutional bodies.

### **5.3.3 Dysfunction of the Ethics Commissions**

The functionality of the ethics commissions in Turkey has been discussed with the help of the opinions gathered from interviewees within the scope of the study. It has been assumed that ethics commissions in Turkey have been emerged out as very dysfunctional being one of the representative bodies of inappropriate ethics regulation in Turkey since from the very beginning. Ethics commissions in Turkey can be regarded as the concrete implementation of administrative ethics theory in public institutions at the lowest level. Under the name of 'ethics management', they have been established based on the 29th article of the 'Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials'. Ethics commissions have been authorized to establish and develop ethical culture, to advise and direct about the problems the personnel face with about the principles of ethical behavior and to evaluate ethical practices.

Although the exact content of their duties are not clearly determined in the subject regulation, an advisory role are basically assigned to them. In addition, the Council

have sent an official letter to all public institutions and agencies announcing the activity suggestions in relation to forming an ethical culture in the public intuitions. In this longer list, there exist interesting suggestions for the ethics day and week in to be implemented in public institutions. The Council has felt to make these suggestions due to the unclear description of duties given to the ethics commissions. The opinions of the public administrators interviewed within the scope of the study supports the assumption of the thesis regarding the dysfunction of the ethics commissions in Turkey. It has been directed a specific question to low-rank public administrators in the interviews regarding that *‘What do you know about the activities performed by the ethics commission in your institution? Do you think that they contribute to the ethical functioning?’*

The interview results for this question are very negative and the level of contribution to ethical functioning in public administration is unfavorable. The specific answers can be seen in Table 17.

**Table 17: The Activities of the Ethics Commissions and the Level of Contribution to Ethical Functioning of Public Administration**

THE QUESTIONS	THE ANSWERS BY LOW RANK PUBLIC ADMINISTRATORS
<p><b>What do you know about the activities performed by the ethics commission in your institution? Do you think that they contribute to the ethical functioning?</b></p>	<ul style="list-style-type: none"> <li>• Almost all of the interviewees have answered this question as follows: <i>"I'm not aware the existence of them and do not have any information regarding the activities of the ethics commission in my institution"</i>.</li> <li>• Only two of public administrators have responded this question by making estimation as follows: <i>"If ethics commission carries out ethics-related activities, it can be useful for the ethical functioning of the public institutions."</i></li> </ul>

Source: Interview Results

The same question was differently asked to the senior officials as such that ‘*Do public officials apply to the ethics commission in your organization for the guidance when they encountered with ethical dilemmas?*’ The members of the ethics commissions pointed out as in Table 18.

**Table 18: The Applications to Ethics Commissions When Encountered with Ethical Dilemmas**

THE QUESTIONS	THE ANSWERS BY HIGH RANK PUBLIC ADMINISTRATORS
<p><b>Do public officials apply to the ethics commission in your organization for the guidance when they encountered with ethical dilemmas?</b></p>	<ul style="list-style-type: none"> <li>• The members of the ethics commissions pointed out that <i>public officials are not aware about the functions of ethics commissions and the activities performed by the ethics commissions are not enough to create awareness among them.</i></li> <li>• Commission members have mostly stated that <i>public officials commonly apply to their superiors in any case of unethical behaviors, especially for complaining about the works under their responsibility or other persons.</i></li> <li>• <i>Personal cases are also not reflected into higher authorities or bodies of course, if there is no evident criminal and disciplinary aspect.</i></li> <li>• They have especially emphasized that <i>if there is a crime on the scene, the sanctions is obvious in Turkish Penal Code and if there is a disciplinary offense, the related provisions regarding the penalties are mentioned in the Civil Servants' Law</i></li> </ul>

**Source: Interview Results**

Personal cases are also not reflected into higher authorities or bodies of course, if there is no evident criminal and disciplinary aspect. They have especially emphasized that if there is a crime on the scene, the sanctions is obvious in Turkish Penal Code and if there is a disciplinary offense, the related provisions regarding the penalties are mentioned in the Civil Servants' Law. As the interview results have been evaluated, it can be claimed that ethics commissions in public institutions are very dysfunctional in Turkey. Low rank public administrators cannot make any

comment on the functionality of the ethics commissions because they do not have sufficient information regarding the existence and duties of ethics commissions. Therefore, it is very important to question whether ethics commissions created by the ethics regulation in Turkey have a capacity to place ethical values to be followed by the public administrators. Even at the lowest level, ethics regulation has been unsuccessful in public administration system of Turkey.

An EU-funded project<sup>30</sup> was carried out between 2009-2011 years in order to increase effectiveness of ethics commissions for embedding and widening the ethical culture in public institutions and for adopting the international ethical standards in the public sector. Within the scope of this project, institutional obstacles and problems were evaluated, gaps in the ethics legislation were analyzed, tasks assigned to them were reevaluated, and expectation of public administrators from the commissions were discussed. Generally, deficiencies in the operation of ethics commissions were tried to be figured out. However, from these years there have been no changes in terms of their structure and enforcement power.

Despite these efforts, low-rank public administrators do not still use the ethics commissions neither solving the moral problems nor requesting any guidance from them. On the other hand, high rank public administrators who are actually the members of the ethics commissions pointed out commission membership is given to the office not the people inside the public office. That's why, senior administrators as the members of ethics commissions do not internalize their role in terms of contributing to the ethical functioning of the public institution. Article 29 of the Regulation speaks about intentions but they are not enforced to be effective bodies in public institutions. Since, ethics cannot be a matter of regulation and it is highly personal for public administrators. Therefore, the ascribed roles to the commissions are not practical and even realistic with their institutional and legal settings in Turkey.

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<sup>30</sup> The name of the EU-funded project is 'Technical Assistance for the Needs Assessment for the Public Ethics Commissions'

In this regard, ethics commissions do not have enforcement power with unclear duties. They are not used actively and effectively as a guidance mechanism by both commission members and public officials. Instead, ethics commissions assume responsibility for the compliance of ethical standards and procedures in public service. In addition, the commission does not have an authorization to oversee the usage of delegated powers (whether discretionary or not) by public administrators. It may be communicate with the all personnel to make sure that all public works are conducted in accordance with the right procedures stated in the related laws. However, these tasks have been already realized by the internal audit units in public institutions. In that situation, establishment of the ethics commissions becomes a pointless effort in public institutions of Turkey and leads them to remain dysfunctional.

It can be seen that there are lots of limitations concerning the ethics commissions in Turkey. Therefore, the existence of ethics commissions is very questionable in that sense. In addition, the founding objectives of them do not meet the expectations and remain superfluous in the public administration structure of Turkey. Furthermore, presenting ethics commissions as a new accountability mechanism at the lowest institutional level cannot be an acceptable method to deal with the moral paradoxes of public administrators. Even though the ethics commissions being as independent arbitrators are effectively used by the top management of the public institutions, they may only operate under the confines of the specific ethics laws.

#### **5.3.4 The Blurred Relationship between Ethics and Law**

In public administration system of Turkey, there is a continuous tension between ethics and law. Ethics within the scope of new public management understanding intervenes in the field of law. However, laws do not necessarily address all the ethical dilemmas faced by public administrators. Since, while ethics represents the private beliefs for doing the good and right things, law deals with the public duties.

When it has been asked to interviewees regarding that '*What are the most common ethical problems in Turkish public administration system?*', they have mostly ranked the common ethical problems as follows: *Corruptions (mainly bribery), merit*

*problem, favoritism, unequal treatment, unequal disturbance of obligations and work load, and nepotism.* These are all the unethical problems; however, some of them just corresponds to punishments referred by the laws. Although high rank public officials have demonstrated reservations to tell the ethical problems in their institutions, they have preferred to give only basic examples with regard to violations of some provisions of Civil Servants' Law and Turkish Penal Code not the specific ethics legislation. The general evaluation of the low and high rank public administrators can be examined in Table 19.

**Table 19: The General Evaluation regarding the Most Common Ethical Problems**

<b>THE QUESTIONS</b>	<b>THE ANSWERS BY LOW RANK PUBLIC ADMINISTRATORS</b>	<b>THE ANSWERS BY HIGH RANK PUBLIC ADMINISTRATORS</b>
<p><b>What are the most common ethical problems in Turkish public administration system?</b></p>	<p>They have mostly ranked the common ethical problems as follows:</p> <ul style="list-style-type: none"> <li>• <i>Corruptions (mainly bribery)</i></li> <li>• <i>Merit problem</i></li> <li>• <i>Favoritism</i></li> <li>• <i>Unequal treatment</i></li> <li>• <i>Unequal disturbance of obligations and work load</i></li> <li>• <i>Nepotism Law</i></li> </ul>	<p>Although high rank public officials have demonstrated reservations to tell the ethical problems in their institutions, they have preferred to give only basic examples with regard to violations of some provisions of Civil Servants' Law and Turkish Penal Code not the specific ethics legislation.</p>

**Source: Interview Results**

Ethics comprises the systems in which humans make moral decisions based on their set of values or beliefs according to diverse sources that are originated from family upbringings, social environment, school education and character as stated in the answers of second research question. Thus, it should be known that 'ethics understanding' can change from one person to another and it is accordingly claimed that not everyone agrees on what ethics and its principles are. In this situation, ethics seems a highly personalized set of beliefs, or a combination of many such factors.

However, ethical basis of a decision is defined generally and externally as code of ethics which divides behaviors into categories such as acceptable and unacceptable. Furthermore, codes of ethics have been often used by the businesses and professions for the purpose of guidance in the name of encouraging the good behaviors. In the interviews, public administrators stated that ethical principles are not sufficient to prevent unethical behavior even though their aim is just to make guidance. Public administrators are aware of that ethical perceptions are primarily shaped by a variety of sources. At that situation, law-based conception of ethics leads to confusion and misapprehension among them. According to them, ethical principles in the form of laws do not express any meaning for public administrators. Since, there have been already existing laws having the strong enforcement power to deal with the unethical behaviors of public administrators in Turkey.

Therefore, the tension is particularly evident between ethics regulation and the existing laws. Because, existing laws have clear provisions for the unethical behaviors of public administrators in Turkey. This insistence on the necessity of ethics regulation in Turkey has led to constant tension between specific ethics regulation and existing laws. Public administrators have found themselves in balancing these different types of obligations. It may be understandable to a certain extent that ethical principles may be useful to determine the limits of acceptable behaviors despite their implicit nature. But, law-based conception of ethics or legalistic manifestations of ethics in Turkey is also not understandable and not clear for public administrators. In addition, the ethical perceptions of individuals are affected by a variety sources but they are hardly affected by the predetermined rules. Therefore, ethics regulation is not enough to shape their ethical perceptions, especially implementing external controls on them.

In this regard, an interview question was directed to public administrators regarding that *'Is the existence of ethical principles sufficient to prevent unethical behaviors in Turkish public administration? Why?'* There were nobody among low rank public administrators answering this question as 'yes'. High rank public administrators have generally underlined that they are needed to *'be internalized'* by every public administrator. The general evaluation can be seen in Table 20.

**Table 20: The Effectiveness of Ethical Principles to Prevent Unethical Behaviors**

<b>THE QUESTIONS</b>	<b>THE ANSWERS BY LOW RANK PUBLIC ADMINISTRATORS</b>	<b>THE ANSWERS BY HIGH RANK PUBLIC ADMINISTRATORS</b>
<p><b>Is the existence of ethical principles sufficient to prevent unethical behaviors in Turkish public administration? Why?</b></p>	<p>There were nobody among low rank public administrators answering this question as 'yes'.</p> <p>All of them commonly stated that <i>ethical principles are not sufficient to prevent unethical behavior in public administrations.</i></p>	<p>High rank public administrators generally have underlined that <i>they need to 'be internalized' by every people working in the public administration creating a common ethical culture in the institutions and making it a part of our daily lives.</i></p>

**Source: Interview Results**

Consequently, specific ethics regulation in Turkey has been ignored by public administrators. Since, it does not have any enforcement power despite the legalization of ethics in public administration. In this regard, public administrators have highlighted during the interviews, the sanction have been already defined in Civil Servants' Law and Turkish Penal Code for the unethical behaviors of public administrators. However, there was no specific reference to the 'Law Related to the Establishment Council of Ethics for Public Service and Making Modifications on Some Laws' and the 'Regulation on the Principles of Ethical Behavior of the Public Officials and Application Procedures and Essentials'.

## **CHAPTER 6**

### **EVALUATION AND THE CONCLUSION**

Last two decades of the nineteenth century have witnessed rapid development of public administration as we know it today. In this process, the multi-faced changes in the world have brought a radical transformation to the administration approach, especially for the classic bureaucratic structures. The stimulating factors giving way to this philosophy change in administration and in its structures can be found in the change of economic theory. Since, the competitive structure in the market and progress achieved by the private sector in worldwide have led to the emergence of public criticism against the government. The social role and the functions of the public administration in line with these changes have begun to be questioned due to the implementation of new public management understanding and governance models. Especially, good governance model developed by the international institutions, in which the boundaries between public and private are blurred, has been regarded as necessary for orderly economic growth. In addition, the organizational structures of the new public management have become a matter of discussion while the public administration is fulfilling its duties and responsibilities.

Generally speaking, the smaller but more effective public administration in organizational sense which is giving importance to the participation and being responsive, transparent, and accountable to the public demands has been aptly adopted by the new order. Actually, the intention was that the public institutions would withdraw from the production. Instead, public administration would strengthen their regulatory functions and develop the fellowships between the private sector and public institutions. The developments in administrative understanding together with the impacts of economic, social and political parameters have been reflected into the public administration system of Turkey. In this context, the implementation of new public management approach has put forward specific

organizational and functional problems into Turkish public administration. The interplay of ethics with new public management approach has been justified over the mistrust of human behaviors due to political-administrative corruptions which are gradually increasing in Turkey.

Business values inherent in new public management approach have led to erosion of moral values. In this regard, ethics has been provided as a tool to be capable of solving these administrative problems in Turkey. It is absolutely certain that neither Turkey nor the other countries in the world cannot cope with the crisis of this system through the formal ethical principles. By the efforts of the Western world, Turkey has obliged to adopt ethics in its public administration system through the structural reforms under the name of 'harmonization packages'. Ethics as the legacy of these developments has been presented in Turkey as a set of values to be a cure for severe legitimacy crisis of the capitalism, especially in early 2000s. Under the name of decreasing the moral wrongdoings, the place of ethics has been articulated in Turkish public administration.

As to why Turkey adopted ethics regulation, the answer is so simple that Turkey wants to keep pace with the new global order as being attached to the unique experiences, values, and problem-solving methods of the Western world. It is possible to go further with such a claim since the theoretical background of ethics has been actually received from the Western world. Therefore, the promulgation of ethics regulation together with its legal and institutional basis is not purposive in Turkey. For, it does not go beyond imitating the practices or experiences of the Western countries. Just under the name of modernization of public administration and with a claim of justifying the Westernization efforts, Turkey has preferred to make both value and policy transfers from the West. That's why, ethics regulation with its legal/judicial and structural/organizational imperfections has been unrequited and remained superficial for public administrators in Turkey.

However, ethics due to its very nature in philosophy cannot be a subject matter of regulation. Despite the fact that ethics as a highly personal issue dealing with the proper ways of life in term of rightness and wrongness, it has been grounded in

extensive legalism in Turkey since 2004 through the adoption of specific ethics legislation. On the top of it, ethics in Turkish public administration has been institutionalized by being inserted into a regulatory body's jurisdiction, namely the Council of Ethics for Public Service. In fact, this new agency has been deprived of powers to impose sanctions. Without having any enforcement power, the Council has been expected to oversee the behaviors of public administrators and deal with their unethical conduct. This situation is absolutely due to the Council's limited maneuvering area in legal/judicial and institutional/organizational sense. Besides, the institutionalization of ethics is increasingly addressed in every public institution and organization through the establishment of ethics commissions. Thus, the responsibility has been given to members of ethics commissions to create an ethical environment in their institutions. However, the commission members generally assert that the task of the commission membership is assigned to the office not the people. In other words, it is independent from the people. Thus, the task is not voluntarily adopted or internalized by public officials in Turkey. In such a situation, ethics regulation based on institutional formations cannot be expected to be successful in Turkey. Furthermore, ethics regulation in Turkey has been established in a crippled way ignoring its main function in public administration. Since, ethics should mainly guide the judgments of public administrators in their administrative works when they are encountered with the ethical dilemmas in order to help them to serve the public interests.

In the interviews, the evaluations and the opinions of high and low rank public administrators have proved that there is different perceptions of ethics in public administration. Due to the fact that public administrators do not have a sufficient information regarding the meaning of ethics, the ethics regulation in Turkey has been doomed to failure in every aspect of public work. As the second assumption of the study, the results of the interviews have indicated that there is a low rate of awareness in relation to ethics regulation in Turkey. The opinions of the interviewed have showed that legal and institutional basis of ethics regulation have not been adopted and internalized by public administrators. Without legal sanctions, ethics regulation has not been found as remarkable or striking by public administrators.

Beside the strong presence of existing laws in relation to ethics in Turkish national legislation, the governments have been insistent on the legalization of ethics under the name of ‘ethics regulation’ in Turkey. As the third assumption of the empirical study, interview results have aptly pointed out that ethics commissions in Turkey are dysfunctional. Based on the interviewed opinions, public ethics commissions at the lowest level have never been used by public administrators. As a part of the ethics regulation, commissions have unclear duties and functions which force them to remain ineffective and aimless. Final assumption of the study is related to that there is a tension between ethics and law in Turkey. When the evaluations of the interviewed have been examined, the legalization of ethics is not a triggering factor for public administrators to adopt specific ethics legislation and to change their perceptions regarding the ethics regulation. Since, they have attached more importance to existing laws such as Turkish Penal Code for criminal offenses and Civil Servants' Law for disciplinary offences ignoring the specific ethics legislation and its new institutional structures authorized to oversee the behaviors of public administrators. Consequently, the intervention of ethics into domain of law has not created any difference in terms of the perceptions of public administrators in Turkey since the specific ethics legislation is not threatening due to lack of its enforcement power.

In Turkey, it is for sure that public administrators are not able to comprehend the exact meaning of ethics in public administration. Upon this situation, ethics regulation through its legal and institutional structure has tried to be imposed to public administrators. The new institutional formations of the new public management established by the ethics regulation have not been successful in Turkey. Most importantly, public administrators have insistently emphasized the compliance with the existing laws having a strong place in Turkish administrative legislation. In fact, public administrators are aware of that every people who violate these laws has been already encountered with various sanctions that cannot be ignored at all.

Those who benefit from public services have expectations from public institutions in terms of managing public resources in a fair and equitable manner. At the individual level, it is expected from public administrators to act in accordance with honesty and

to behave ethically during their rendering of services. Today, most of the ethical studies in public administration seriously address the inappropriate behaviors of public officials on the grounds of contradicting with the idea of 'public interest', 'social equity', 'fair resource management' and 'responsible administration'. For example, Özsemerci (2005: 3) claims that the phenomenon of fraud and corruption is directly related to the human factor. The use of discretionary power in an exorbitant way inevitably leads to fraud and corruption, threatening economic and social structure in a serious way. Herein, the main reason leading to emergence of unethical behaviors has been degraded to the practices of public administrators. However, there are a number of criminal offenses with different sanctions written in Turkish Penal Code under the heading of 'offences against the reliability and functioning of public administration'. In that law, fraud, corruption, bribery, embezzlement, and many other offences related to the unethical behaviors have been already defined as a crime for public administrators.

It would not be wrong to say that criminal sanctions of the unethical behaviors are the task of law not the task of ethics. Besides, the duties and the obligations of the civil servants have been already defined under the Civil Servants' Law. In addition, disciplinary offenses due to the violations of these duties and obligations have been also determined by the same law. Therefore, ethics regulation is made up with implicit ethical principles in legislation disempowered by weak regulatory institution. Most importantly, although ethics is a part of our daily lives, it is not unknown to everyone. In this regard, ethics regulation cannot unfortunately guide public administrators in serving public interests.

It would be appropriate to say that moral wrongdoings in public administration are tried to be presented as the most popular excuses of dead cat on the line. Therefore, consequences of all moral wrongdoings or unethical behaviors are linked up with the corruption problem which are very specific to the nature of capitalism and market mentality. In that situation, ethics regulation as a controlling tool for public administrators does not seem to serve the interests of citizens but to serve the benefits of the private sector creating a suitable working environment for the capitalist classes.

Today, handling morality as an external control system underlines that the certain values need to be forcefully adopted by the members of public organizations without any reasoning. This is all to say that modern states try to establish an ethical management system as a powerful accountability mechanism which is extensively supported by the law-based conception of ethics so that external control of the behaviors of public administrators would be easily performed. Precisely at this point, Turkey as one of the followers of Western values has been adopted ethics mechanism into its administrative legal system. In Westernization efforts, Turkey has implemented ethics regulation to serve the new models of government which are especially supported by the Western world and the global actors. Through their impacts on Turkey, "ethics" and "ethical management" concepts have gained importance in public administration system and have been reflected into the national laws, rules of conduct, policies and standards and even new institutions. Ethics management principles, based on the universally accepted values for the execution of administrative tasks to achieve the so-called "desired good", have been imposed to Turkish public institutions. It can be generally argued that the ethical values should allow for the appropriate use of public powers within the scope of its guidance role without being transformed into corrective mechanism to deal with the behaviors of public administrators accepting them all having an assured tendency to commit a crime at the expense of the public. However, integrating ethics into legal system does not guarantee the ethical functioning in public administration and its existence may remain incapable to eliminate the unethical practice since ethics belongs to the realm of individual analysis and reasoning.

In theoretical framework, ethics as the branch of philosophy deals with how we ought to act in our lives. Since, ethics as a philosophical activity inquires the good and right ways of lives and guides our beliefs to make good and right choices for ourselves. Therefore, the history of ethics is as old as the history of itself when we looked at the grand ideas of philosophers from Ancient Greek and their influential theories living up to this time. However, administrative theories of ethics have attempted to constitute a systematic account of ethical thought in public administration literature and gained prominence since the 1970s but the concept has

been alienated in public administration under neo-liberal policies. In today's modern world, administrative structures has been transformed by the new public management models which are the reflections of neo-liberalism and globalization. In this regard, public administration has been forced to change. In such an environment, market values dominating the public area have disrupted the relationships between the state and its citizens. In this situation, administrative ethics together with the changing role of the state has been regarded as a savior for the problematic areas of the administrative policies and practices. Especially, with regard to prevalence of corrupt behaviors in public administration, ethics has been used as a control mechanism for public administrators. Although ethics has been perceived as a guidance mechanism at the outset, now it is used to control and supervise the behaviors of public administrators. Thus, the 'good' content inherent in ethics has been discharged being used as a controlling tool in public administration.

The use of ethics in Turkish public administration corresponds to early 2000s. The impact of unavoidable globalism with its dominant ideology 'neo-liberalism' and institutional reform studies of international organizations under the new public management understanding have deeply affected the administrative structure in Turkey. Adopting their values as a solution to its administrative problems, Turkey have implemented ethics regulation in public administration through its legal and institutional settings within the scope of its Westernization efforts. However, ethics regulation in Turkey has not been well penetrated into administrative structures and has remained pointless despite the legalization and institutionalization of ethics in Turkish public administration.

In the empirical study, the opinions and evaluations of public administrators have proved that ethics regulation has not been successful in Turkey and it has not been understood and appropriated by them due to its legal/judicial and structural/organizational imperfections. Since, the nature of ethics is relativistic and it bears a number of different beliefs and morals including different value judgments. Therefore, ethics cannot be subject to regulation due to its philosophic nature. Despite the fact that ethics regulation has been imposed to public administrators on legal and institutional basis, they did not expectedly captured its meaning and

importance for public administration. That's why, ethics should be clearly explained to public administrators in relation to its role and importance in public administration. Furthermore, ethics trainings or seminars have become the most popular answers proposed by the public administrators as a solution to unethical behaviors. Since, as long as public administrators become well-trained on moral topics such as regarding the philosophy of ethics and its distinct perspectives from law, morality and religion, the administrative problems can be solved without any effort to make ethics regulation. However, considerable number of interviewees from low-rank public administrators have talked about aggressive measures to prevent unethical behaviors such as severe and dissuasive sanctions, a rigorous internal audit control system, restriction of the discretionary powers of public administrators and a reward/punishment system. On the other hand, these suggestions are not different from the ethics regulation itself due to its coercive effects on public administrators. In that sense, it is necessary to say that the concern of the ethics should be to make only guidance for public administrators and to stimulate their moral sentiments they already have to serve public interest not dealing with the pragmatic and pithless role assigned to ethics regulation.

In fact, ethics principles laid down in the form of laws under specific ethics legislation and its institutionalization under new structures within administrative system of Turkey have been intended to serve as an impetus for 'ethics management'. As a result, ethics regulation has been provided a moral reference point for public administrators in Turkey. More importantly, the functioning and the assigned roles of the Council at the highest level and ethics commissions at the lowest level have an utmost importance in terms of implementation of ethics regulation. Since, the main problematic of this thesis can be closely associated with that ethics regulation in Turkey has not been working in implementation due to its legal/judicial and structural/organizational deficiencies as justified by high and low-rank public administrators in the interviews. More specifically, whether ethics regulation is properly working in Turkey has been discussed in the scope of empirical study as the most important part of the thesis. Since, the main problematic or the claim of this thesis has been elaborated within the scope of the opinions of public administrators

in accordance with ethics as a multidimensional concept, the low awareness on ethics regulation, dysfunction of the ethics commissions and the tension between ethics and law in Turkey.

As emphasized in chapter five, interview results have showed that public administrators do not have a clear perception of ethics due to different meanings attached to the concept by public administrators. In addition, there is a low rate of ethical awareness among them since low rank public administrators know very little about the specific ethics legislation and its institutions such as the Council and the ethics commissions in public institutions. Furthermore, ethics commissions seem very dysfunctional according to the evaluations of commission members since public administrators do not apply to commissions in any way to ask for any advice and direction about the ethical problems they may face or faced. However, the activities of the commissions are not enough to promote ethical culture in public institutions since the interviewed commission members have explained that very few activities such as trainings, seminars and informative circulars are planned in public institutions related to ethics and they generally remain very symbolic.

As a result, ethics regulation in Turkey cannot be achieved as planned by the government since it includes legal/judicial and structural/organizational imperfections or deficiencies. It is true that the society has become de-moralized and the promotion of ethical values is now more important but it can be certainly argued that the regulation of ethics similar to laws does not generate a moral imperative for the Turkish society when it was looked to the interview results. Since, ethics regulation has been established on imperfect structural and organizational settings without legal/judicial enforcement mechanisms from the very beginning in Turkey.

As the opinions of public administrators in the interviews have indicated that the implementation side of the ethics regulation reflecting the legal/judicial and structural/organizational imperfections has been practically unsuccessful in Turkey. Beyond that, ethics regulation has been remained far from fulfilling its intended functions for the public administration system in Turkey. Within the scope of the thesis, the focus of the critique of ethics regulation has been associated with its

structural/organizational implementation in Turkish public administration. For the future studies, ethics regulation may be critically handled within social and political context contributing to the evaluation of ethics regulation in Turkey. In addition, more ethics trainings in different public institutions can be arranged to increase the level of knowledge and to create awareness regarding possible ethical behaviors.

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## APPENDICES

### Appendix A: Turkish Summary

#### 1. GİRİŞ

Kamu yönetiminde etik ile ilgili çalışmalar 1970'lerden itibaren yoğunlaşmış ve bugün de önemini artırmaktadır. Başta, gelişmemiş ülkelere özgü olarak algılanan politik-bürokratik sistemdeki yolsuzlukların gelişmiş Batı ülkelerinde de görülmesi dikkatleri 'etik kavramına' çekmiştir (Ömürgönülşen ve Öktem, 2005: 231). Politik ve bürokratik skandallar ile birlikte etik kavramı önleyici bir tedbir olarak hukuk yaptırım mekanizmalarının yanında her bir ülkenin yolsuzlukla mücadele stratejisinde yer almaya başlamıştır. Aslında, etik, yasaların yanında idari ve cezai suçlar ile başa çıkmak için başka bir kontrol mekanizması olarak hükümetler tarafından benimsenmiştir. Yasalar insan haklarını korumak, cezai ve idari suçlarda kanunilik ilkesini sağlamak için tasarlanmış olmasına rağmen, ilginçtir ki etik siyasi ve idari yolsuzlukların, kötü yönetimin ve çıkar çatışmasının son derece arttığı bir ortamda bu durumlar ile mücadele için tek çözüm aracı olarak sunulmuştur. Televizyon ve medya aracılığı ile bu problemlerin büyümesi halk arasında huzursuzluğa yol açmış ve tüm dünyada kamu yönetiminin itibar kaybetmesine neden olmuştur (Okçu, 2002:10).

Düzenleyici ve denetleyici kurumlar kurarak etik kodlar ve standartlar oluşturma çabasının kamu yönetiminde yaygın hale gelmesinin sebebi ise bu problemlerin kamu yönetimi standartlarında düşüşe neden olduğu algısıdır. Böyle bir algı beraberinde kamu çıkarlarını ve fonlarını korumakla görevli kamu yöneticilerinin kötü yönetimini gündeme taşımıştır. Tüm bu olumsuz gelişmeler dünyada 'ahlaki fikir birliğine' dayalı evrensel etik ilkeleri içeren kapsamlı bir reform hareketini başlatmıştır. Ahlaki bozulmaları ortadan kaldırmak iddiasıyla, hükümetler kamu yönetiminde etik dışı davranışları denetleyecek ve dayandıkları yasal düzenlemeler

kapsamında gerekli yaptırımları uygulayacak mahkemelere benzer yasal güçler ile donatılmış düzenleyici kurullar oluşturarak dünyadaki küresel dönüşümle birlikte ortaya çıkan reform hareketini haklılaştırmaya çalışmışlardır. Hükümetler, düzenleyici ve denetleyici kurulların kontrolünde, içeriği örtülü olan ve herkes tarafından bilinmeyen genel geçer etik ilkeleri yasa şeklinde hazırlayarak kapitalist sistem ile ortaya çıkan yozlaşmış düzeni düzeltme çabası içerisinde kendilerini bulmuşlardır. Kamu yönetiminin etik üzerinden düzenlenmesi süreci Türkiye’de etiğin hukukun yerini alması ve kurumsallaştırılması ile 2000’li yılların erken dönemlerinde ortaya çıkmıştır. Kamu yöneticileri hükümet tarafından yapılan etik ile ilgili düzenlemeleri benimsemeye ve toplumda meydana gelen ahlaki yanlışların genel sorumluluğunu almaya zorlanmışlardır. Yeni Sağcı politikalar ile şekillendirilen yenedünya düzeni küçük ama etkili düzenleyici devlet anlayışıyla kamu yönetiminde etiği hukuklaştırarak ve kurumsallaştırarak bürokratlar için bir otokontrol mekanizması olarak kullanmıştır.

Bu tez çalışmasında, etiğin felsefenin bir dalı olarak kamu yönetiminde düzenlenebilir bir alan olmadığı üzerinden yapılan teorik ve kavramsal tartışmalar doğrultusunda Türk kamu yönetiminde yapılan etik regülasyonunun en başından itibaren sakat kurulduğu iddia edilmektedir. Bu tezi desteklemek üzere yapılan ampirik çalışmada ise, Türkiye’de etik regülasyonun yasal ve kurumsal boyutları ile istenilen şekilde kurulmadığı ve çalışmadığı ile ilgili varsayımlar yapılmıştır. Kamu yöneticileri ve özellikle etik komisyonu üyeleri ile yapılan görüşmeler üzerinden kamuda etiğin yanlış algılanması, etik düzenlemeler hakkında farkındalığın düşük olması, kurumsal anlamda etik komisyonların işlevsizliği, etik ve hukuk arasındaki belirsiz ilişki irdelenerek Türk kamu yönetiminde etik regülasyonunun en başından itibaren yanlış kurulduğu tezi tartışılmaktadır.

## **2. KAVRAMSAL VE KURAMSAL ÇERÇEVE**

Filozoflar felsefe tarihinin eski zamanlarından itibaren zamanlarını ahlak ile ilgili keşfedilmemiş şeylere harcayarak günlük yaşamlarımıza yönelik çeşitli etik sorulara cevap aramışlar. Fakat etik sorular sadece akademisyenleri ilgilendiren sorular değildir. Her sıradan insan, hayatının bir çok alanında kişisel hedef ve ilişkilerinde

etik problemlerle karşılaşır ve problemlere neden olan spesifik ahlaki olayları filozoflar kadar derinlemesine olmasa da kendi akıl ve hayat tecrübeleri ile çözmeye çalışırlar. Tam da bu noktada hayatımıza temel oluşturan etiğin kavramsal ve kuramsal boyutlarıyla ayrıntılı olarak ele alınması etiğin kamu yönetiminde ne anlam ifade ettiğini anlamamız açısından önemlidir. Çünkü Türk kamu yönetiminde etik regülasyon adı altında etiğin hukuklaştırılması ve kurumsallaştırılması söz konusu olmuş ve böylelikle etik olması gereken teorik çerçevenin dışına çıkarılmıştır. Bu sebeple bu bölümde, etiğin aslında ne anlam ifade ettiği, kökenleri, tarihteki temel etik yaklaşımlar, etiğin ahlak, din ve hukuk ile ilişkisi irdelenerek Türk kamu yönetiminde gerçekleştirilen etik regülasyonun eleştirisine katkıda bulunulması hedeflenmiştir.

Öncelikle, etik ve felsefe arasındaki ilişkinin incelenmesi bize etiğin ne olduğu ve kökenleri hakkında tam cevaplar vermesi bakımından bir başlangıç noktası olarak kabul edilebilir. Pojman'a göre etik; diğer adıyla 'ahlak felsefesi' felsefenin bir dalıdır. Felsefe ise dünyanın harikalarını ve gizemlerini merak eden ve rasyonel olarak soruşturan, bilgelik ve gerçekliği arayan ve tutkulu bir ahlaki ve entelektüel bütünlük içinde sonuçlanan bir girişimdir (Pojman, 1995: vx). Pojman etiği ve ahlak felsefesini birbirinin yerine kullanarak etiği felsefenin alanına dâhil etmektedir. Alasdair MacIntyre ise kavramların değişen özelliklerine dikkati çekerek felsefenin kavramlar hariç her şeyi olduğu gibi bıraktığını iddia eder (MacIntyre, 2004: 3). Çünkü ona göre bir kavramı felsefi olarak araştırmak bu kavramın dönüşümünü de beraberinde getirir. Sonuç olarak, ahlaki kavramlar da her devrin filozofları tarafından farklı düşünce ve yaklaşımlar ile ele alınmıştır. Aynı şekilde etik, filozofların kendi değer yargılarına göre yorumladıkları bir kavram olarak farklı düşünceler ve yaklaşımlar üzerinden temellendirilmiştir. Aslında etik Yunanca 'ethos' yani 'karakter' kelimesinden türemiştir.

Ahlak ise Latince 'moralis' yani 'gelenek/görenek' kelimesinden türemiştir. Farklı kökenlerden gelmelerine rağmen ahlak ve etik birbirinin yerine kullanılmıştır. Fakat Ahmet Cevizci'ye göre etik çok anlamlı ve hatta belirsiz bir sözcüktür ve bu noktada etiğin farklı anlamlar içerdiğini iddia eder (Cevizci, 2014: 11). Aynı şekilde, Harun Tepe etiğin literatürde ahlak ile karıştırıldığını, ahlakın üç farklı anlamının olduğunu

ve bunlardan sadece birinin etik ile örtüştüğünü iddia etmektedir (Tepe, 1998: 10). Aslında etik felsefenin bir dalı olarak ahlakın kendisini sorgulamakta ve 'iyi anlayışı çerçevesinde hayatımızı nasıl devam ettirmeliyiz soruları ile ilgilenmektedir. Bu sebeple etik ahlaki pratiklerin varlığını ve geçerlilik koşullarını araştırmaktadır (Evre, 2012: 1).

Etik tartışmaların temelini oluşturan yaklaşımlara bakıldığında ise; etiğin sistematik olarak çalışıldığı teoriler ortaya çıkmakta ve etiğin farklı kavramlar üzerinden tartışılarak hayatımızda yer alan ahlak ile ilgili kör noktaları aydınlatma amacı güttüğünü görmekteyiz. Örneğin, Mill ve Bentham tarafından savunulan faydacılık anlayışı ahlaki normların benimsenmesini fayda üzerinden hesaplar. Ahlaki eylemlerimizin sonuçları toplum açısından faydalı ise bu eylemler sonuç olarak iyidir. Kant ise, etiği daha çok hak, ödev ve sorumluluk üzerinden tanımlar. Kant'ın ödev etiğine göre, her insan ahlak yasalarını geçerli kılmak ve haklı çıkarmak için kendi aklını kullanır. Eylemde bulunmanın ahlaki kuralların gerekliliklerini karşılayıp karşılamadığını ve bu eylemi sergilemek zorunda olup olmadığını kategorik imperatif olarak adlandırdığı aklın genel ilkeleri ile sorgular. Diğer bir tarafta ise erdem etiği, karakter ve erdemlerin ahlaki yaşamdaki rolüne önem verir. Erdem etiği insan eylemleri yerine daha çok eylemlerin ardındaki insan ile ilgilenir. Kısaca, erdem etiği kurallar yerine iyi bir yaşamın parçası olarak erdemleri ve ideal karakter özelliklerini ortaya koyar (Steward, 2009: 55).

Etiğin din, ahlak ve hukuk ile olan ilişkisinin birbirlerinden farklılaşan ve birbirlerine benzeyen yönleri etik kavramının içeriğinin net bir şekilde ortaya koyulması için önemlidir. Çünkü etik inançların birçok kaynağı vardır ve bu kaynaklar kişisel dinsel ve ahlaki görüşler ile ilişkilendirilebilir (Russell, 2010: 14). Ayrıca, etiğin hukuk ile olan ilişkisi kamu yönetiminde etik algısının analiz edilmesi açısından çok önemlidir. Etiğin ahlak ve ahlak felsefesi ile olan ilişkisine daha önce değinilmişti. Kısaca açıklamak gerekirse, ahlak toplum içinde gelişen değerler ile öne çıkan, tarihsel ve olgusal olarak yaşanan pratikler veya çeşitli değer yargıları sistemleridir. Etik ise birbirimizle veya kamusal alandaki ilişkilerimizde neyin iyi, neyin kötü, neyin doğru, neyin yanlış olduğunu, aslında daha çok doğru eylemin ne olması gerektiğini anlamaya çalışan felsefe dalıdır. Bu çalışma içerisinde sıklıkla üzerinde durulan etik

hukuk ayırımı ahlak ile ilgili olanın algılanışı açısından önem arz etmektedir. Burada iki kavram arasındaki fark, hukukun toplumsal bir kontrol aracı olma vasfı ile etiğin yaşamımızda iyiyi ve doğruyu bulma çabamıza rehberlik etme vasfı ile ortaya çıkmakta ayrıca etiğin kamu yönetiminde kurumsallaştırılmaya çalışılması çabalarını boşa çıkardığı görülmektedir.

### **3. KAMU YÖNETİMİNDE ETİK**

Kamu yönetimi çerçevesinde, etiğin kapsamının ve işlevinin ne olduğu çok fazla çalışmanın konusunu oluşturmuş ve bunun sonucu olarak birçok akademisyen etiği kamu yönetiminin ayrılmaz bir parçası olarak görmüştür. Birçoğu ise pratikte etik kamu yönetimini nasıl uygulayabiliriz ve devam ettirebiliriz üzerine düşünmüşlerdir. Bununla birlikte kamu yönetiminde etiğin rolü farklı yaklaşım ve perspektiflere ve bunlar içerisinde yer alan kurumlara ve kişilere göre değişiklik göstermiştir. Örneğin kamu yönetiminin erken dönemlerinde hükümetlerin gündeminde etiğe dayalı reformlar öncelikli olarak yer almıştır. Artan yolsuzluklar sonucu seçilmiş ve atanmış kamu görevlilerinin manevra alanını kısıtlanarak azalan kamu güveninin yeniden inşa edilmesi planlanmıştır. Fakat bu gelişmelere rağmen, klasik dönemde kamu yönetiminde etik endişeleri içeren ancak bir kaç çalışma görülmektedir. Bunlar arasında, politikanın yönetim üzerindeki yozlaştırıcı etkisini gidermeye yönelik olarak kamu yönetiminin siyasetten ayrılarak bir bilim haline dönüşmesini savunan yönetim-siyaset dikotomisi, Frederick Taylor'un bilimsel yönetim yaklaşımı ile kamu yönetimini verimlilik üzerinden rasyonelleştirmeye çalışılarak insani bakış açısını esas alan ahlaki değerlerin görmezden gelinmesi ve son olarak Weber'in bürokratik yönetim modeli ile kamu yöneticilerin takdir yetkileri ile ilgili sınırlamalar getirilerek tarafsızlık etiğinin uygulanması ve böylelikle ahlaki sorumluluğun ortadan kaldırılması gerekliliği yer almaktadır.

Etiğin kamu yönetimi içerisinde bir alan olarak tartışılması ise Richardson ve Nigro tarafından Public Administration Review'un kuruluşuyla gündeme gelmiştir ve 1940 yıllarına rastlamaktadır. Ayrıca, etik Carl Friedrich ve Herman Finer'in demokratik hesap verebilirlik tartışması altında kamu görevlileri üzerinde iç ve dış denetimlerin önemi çerçevesinde ele alınmıştır. Bu tartışmada, Friedrich yönetsel problemler ile

başa çıkarken kamu görevlilerin daha çok iç kontrol mekanizması olan profesyonel değerlerin, standartların ve etiğin rehberliğinde bunu başarabileceğini vurgulamıştır. Finer ise hukuk, kurallar ve yaptırımlar gibi dış kontrol mekanizmalarına önem vererek kamu yöneticileri üzerinde bu araçlar ile politik bir kontrolün oluşturulmasını savunmuştur. Fakat etiğin kamu yönetimi alanında sistematik olarak tartışılması 1970'li yıllara tekabül etmektedir (Kernaghan, 1980: 207). Watergate skandalı ile birlikte tetiklenen reform hareketi 'iyi yönetim' adı altında beraberinde getirdiği küresel değerler ile devletleri etkilemiştir. Ortaya çıkan yeni kamu yönetimi ve yeni kamu işletmeciliği anlayışı ile birlikte kamu yönetiminde yeni bir etik platform oluşturmuştur. Etik regülasyon ile kamu yönetiminde desteklenen ahlaki söylem kamu yöneticileri aleyhine hükümetler tarafından benimsenmiştir.

Etiğin kamu yönetiminde hukuksal/yargısal ve yapısal/örgütsel yönü ağırlıklı olarak kabul edilmiş ve etiğe hukuki özellikler atfedilerek bürokratlar için bir kontrol mekanizmasına dönüştürülmesine izin verilmiştir. Bu durum, etiğin bir önceki bölümde anlatılan kavramsal çerçevesi ile uyumamaktadır. Çünkü etik ahlaki eylem ve kuralların dayandıkları temelleri ve yönedikleri değerleri iyi bir yaşamın nasıl olması gerektiği üzerinden bireysel olarak sorgular. Diğer bir ifadeyle, etik bir eylemi ahlaki açıdan iyi yapan durumları irdeler ve farklı çözüm önerileri ortaya koyar. Bireye özgü ve göreceli olan etik davranışlar doğal olarak kamu yönetiminde de yöneticiden yöneticiye farklılık gösterir. Etik doğası gereği kamu yönetiminde hukuksal/yargısal ve yapısal/örgütsel düzenlemeye uygun değildir. Fakat günümüzde etik kamu yönetiminde uyulmaya zorlanan bir baskı aracı haline dönüştürülmüştür. Özellikle politik ve bürokratik yolsuzlukların artmasının sorumlusu olarak kamu yöneticileri hedef gösterilmiştir. Fakat yeni modern kamu yönetimi yaklaşımının etkileriyle kamu yöneticilerinin davranışlarını kapitalist sistemle tutarlı hale getirmek için etik regülasyon adı altında etik kavramının içi boşaltılarak etiğin tıpkı hukuk gibi bir sosyal kontrol mekanizmasına dönüşmesi söz konusu olmuştur. Özellikle kapitalist düzenin destekçileri olan uluslararası kuruluşların baskısı ve kamu ve özel sektör işbirliğinin güçlendirme çabası içerisinde olan yönetim tekniği ile etik kamu yönetiminde etik hukuklaştırılarak ve daha ileri boyutta Batılı ülkelerde olduğu gibi düzenleyici ve denetleyici yaptırım gücü ile donatılarak kurumsallaştırılmaya

çalışılmıştır. Halbuki etiğin kamu yönetiminde beklenen işlevi kamu yöneticilerinin kamu yararı için alacakları kararlarda ve uygulayacakları politikalarda rehberlik etmek olmalıdır. Fakat kamu yönetiminde ortaya konulan etik ilkeler, oluşturulan kurumlar aracılığı ile de kamu yöneticilerin davranışlarını piyasa mekanizmalarının daha istikrarlı bir ortamda ve daha iyi çalışmasına olanak verecek şekilde, yasal olarak kontrol altında tutma faaliyetini gerçekleştirmeye çalışmıştır. Fakat, Türk kamu yönetiminde ortaya konulan etik regülasyon bahsi geçen niyetleri karşılamada bile yetersiz kalmıştır. Bir sonraki bölümde, Türkiye'de yönetim etiğinin hukuksal ve kurumsal çerçevesine kısaca değinilerek etik regülasyonun en başından beri sakat olarak kurulduğu tezi yapılan çalışmalar üzerinden açık bir şekilde görülebilecektir.

#### **4. TÜRKİYE'DE YÖNETİM ETİĞİNİN ALTYAPISI**

Tüm dünyada olduğu gibi Türkiye'de de 'etik yönetim' söylemi popülaritesini hala korumakta ve etik temelli yaklaşımlar 2004 yılından itibaren yapılan yasal ve kurumsal düzenlemelerle Türk kamu yönetimine entegre edilerek somut bir çerçeveye oturtulmaktadır. Çünkü günümüzde sosyal hayat kapitalist ilişkilerin baskısı altında yaşanmakta ve bu durum kaçınılmaz şekilde ahlaki değerler ile materyalist değerlerin çatışmasına yol açmaktadır. Sosyal ilişkiler piyasa değerlerinin etkisi altında kalarak ahlaki bozulmalar ve kamusal değerlerin aşınmasına neden olmaktadır. Kamu yönetiminde, işletme tekniklerinin kullanılması etiği kamu yönetimindeki amacından uzaklaştırarak toplum yerine özel sektöre hizmet eden bir araca dönüştürmüştür.

Bu çelişkileri ortadan kaldırmak amacıyla etik, Türk hükümetleri tarafından hukuk formunda düzenlenerek ve kurumsal altyapısı oluşturularak kamu yönetiminde ahlaki kötüleşmeden kaynaklı ortaya çıkan problemlerin çözümünde bir araç olarak kullanılmak istenmiştir. 2000'li yıllardan bu yana Türk hükümetleri küresel çapta yolsuzluğu önlemek amaçlı düzenlenen sözleşmelere katılım sağlayarak uluslararası kuruluşların ve küreselleşmenin etkisi ile uluslararası hukuka uyum sağlamış ve aynı zamanda reform hareketleri çerçevesinde çıkarılan yasalar ile ulusal mevzuatta değişikliklere gitmiştir. Kamu güvenini yeniden tesis etmenin meşru bir yöntemi olarak benimsenen etik ile aynı zamanda ekonomik ve toplumsal sorunlardan

kaynaklı olarak aşınan değerlerin korunması amaçlanmıştır. Hâlbuki değerlerin bilinçli olarak aşındırıldığı bu yenedünya düzeninde kapitalist sistem kendi fayda anlayışı doğrultusunda toplumu şekillendirmek ve bu sebeple insan davranışlarını kontrol etmek istemektedir. Bu sebeptendir ki, etik Türk kamu yönetiminde hukuk ile iç içe geçmiş durumdadır. Bu durumda etiğe yüklenen anlam farklılaşmış ve kavramın içi boşaltılarak etik günümüz modern kamu yönetiminde insanlara yabancılaştırılmıştır. Oysaki hayatın temelinde yer alan ve sergilediğimiz davranışlarda ve aldığımız kararlarda iyiyi/kötüyü ve doğruyu/yanlışı ayırmada bize rehberlik etme görevi olan etik neo-liberal politikalar ile birlikte kamu yönetiminde bürokratlar için baskı aracı olarak kullanılmıştır. Bunun yanında etik olmayan davranışları gözetecek yeni yapılar (etik kurulu ve etik komisyonları) kurularak etiğin kurumsallaştırılması kamu görevlileri üzerinde bu baskıyı daha da artırmıştır. İnsanların kamu yönetiminde etiği temel alması vicdani bir sorumluluk iken çıkarılan spesifik etik yasalar ve oluşturulan kurul ve komisyonlar ile kamu yöneticileri buna mecbur bırakılmıştır.

Türkiye'de etik yönetim anlayışının ortaya çıkmasında Ekonomik Kalkınma ve İşbirliği Örgütü, Uluslararası Para Fonu, Dünya Bankası, Avrupa Konseyi ve Avrupa Birliği gibi bölgesel ve uluslararası aktörlerin ve iyi yönetim yaklaşımının etkisi yadsınamayacak kadar büyüktür. Bu gelişmelerin etkisinde, 2000'li yıllar boyunca etik anlayışın Türkiye'de sağlamlaştırılması; kamu yöneticilerinin etik olmayan davranışları ile mücadelede var olan temel yasaların (Türk Ceza Kanunu ve Devlet Memurları Kanunu) yanında etik ilkelerin yasa şekline dönüştürülerek bürokratlara benimsetilmeye çalışılması ve birde bu ilkelerin gözetiminden sorumlu Kamu Görevlileri Etik Kurulu ve ayrıca kamu kurumlarında etik komisyonlarının oluşturulması küresel alanda geliştirilen pratiklerin uygulanması sonucunda gerçekleştirilmiştir. Fakat Türkiye'de kurulan etik altyapı ile ilgili düzenlemenin ortaya çıkış sebebi ve amaçladıkları ve sonuçta elde edilen çıktılar açısından incelendiğinde aslında Türk kamu yönetiminde gerçekleştirilen etik regülasyonun iyi çalışmadığı ve en başından beri yasal/yargısal ve yapısal/örgütsel eksiklikler içerdiği ortaya çıkmaktadır. Bu durum, etik kurulunun son on yıllık faaliyet raporunda yer alan şikâyet sayısı, şikâyet edilen kişilerin pozisyon ve unvanları, şikâyetlerin

reddedilme gerekçeleri gibi istatistiki bilgilerden kolaylıkla tespit edilebilir. Diğer bir taraftan, Türkiye'de bulunan diğer düzenleyici kurumlardan farklı olarak yaptırım uygulama gücünden yoksun olan Kamu Görevlileri Etik Kurulu'nun görevleri 5176 sayılı kanunda net olarak tanımlanmamakla birlikte altında çalışan personel ve bağımsız olmayışı (Başbakanlığın altında örgütlenmesi) ilgili ciddi sorunları bulunmaktadır. Bunun gibi birçok yasal ve yapısal eksiklik Türkiye'de yerleştirilmeye çalışılan etik regülasyonu en başından itibaren başarısızlığa mahkûm etmektedir.

## **5. TÜRKİYE'DE ETİK REGÜLASYONUN AMPİRİK ANALİZİ**

Bir önceki bölümde, Türkiye'de etik regülasyon öncelikli olarak ulusal ve uluslararası mevzuat bağlamında yasal/yargısal sonrasında ise yapısal/örgütsel çerçevede incelenmiştir. Fakat teorik kısımlarda da anlatıldığı üzere kamu yönetiminde etiğe biçilen bu rol doğru değildir. Şöyle ki, etik doğru değerlendirme ve eylemlere ilişkin bilgiler ortaya koyabilir. Bu bilgilerle hangi durumlarda neyin yapılacağına karar vermek ise her zaman eylemde bulunan kişinin işidir. Bu anlamda, etiğin Türk kamu yönetiminde kamu yöneticilerini istenilen davranış kalıplarının içine sokarak onların davranışlarını kontrol altına almaya çalışması verimsiz bir çabadır. Buradan yola çıkarak, Türkiye'de etiğin kamu yönetimindeki görevi çok açık bir şekilde yanlış algılanmıştır. Daha da önemlisi, Türkiye'de gerçekleştirilen etik regülasyonu zayıf yasal/yargısal ve yapısal/örgütsel temeller üzerine inşa edilmiş ve diğer düzenleyici ve denetleyici kurullarda bulunan yasal yetkiler ve yapısal özellikler etik ile ilgili oluşturulan bu yeni yönetim yapısında yer almamıştır. Bu sebeple, etik regülasyonunun en başından beri Türkiye'de sakat olarak doğduğu tezi ileri sürülerek bu bölümde Türk kamu yöneticileri ile yapılan ampirik çalışmada, bu tez probleminin ortaya çıkmasına neden olan durumlar üzerinden belirli varsayımlar da bulunulmuş ve etik komisyonu üyesi ve diğer alt düzey kamu yöneticileri ile yapılan görüşmeler sonucunda bu çalışmanın varsayımları doğrulanarak ileriye sürülen tez desteklenmiştir. Bu tez çalışması kapsamında, yirmi beş alt kademe kamu yöneticisi ve kamu kurumlarında etik komisyonu üyesi olan yedi üst düzey kamu görevlisi ile görüşmeler yapılmış ve aşağıda bahsedilen varsayımlar bir grup soru seti üzerinden tartışılmıştır:

- Türk kamu yönetiminde farklı etik algıları vardır.
- Türkiye'de gerçekleştirilen etik regülasyon için farkındalık oranı düşüktür.
- Türkiye'de etik komisyonları işlevsel olarak çalışmamaktadır.
- Türkiye'de etik ve hukuk arasında gerilimli bir ilişki bulunmaktadır.

Yukarıda yapılan varsayımlar üzerinden, bu çalışma kapsamında yapılan görüşmelerde kamu yöneticilerinin Türkiye'deki etik regülasyonu yasal ve kurumsal temelde nasıl algıladıkları ve değerlendirdikleri anlamaya çalışılarak; Türkiye'de etik regülasyonun en başından beri yanlış kurulduğu ya da diğer bir ifadeyle sakat doğduğu tezi kamu yöneticilerinin verdiği cevaplar ile desteklenmiştir.

Ampirik çalışmanın varsayımlarından ilki Türk kamu yönetimindeki belirsiz etik algısının varlığıdır. Görüşme sonuçlarına göre, etik Türkiye'deki kamu yöneticileri için açık ve anlaşılır bir kavram değildir. Etik komisyonu üyeleri de dâhil olmak üzere etiğin kamu yönetiminde nasıl algılandığı ve kamu yönetimi için önemi konusunda farklı tanımlamalar yapmışlardır. Bir kısım, cevaplarında adil ve eşit kamu hizmeti sunumuna değinirken diğer bir kısım ise tarafsız, şeffaf ve dürüst hizmet sunumu üzerinde durmuşlardır. Komisyon üyeleri ise daha çok etik kavramının yeni ve bilinen bir kavram olmadığı üzerinde yoğunlaşmışlardır. Kamu yöneticileri, Türk kamu yönetiminde etik ilkelerin nasıl ortaya çıktığı sorusuna da çok farklı cevaplar vermişlerdir. En çok tekrarlanandan en aza doğru: Yolsuzluk, rüşvet ve adam kayırma, AB'ye uyum sürecindeki yönetsel reformlar, etik olmayan davranışların artması, kamu güveninin yeniden tesisi, etik ilkelere önem verilmesi, teknolojinin gelişmesi ve son olarak kamu hizmetlerinin kapsayıcılığı şeklindedir. Buradan çıkan sonuç, Türk kamu yönetiminde etiğin ne anlam ifade ettiği, nasıl ortaya çıktığı ve önemi hakkında kamu yöneticileri arasında bir fikir birliği bulunmamaktadır.

Çalışmanın ikinci varsayımı ise Türkiye'de gerçekleştirilen etik regülasyon ile ilgili farkındalığın düşük olmasıdır. Farkındalık oranını belirlemek adına, kamu yöneticilerine "Kamu yöneticilerin etik olmayan davranışlarını gözetmek ile ilgili yapılan düzenlemeler hakkında herhangi bir bilgiye sahip misiniz?" sorusu yöneltilmiştir. Genellikle, kamu yöneticileri Türk idare hukukunun etkisinde kalarak yasa ve yönetmeliklerden bahsetmişlerdir. Spesifik etik mevzuatından

bahsedilmemekle birlikte bu mevzuatla kurulan etik kurulu ve komisyonlardan duydukları kadarı ile bahsetmişler ve bu kurumların görev ve yetkileri hakkında bilgi sahibi olmadıklarını belirtmişlerdir. Özellikle, kamu yöneticilerinin ödev, sorumluluk ve yetkilerinin anayasal sınırlar ve Türk Ceza Kanunu ve Devlet Memurları Kanunu gibi temel yasal düzenlemeler ile kısıtlanmış olduğunu ileri sürmüşlerdir. Bununla birlikte, komisyon üyeleri doğal olarak spesifik etik mevzuatı ve kurumları hakkında daha çok bilgi vermişlerdir. Bu sebeple etik düzenlemeler ile ilgili farkındalık oranı alt kademe kamu yöneticilerine göre yüksektir. Fakat üst kademe yöneticiler komisyon üyeliği görevinin şahsa değil makama verildiğinin altını çizerek kurul tarafından gerçekleştirilen aktivitelere katılmadıklarını, kendi kurumlarında ise etik ilgili yönerge ve kurulun verdiği eğitimler dışında herhangi bir faaliyet gerçekleştirmediklerini belirtmişlerdir. Alt kademe kamu yöneticileri arasında ise etik ile ilgili aktivelere haberdar olmadıkları ve bu tarz faaliyetler düzenleniyor ise de katılım sağlamadıkları yönünde sonuçlar elde edilmiştir. Buradan çıkarılacak sonuç ise kamu yöneticileri arasında etik regülasyonun bilinirliği azdır ve farkındalığı arttırmak için verilen eğitimler ve diğer kısıtlı sayıda faaliyetler bu açıdan yeterli olmamaktadır.

Üçüncü varsayım ise etik komisyonların Türk kamu yönetiminde işlevsiz olması ile ilgilidir. Etik regülasyonun kurul ile birlikte yeni kurumlarından biri olan etik komisyonlar, disiplin kurullarının varlığı ve yasal mekanizmaların yanında Türk yönetim sisteminde başvurulan bir mekanizma olamamıştır. Çünkü Kamu Görevlileri Etik Davranış İlkeleri ile Başvuru Usul ve Esasları Hakkında Yönetmeliğin 29 maddesi ile komisyonlara verilen görevler kamu kurumlarında etik kültürün yerleştirilmesi ve geliştirilmesi, personelin etik davranış ilkeleri konusunda karşılaştıkları sorunlarla ilgili olarak tavsiye ve yönlendirmelerde bulunmak ve etik uygulamaları değerlendirmek şeklinde muğlak ifadeler ile belirtilmiştir. Kamu Görevlileri Etik Kurulu'nun kamu kurumlarında etik ile ilgili yapılabilecek faaliyet listesi göndermesinin yanında, komisyon üyeleri tarafından bu görevin benimsenmemesi ve bu mekanizmanın etkili bir şekilde işletilmemesi, alt kademelerde yaşanan etik problemlerin komisyona yansıtılmayarak üst yöneticilere aktarılması, kamu görevlilerin böyle bir komisyonun varlığından haberdar

olmaması; kamu yöneticilerinin etik komisyonları ahlaki problemlerin çözümünde kullanmalarına ve bu anlamda komisyonların fonksiyonel olarak çalışmasına engel teşkil etmiştir. Bu sebeplerle, yasa ile etik komisyonlarına verilen görevler pratik ve gerçekçi olmaktan uzak kalmış, en alt seviyede yeni bir hesap verebilirlik mekanizması olarak sunulan etik komisyonları içselleştirilen bir yöntem olamamıştır.

Dördüncü varsayım ise Türk kamu yönetiminde etik ve hukuk arasındaki gerilimli ve belirsiz ilişkinin varlığı üzerinden kurulmuştur. Etiğin, Türk kamu yönetim sisteminde hukukun yerini olarak kullanılması kamu yöneticileri için kavram kargaşasına neden olmuştur. Daha öncede de anlatıldığı üzere etiğin ve hukukun kamu yönetimindeki işlevi farklıdır. Fakat hükümetler tarafından bilinçli ve ısrarlı bir şekilde etik ile hukuksal alana müdahale etme çabası içerisinde. Kamu yöneticileri ile yapılan görüşmelerde de genel olarak kabul edildiği üzere etik ilklerin etik olmayan davranışları önlemede yetersiz olduğu görüşü haklıdır. Fakat, etik olmayan davranışların yaptırımını konusunda Türk kamu yöneticileri spesifik etik mevzuatının ve kurumsal gözetimlerin herhangi bir yaptırım olmadığı için etik olmayan davranışlarda mücadelede etik regülasyonu görmezden gelerek Türk Ceza Kanunu ve Devlet Memurları Kanunu gibi hukuk sistemi içerisinde zaten yer alan temel yasalara başvurduklarının altını çizmişlerdir. Bu durumda, etiğin hukuk üzerinden kamu yöneticileri için bir kontrol aracına dönüştürülmesi çabası Türk kamu yönetiminde karşılık bulamayarak anlamsız kalmıştır.

## **6. DEĞERLENDİRME VE SONUÇ**

Sonuç olarak, bu çalışmada Türk kamu yönetimindeki etik regülasyon yasal ve kurumsal boyutlarıyla geniş bir çerçevede ele alınmıştır. Kamu görevlileriyle yapılan ampirik çalışma üzerinden oluşturulan varsayımlarla yasal/yargısal ve yapısal/örgütsel eksiklikler ortaya konmaya çalışılmıştır. Kamu yöneticileri ile yapılan görüşme sonuçlarından da anlaşıldığı üzere; Türkiye'de gerçekleştirilen etik regülasyonu yasal/yargısal ve yapısal/örgütsel eksiklikleri ile en başından itibaren sakat olarak kurulmuştur. Bu durum etik yönetim anlayışının kamu yöneticileri tarafından benimsenmemesine ve etiğin kamusal alandaki işlevinden uzak kalmasına yol açmıştır. Bundan sonra etik regülasyon ile ilgili kamusal alanda yapılacak

çalıřmalarda; kamu yneticilerine Trk kamu ynetiminde etiđin rol ve iřlevi hakkında daha fazla eđitim verilerek etiđin daha iyi anlařılması sađlanabilir. Ayrıca, etik reglasyonun kamusal alanın tesinde sosyal ve ekonomik boyutları ele alınarak yapılacak akademik alıřmalar ile literatre katkıda bulunulabilir.

## Appendix B: Tez Fotokopisi İzin Formu

### ENSTİTÜ

Fen Bilimleri Enstitüsü	<input type="checkbox"/>
Sosyal Bilimler Enstitüsü	<input checked="" type="checkbox"/>
Uygulamalı Matematik Enstitüsü	<input type="checkbox"/>
Enformatik Enstitüsü	<input type="checkbox"/>
Deniz Bilimleri Enstitüsü	<input type="checkbox"/>

### YAZARIN

Soyadı : Çelik  
Adı : Duygu  
Bölümü : Siyaset Bilimi ve Kamu Yönetimi

TEZİN ADI (İngilizce) : A Critique of Ethics Regulation in Turkish Public Administration

TEZİN TÜRÜ : Yüksek Lisans  Doktora

1. Tezimin tamamından kaynak gösterilmek şartıyla fotokopi alınabilir.
2. Tezimin içindekiler sayfası, özet, indeks sayfalarından ve/veya bir bölümünden kaynak gösterilmek şartıyla fotokopi alınabilir.
3. Tezimden bir bir (1) yıl süreyle fotokopi alınamaz.

TEZİN KÜTÜPHANEYE TESLİM TARİHİ: