

Execution of Right to Information Act in the Context of Governance Applications in Turkey and Critics: Obstacles to Participation is Confidentiality

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Abstract

Governance is a form of communication-oriented administration which aims to establish balance between openness and confidentiality. In one hand, while it aims to make target mass reach information and freedom of expression, on the other hand it aims confidentiality conditions to be shaped for maintainability of the state. Through this objective, various applications are established in Turkey also. In the scope of the work, execution of 2003 Right to Information Act, which has an important role in governance studies in public institutions in Turkey, is approached in the context of confidentiality. How much has this law that is in force for a long time met the expectations, in which areas it is insufficient has been investigated deeply. By taking the data which was collected as the result of descriptive analysis into consideration, a survey is conducted around citizens' awareness, problems in execution of the law and identification of anticipatory resolution suggestions. By considering the fact that 25 – 50 age group is densely active in working life in Turkey, target mass is stated as employees in this age group. As a result of the research that is carried out with 350 people, 303 results of survey data that fit to evaluation criteria have been analyzed. As a result of the analysis; it has been observed that the rate of awareness for this law is very low. Only a few of the citizens that are aware of the law have actually reflected this to their daily lives. Many of the people that have taken advantage of the law stated that they didn't get adequate feedback. This reveals the problems in the application of the law. Including the target mass in these studies that are aimed towards improving the management in public institutions and shaping the entire process according to the feedback from the target mass would minimize the possible problems.

Keywords: Governance, Public Communications, Right to Information, Secret, State Secret.

Türkiye'de Yönetişim Uygulamaları Bağlamında Bilgi Edinme Kanununun İşleyişi ve Yöneltilen Eleştiriler: Katılımın Önündeki Engel Gizlilik

Öz

Yönetişim açıklık ve gizlilik arasında denge kurmayı amaçlayan iletişim odaklı yönetim şeklidir. Bir yanda hedef kitlenin bilgiye ulaşması ve ifade özgürlüğünü hedeflerken diğer yandan devletin devamı için gizlilik koşullarının şekillenmesini amaçlar. Türkiye'de de bu amaçla çeşitli uygulamalar gerçekleştirilmektedir. Çalışma kapsamında Türkiye'de kamu kurumlarındaki

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yönetişim çalışmalarında önemli yere sahip olan 2003 Bilgi Edinme Hakkı Kanunu'nun işleyişi gizlilik bağlamında ele alınmıştır. Uzun süredir yürürlükte olan kanunun beklentileri ne ölçüde sağladığı, hangi konularda yetersiz kaldığı derinlemesine incelemeye tabii tutulmuştur. Yapılan betimsel analiz sonucunda elde edilen veriler göz önüne alınarak, vatandaşların kanundan haberdar olma durumları, kanunun işleyişindeki sıkıntılar ve ileriye yönelik çözüm önerilerinin belirlenmiştir. Türkiye'de 25 – 55 yaş grubunun yoğun olarak çalışma hayatında aktif rol aldığı göz önüne alınarak hedef kitle bu yaş grubu çalışanları olarak belirlenmiştir. 350 kişiyle gerçekleştirilen çalışma sonucunda değerlendirme kriterlerine uygun 303 anket verisinin sonuçları analiz edilmiştir. Analiz sonucunda; kanundan haberdar olma oranının çok düşük olduğu gözlemlenmiştir. Kanundan haberdar olanların arasından çok küçük bir kısım kanunu pratik hayata yansıtmıştır. Kanunu uygulayanlar arasında çok büyük kısım yeterli geri dönüş alamadığını ifade etmiştir. Bu durum kanunun uygulanmasında sıkıntılar yaşandığı sonucunu ortaya koymaktadır. Bu tür kamu kurumlarındaki yönetimin gelişmesine yönelik çalışmalara hedef kitlenin dahil edilmesi ve tüm sürecin hedef kitleden alınan geri dönüşlerle şekillenmesi yaşanabilecek problemleri minimum seviyeye indirecektir.

Anahtar Kelimeler: Yönetişim, Kamusal İletişim, Bilgi Edinme Hakkı, Sır, Devlet Sırrı.

Introduction

World wars, economic developments, globalization process, changes based on new communication technologies in a timeframe that is spread through 20th century made it obligatory to administration methods to change. As a result, governance concept gained importance in conveying of all decisions made and applications executed to individuals and masses in an open and transparent manner in the base of principals like reciprocity, participation, collaboration, in addition to this, in providing participation in these decisions and applications. And participation is provided through the need of people to be informed and information they gathered in this framework. Although it is possible to set the limits of information that private institutions share with their social partners, in public institutions the framework changes according to executors' initiative and information that is not wanted to be shared is not shared on the grounds that the information is confidential. Because of this, various projects are tried to be carried out in order to maintain information sharing effectively in public institutions and give out the answers of the question "what is confidential?"

Governance in Turkey is maintained aiming a strategic improvement within the scope of a sequence of studies in public institutions. Right to Information Act which is introduced in the year 2003, Strategic Local Governance Project which is taken into account in the context of participation, transparency, accountability and carried out by European Union and Turkish Republic joint financing, can be counted among these studies. Studies that aim to maintain public institutions' processes of informing their social partners in a healthy manner and in this way ensure participation also face some critics: not introducing these studies to the public sufficiently, not being able fully adapt public institutions to these studies, insufficiencies that are faced in the subject of supervision, not sharing some information by putting it into confidentiality context can be counted as some criticism.

In this study, with the Right to Information act which has an important place among applications that are carried out with respect to governance in Turkey and with data of the research conducted around the concept of secret which exists in the context of this law, today's situations will be analyzed and anticipatory suggestions will be made.

1. Change From Administration to Governance

Economic improvements, globalization process, increasing affect of multinational corporations, international nongovernmental organizations, changes occurring based on new communication technologies caused societies to experience governability problems and not being able to accommodate themselves to change. This situation necessitated change in administrative mentality and need for a change through an administration structure, which is based on multi-actor partnership of society, open to direct inspection and guidance of society, and provides participation of citizens, emerged (Çamdereli, 2004: 12).

According to Anglo-American political theory, administration is the official institutions of the state and a legitimate coercive power that only these institutions own (Kesim & Petek, 2005: 41). By co-regulation, co-administration, co-production and public-private collaboration acquiring currency in the place of classic administration structures, whose efficiency decreases, moving sequestered, governance concept started to take place of the concept of administration. Governance contains usage and sharing of political, economic and administrative authority in all levels of administration of a country; arrangements, procedures and establishments that combine interest of citizens, find

a midway between differences, make it possible for people to actualize their rights and liabilities; in addition, more immediate participation of public in the process of administration (Çamdereli, 2004: 9, 10). Governance concept refers to both activities and structuring of actors and cannot only be identified with executive and legislative activities or law enforcement activities of specific authorities and courts; because, governance comprises all these activities (Kesim & Petek, 2005: 42).

Governance, as a new concept, was first used in Northern Europe, and then all over the world. Although origins of the concept can be traced back to 16th century, especially in 17th century, governance concept was used to express an approach that tries to reconcile government and civil society inside some philosophical pursuits in France (Yüksel, 2000: 147). The concept ripened in England and governance was established as a challenge to the classic Westminster model in the English model. In this model, there exists superiority of parliament, powerful council of ministers system and responsibility system which is provided through elections. Administration of unitary state pursuant to responsibility of ministry is the point in question. And governance opposes this structuring and connects problems to drawbacks of this structure (Özer, 2006: 61). Seizing of an approach which is more constructive and political with the democratization movement which came into focus in Latin America in 1980s and with the spread of this movement to Africa through the start of 1990s, governance concept began to be focused more. Through this process international organizations like the World Bank, IMF, and UNCTAD also said that as part of the development/reconstruction discussions, developing countries should interiorize neo-liberal economy policies and the model of governance (Yüksel, 2000: 153, 154). Governance started to spread rapidly, to fulfill the need of widened information where politics have become complex and dependencies have increased, in order to fulfill increasing needs of information society's, to provide a better information administration, to fulfill public's expectation through having thoughts taken into consideration through involving public to establishment of politics process and provide public to trust state, to fulfill demands through better transparency and accountability, and by intervening between different interests in order to meet the need of a wide reconciliation in these settings, throughout the world (Özer, 2006: 61).

Governance understanding of 21st century, caused a change in the understanding of administration in a considerably comprehensive way and by bringing localness instead of centralization, federalism instead of unitary structure, participation instead of strict bureaucracy, openness instead of closeness, accountability and responsibility instead of hierarchy actualized a serious transformation (Özer, 2006: 63).

Pursuant to the document European Commission, which is one of the most important political structuring examples that expresses the concept of governance, prepared in 2002 European convergence's principles will be discussed, because governance in Turkish public administration expresses a strategic transformation in the EU adjustment process.

1.1. Principles of Good Governance

Concept of governance takes place in the document entitled European Governance White Paper of European Commission. In the second part of the study, under the title of Principles of Good Governance, by mentioning five principles are mentioned and it is stated that each principle is important for more democratic governance (EC, 2013: 10). These principles:

Openness: Institutions should work in a more open manner. They should actively communicate

about things that EU does with member countries and decisions that they make. A language which is understandable by the general public must be used. This situation has a special importance in the increase of trust in institutions.

Participation: Quality and effectiveness of EU policies depend on a wide public participation from its start to application. Expansion of participation increases the trust in corporations that constitute policies and the final decisions. Participation mostly depends on whether central governments follow an inclusive approach in the process of development and application of EU policies.

Accountability: Roles in executive and legislative procedures must be cleared. Each EU establishment must clarify what it does in Europe and must take the responsibility. In addition, in any level, member countries who participate in development and application of EU policies must take responsibilities in an increasing manner and be open.

Effectiveness: Policies must be effective and on time, and in order to have goals that are specified clearly by their future affects and if possible past experiences, necessary ones must be applied. In addition, effectiveness depends on EU policies applied in a proportional manner and decisions made in the most appropriate way.

Coherence: Policies and practices must be coherent and must be understood easily. Need of coherence increases depending on the factors of increasing variety of duties, expanding that increases differences, compelling duties like climatic and demographic changes that cut across the borders of sectoral policies that Union is based and regional and local authorities becoming involved with EU policies in an increasing manner in time. Coherence necessitates establishments' responsibility in order to assure a consistent approach inside of a political leadership and a complex system (EC, 2013: 10).

Each one of these principles is important for itself; but they cannot be applied as separate actions. Policies cannot be effective if they are not prepared, applied and executed in a contributory way. Application of these five principles also supports proportionality and subsidiary principles. These two principles are related to which action level will be chosen from design of the policies to their application (from EU to local) and to the fact that chosen instruments must be proportional to targeted goals. This means to systematically check whether this public action is really necessary or not, if European level is appropriate or not and if chosen precautions are proportional with goals or not before starting to an initiative (EC, 2013: 10, 11).

Ministry of Finance of the Republic of Turkey and Directorate of Foreign Affairs, in the document titled Basic Elements of Good Governance which it published in its official web site in April 2003, in addition to the principles that take place in White Paper; it featured principles of responsiveness, superiority of law, equity and strategic planning also.

Responsiveness: This principle means that citizens would know that they will be listened and responded by people who are in the government or public administration. And here politician or bureaucrat must be in a strain that is ready to answer, likable, sensitive, able to understand, foresee society's needs and demands. This view is summarized with the motto of citizens first.

Superiority of law: Objective application of this principle secures the justice by protecting weak against absolute power's arbitrary movements and this principle assures individual and social liberty as a necessity of democracy. As part of good governance, laws must be general in the

name of extent and application, be established by a judicial authority, accurate, clear, accessible, consistent and adaptable, be applied through transparent procedures, possess a system of a scrupulous judgment system and an organized application mechanism and be interpreted and pursued by a judicial recourse that is detached from political will.

Equity: Creation and augmentation of opportunities that can help anyone sustain and improve to better levels their wealth and happiness in their peculiar conditions is what is emphasized by this principle. And its starting point is everybody benefiting from basic services like education and health and giving out rights to people to participate in decision making mechanism that affects them in the same level.

Strategic Planning: By this principle, it is provided that so as there exists the need of inclining to short term improvements in order to understand the needs of a business on time, immediate intervention in order for the business to reach its long term strategy according to events that this business experienced is also a need. Managing local societies in a society that is various and changes all the time, managing bonds between state, market and civil society and complex relationships in between different levels of management is a must. Good governance principles such as accountability, transparency, responsiveness, effectiveness, equity, superiority of law must be built onto a strategic planning that is based on long term vision and mission (T.C. Maliye Bakanlığı ve Avrupa Birliği ve Dış İlişkiler Dairesi Başkanlığı, 2013).

1.2. Types of Governance

While generally in literature, governance is subdivided into three as financial governance, political governance and executive governance, according to place scale another classification can also be made into three which is above nations, national and local scale (Özer, 2006: 63). In the place of this general classification, mentioning the most frequently used relevant governance types that are used in literature fits more to our study as governance practices in public establishments in Turkey will be discussed.

Global Governance: Results obtained from reform applications that were made according to free market economy in 1970s and 1980s, showed that in the case of lack of consideration of factors like political legality and social order conditions, economic projects failed and governance term that became a current issue in this period started to globalize. Global governance presented an alternative administration strategy to the governing manner in a world system that consists of national states. It tried to constitute collaboration between non-profit organizations by implying absence of a central authority. Through development of global governance United Nations, contributes to many countries in the areas of executive and legislative organizations, public and private sector administrations, decentralization, local administrations and civil society organizations (Özer, 2006: 74, 75).

Public Governance: Public governance does not provide administrative inspection of society from outside but provides an interactive administration that is originated from all the actors who are part of the process and contains administration of national, regional, local, political social groups, pressure and interest groups, social organizations, networks that consist of private and commercial organizations. In the network of public policies, in addition to providing social processes affecting each other, it also accepts that these actors have different and mostly adverse goals and interest (Özer, 2006: 78).

In literature, in public governance, conditions and environmental circumstances, complexity or so to say number of factors, their discrepancy and direct interaction stand out to be three factors that are considered to be very important. Public governance, which provides going beyond activeness and efficiency in operation of public governance, also has legitimacy and legality as one of its goals (Özer, 2006: 78).

1.3. Turkey's Governance Strategy and Application Examples

It can be stated that bases of public administration in Turkey generally date back to 19th century with the applications in the scope of administration science. Administration science is situated in the 19th language as the place where acquaintance is gained with the terms like "procedural will" or "professional will". Since 1910s, the dominance of legal information has gained importance in public administration. In 1930s, law in administration which was brought to agenda as a result of the French influence, gave place to fact that such issues as management economy and city planning, which are the results of German influence, take part in administration science. 1940s and '50s were the years when Anglo-Saxon influence was experienced and the Faculties of Political Sciences which taught in the field of administration started to be reshaped with the direct transfer of administration technology (Keskin, 2006: 13 – 22). In '50s, the issue of "Modernization of Administration" which is also one of the main topics of the United Nations, was discussed in the frame of reconfiguration of administration in many countries including Turkey. Modernization studies were held in three steps: institutional- ideological aspect shaped by international organizations and underlies the intellectual basis of administration reform. Institutional aspect which is the second step indicates the necessity of western style organizing. Finally the financial aspect will be provided with the external support. At this point, the mission of the supporting country is to maintain this newly founded system (Altunok, 2011: 241). Even today it is possible to see the marks of these supports provided in those days with respect to public administration in Turkey. Even though the supports were beneficial within the country, the fact that administration cannot form its cultural identity is one of the biggest handicaps for Turkey.

One of the studies which is defined as a landmark in public administration in Turkey is the decisions made in the frame of the conference "Habitat II" which is held in Istanbul in 1996. Habitat was founded in 1972 under the umbrella of United Nations in order to construct socially and environmentally sustainable residential areas. What separates the second conference of Habitat held in Istanbul from the others was the change in its international characteristic, contribution and active participation of non-governmental organizations, platforms and initiatives. The philosophy of Habitat is generally specified as "staking a claim on your city", "collectivism in the solution" and "active participation" (<http://www.toki.gov.tr/>). Conference helped internalization of the notion of "governance" in Turkey's public administration. In this way, by providing the participation of non-governmental initiatives in the perception of administration in public institutions, the endeavors to transition into governance had started.

In Turkey Habitat Forum – 1's result proclamation, it was decided that non-governmental organization shall be reconstructed on the purpose of their active participation in administration in the process of transitioning to governance and the obstacles shall be removed in this period; non-governmental initiatives shall have an active role in the decision-making processes in local administrations; negotiations of Ombudsman (Government Auditor) Law Draft shall be held in a platform where all the actors of the society shall join, a regulation which will provide decision making with the participation of the public workers shall be made. Moreover, it was decided that the access to information shall be eased, the understanding of transparent administration shall

be actualized; the systems of participation, consulting, collectivism, information exchange and negotiation shall be formed in order to have access to information in the residential areas, and the right to information shall be secured legally (www.toki.gov.tr). The applications of governance generally intersect at the 'participation' point. First of all, in the process of integrating the non-governmental society into the decision-making mechanisms of local administration, the necessity of making regulations regarding information exchange in all the public corporations and institutions and encouraging the participation was highlighted and it was underlined that it was necessary to make studies in this area.

Turkey started to feel the influence of the concept of governance with the acceptance of its candidacy for full membership in the summit which was held in 1999 and with the changes occurred as a consequence of the constitutional regulations in 2002. Public institutions' strategies that aim non-governmental participation in the process of integration into European Union are still applied and developed.

One of the first studies made in the field of public administration in Turkey is "Law regarding the basic principles of public administration and its reconstruction" (no. 5227) enacted in 2004. The law which is one of the regulations made under the title of basic principles of good governance that was presented by European Commission was declared to public as "Main Law Draft of Public Administration" on 3rd November, in 2003. The most criticized point in the draft was the fact that the expression of "Main Law" may be associated with a federative state regime. To rule out these criticisms, the title of the law was changed. Apart from that, it is stated that when looked at the article justification of the draft, the notions which reflects the understanding of modern public administration, which will be taken as basis in forming the public administration expresses both the evolution in the public administration to a contemporary administration understanding, and the new public administration understanding.

It can be stated that the new public administration reforms formed in this scope have a global characteristic (Kesim and Petek, 2005: 48-49). Article 5 under the title of "The basic principles of public administration's formation and application" in the Law, determines the vision of public institutions in the transition process from administration to governance. Article 5 specifies such issues which are grounded on the communication between public and target mass as perpetual development, participation, transparency, accountability, predictability, appropriation, reliability of the expression and orientation of the necessity of the people and the result of the services, participation of non-governmental organization, sufficient usage of the right to information (www.tbmm.gov.tr).

Discussions made until the "Law regarding the basic principles of public administration and its reconstruction" (no. 5227) becomes a 'law' out of a draft, were regarding the understanding of multi-level governance. how this new governance understanding will be in the Unitarian state structure in Turkey was discussed. Raising awareness of the people, the fact that a change needs to be realized both on the basis of target mass and institution, rather than seeing the understanding of governance in the process of integration to EU by only focusing on the structure, was highlighted (Okçu: www.tepav.org.tr). Depending on the general structure of the change demanded in the transition period from administration to governance of which aim is a generally perceptual change in Turkey, the projects which will have an influence on long-term communication policies and public structure will be implemented. Among the projects realized as the consequence of a symmetrical communication understanding; the project of development of non-governmental society dialogue between Turkey and EU, the project of enhancing the influence of governorships

in the process of EU, Jean Monnet scholarship program, SEI (Support Activities to Strengthen the European Integration Process) financial resource, EU Ministry Projects (Municipalities and Provincial Special Administrations are preparing for EU) can be counted.

Moreover, after Turkey's candidacy was affirmed unanimously in Helsinki, in 1999, regulations were passed in many areas. Among the most important regulation areas can be counted the freedom of thought and expression and equality of woman and man. The amendment mentioned above which regulated the Public Administration, is a law passed in the process of integration to EU and a notion which is also handled in this frame in the governance. Governance means that public institutions actualize a fundamental change in their communication strategies. One of the most important steps which present the change in public administrations' communication strategies is the access to information law.

2. Governance and Right of Information

One of the important problems in the relationship between public institutions and the citizen in Turkey stems from the fact that citizens cannot find a sufficient answer to their problems. When the most important differences between administration and governance are considered as transparency, accountability and participation, the place of that right of information is actualized under the circumstances determined by law, in the process can be understood.

Article 41 of the "Law regarding the basic principles of public administration and its reconstruction" (no. 5227) covers the right of information and transparency:

ARTICLE 41 – Natural and Legal persons have the right of information in the frame of procedures and principals determined by law. Public institutions and corporations are obliged to provide information and documented asked in the case that natural and legal persons demand apart from the exceptions determined in the law.

Public institutions and corporations present their basic decisions and transactions in the issues which is included in their duty and service fields, their purchase and sale of commodity and service, their projects and annual activity reports, by using the information and communication technologies, to the public.

Activity and inspection reports that are finalized are made clear to analysis of public with the proper tools. These reports are presented to members in the first meeting of local administrations.

One of the points which draw attention in the article is that they share the information and the documents only apart from the exceptions.

Right of information should consider both the public and individual benefit. One of the most important restrictions in the law is the notion of "secret". Together with the fact that it is not explicit how the administration will use its recognition power, the most frequently used notion of Turkish Administration is 'secret'. The notion of secret means the information which cannot be shared in a vast spectrum and it can be assessed under four main titles (Çolak, 2005):

Secret of the State: Despite being a notion which is hard to define, it is the restriction which is used to block the right of access to information and document, and the understanding of transparent administration and it is actualized with the excuse of security or secret of the state. Secret of the state is handled in the "Law Draft of

Secret of the State" which is expected to be legalized. In the draft: "Secret of the state: information and documents which can endanger State's external relations, national defense, national security in the case that it is express and learned and for this reason should be secret" (www2.tbmm.gov.tr). The notion of secret of the State is seen as a restrictive threat, yet it cannot be ignored that it is a reflex for self protection and continuity of its existence.

Commercial Secret: The benefits of the persons who use the right of information does not necessitate actions which remove other persons' commercial benefits. Commercial secret is determined in the range of "Law Draft of Commercial Secrets": Commercial secret consists of information, document, records and data in the electronic media, which are known only by certain member of a commercial corporation, which can be gained, which cannot be known by rivals or cannot be expressed to third persons or to public, which is important for the success of the corporation; regarding their internal structure and organization, financial situation, research and development works, activity strategy, material resources, technical features of their production, quotation policies, marketing tactics and costs, market share, potential and network of wholesale and retail customers and contract connection which may or may not be subject to permission (www.alomaliye.com).

Secrecy of Private Life and Communication: Except for the conditions where the person allows, expression of private life, health information and any information or document which will form an unjustified action towards person's private or family life, honor, vocational or economical values are not included in the law of right of information. On the condition that the person's consent is taken in written, at least before seven days by the institutions, it is possible to express.

Ideological rights: The right of information regarding ideological or artistic pieces is determined according to law of ideological and artistic pieces. Provisions which are defined narrowly should be re-determined in the way that it can form the borders of right of information.

In public institutions, in the definition of information and documents as secret in the scope of right of information, the main topics mentioned above are taken into consideration. Even though the borders of the notion of secret try to be drawn in the scope of the law in public institutions, the fact that public do not want to lose their self protection mechanisms results in the fact that the notion of "secret" remains ambiguous. Another problem is that in the process when the symmetrical communication is placed into public institutions, secret is used as a shield.

3. Method

In the study, Right to Information Act which was put into practice to improve governance, and secret concept that is evaluated in the context of law is tried to be examined, by this how does applications executed by the state is reflected to the citizens and how these applications are seen by administered is analyzed.

Questions examined in the context of the research can be listed as below;

What is the perspective of citizens to public institutions in Turkey?

How does Right to Information Act affect governance perspective in public institutions?

How does secret of the state affect the Right to Information Act?

While specifying limitations of the study, Istanbul is chosen because of the fact that this city reserves most of the population of country and laboring mass, and most of the bureaucratic works are maintained in this city. In general, people in between ages 25-60 plays a more active role in working life. Thus second limitation of the study is stated to be this age group. From the surveys conducted on 350 people between the ages of 25-60, 303 surveys gave out results.

Applied question form consists of four parts. In the first part demographic questions that consist of gender, age, educational status and profession information are addressed to participants. In the second part, perspective through state institutions and organizations is tried to be determined. In the third part awareness around Right to Information Act and how it is interpreted is investigated. In the fourth part how Secret of the State within Right to Information Act is interpreted is accented.

In evaluation process of the research, data acquired is transformed to electronic environment by using SPSS 16.0 program. In the phase of analysis of data initially frequency analyses and cumulative average charts are applied. Comparative analyses are reached through chi-square, t-test and one way anova and findings are interpreted.

3.1. Findings

Surveys are conducted on 350 people between ages 25-55 in Istanbul in the context of Right to Information Act and relation of the state with its citizens, and from these survey conductions, feedback is taken from 303. From 303 people who answered the survey 142 are women (46,8%) and 161 are men (51,3%). When looked at the age distribution of participants of the survey it is seen that between the ages 25 – 29 45,2% of the entire participants (137 people), where ages 30 – 34 17,16% (52 people), ages 35 – 39 15,1% (46 people), ages 40-44 11,5% (35 people), ages 45 – 49 5,9% (18 people) and ages 50 -54 4,9% (15 people). This distribution shows that participants of this research consist of a young mass.

When educational situation of participants is examined, it is seen that percentage of people in graduate education is 17,4% (53 people) where people with associate degree or holds an undergraduate degree is 50,5% (153 people), people who completed high school is 26,4% (80 people), and people who are educated in the level of primary – secondary school is 5,6% (17 people). Although educational system is revised in Turkey and 12-years of education is made obligatory, time is needed to see the reflections of this practice. Because of this all the participants are categorized as primary school, high school, associate – undergraduate degree and graduate by sticking to old system. When look at the distribution of survey, it stands out that people who answer the questions are mostly are from a higher level of education.

When distribution of occupation of participants is examined, highest rate is private sector worker with 61,6% (185 people). Private sector is followed by public sector workers with 13,6% (41 people), self-employment with 13% (39 people), unemployed with 8,3% (25 people) and house wives with 3,3%. And three people left the answer of this question blank.

Before skipping to the questions related to Right to Information act, with the intent of learning general opinion about public institutions, “reliable, modern, progressive, transparent, closed, bureaucratic, traditionalist” expressions are given out to the participants and they are asked to evaluate public institutions with their degree of agreement. Results below are reached as a result of this evaluation:

Table 1. General Opinion About Public Institutions

%	Strongly Agree	Agree	Neither agree nor disagree	Disagree	Certainly Disagree
Reliable	10,3	25,7	32,3	23,3	8,3
Modern	7	20,6	32,3	29,6	10,6
Progressive	8,9	15,6	32,7	32,5	10,3
Transparent	5,6	9,6	29,8	37,4	17,5
Closed	12,4	40,9	34,6	10,7	1,3
Bureaucratic	28,2	40,5	22,3	6,6	2,3
Traditionalist	16,9	42,4	29,1	9,3	2,3

When the table below is examined, it is seen that state institutions in Turkey are generally characterized closed, bureaucratic and they are not thought to be progressive and transparent. When it is thought that regulations like Right to Information Act are made to resolve this perception, it can be stated that they remain incapable of changing existing judgments around public institutions.

Participants of survey answered to question of “Can you get sufficient answers from public institution when you need information or face any kind of a problem?” in the highest cluster of 57% with sometimes. Answer “no” follows this rate with 26%. Participants, after giving out a little explanation around Right to Information Act, are asked whether they are aware of the act or not. An equal distribution is emerged to this question. A ratio of 49,8% answered the question as yes and again in the same ratio answered the question as no. One person leaved the question without an answer. To people who answered the question “yes”, in order, how they are informed, if they use the rights that the law gives or not and if they get sufficient answers are asked. 46,8% percent of the participants who gave the answer “yes” to the previous question stated that they are informed about the law through internet, 38,5% through television – newspaper, 5,8% through their friends. 69,2% percent of participants who are aware of the law stated that they do not use this right that state gives, and 15,5% that they use. From the participants who benefit from the law 69,8% stated that they could not get sufficient answers, and 28,6% stated that they did.

Along with the fact that answers show that mass communication is active in the process of law being heard, rate of putting their knowledge into practice of people who got information about the law is low. The fact that participants who could not get sufficient answers have a high cluster among the ones that benefit from the law can showed as one of the reasons why this law is not put into practice.

Table 2. General Opinion About Public Institutions

%	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree
Lucidity requires public institutions to share correct and clear information with public	49,7	40,9	8,4	1	0
Lucidity provides public institutions with reliability	49	42,2	7,8	1	0
Lucidity provides citizens with the capability of communication with administration	39,5	50	7,4	3	0
Development of participation provides public's reliability on decisions made	39,7	48,8	9,5	2	0
Public institutions need to explain their actions and take responsibility of them.	50,8	42,8	5,7	0,7	0
Policies and actions of public institutions need to accord with each other	53,9	37,4	8,1	0,7	0
Development of lucidity and participation affects the administration in public institutions adversely	5,4	13,2	20	45,1	16,3
Public institutions always need to be ready to respond to citizens	44,8	45,8	7,1	1,7	0,7
Citizens should be provided with the equal right of participation	46,8	41,4	8,1	3	0,7
Public institutions should have a hierarchical structure	15,5	34,1	30,7	13,4	6,2

After the results are analyzed, it is considered that lucidity and information acquisition need to be applied in public institutions in the most efficient way and such applications will not affect public institutions adversely. The most unequal distribution is in the statement of "Public institutions should have a hierarchical structure". 30.7% of people stated neither agree or disagree, 34% agree, 13.4% disagree. Such results that can form a solid perception regarding this statement could not be achieved and the ones who participated in the survey exhibited different approaches. Now that the hierarchical structure is assumed as a phenomenon which hinders the lucidity in the institutions themselves, it can be estimated that hierarchy will affect the lucidity of public institutions towards the external target masses. Despite all the statements about the lucidity, transparency and information acquisition and the fact that the results supporting these statements

are taken, the fact that a distribution which indicates a counter-posture regarding the fact that hierarchical structures happen to be in the public institutions does not exist, indicates that people cannot avoid the perception belonging the traditionalist structure.

Participants were asked who decides and should decide the secret of state according to the Law Draft of Government Security and results below are obtained;

Table 3. General Opinion About State Secret

Person	According to the Law Draft of Government Security who decides the secret of state?	Who should decide the notion of secret of state?
President	36	47
Prime Minister	42	33
Council of Ministers	50	46
National Security Council	45	100
Grand National Assembly of Turkey	47	121
Plebiscite (referendum)	7	52
I don't know	153	

According to the law draft of government security, a high council which consists of Prime Minister, as the presidency, Minister of Justice, National Security, Internal and External Relations has the last word of the decisions regarding the description of information and documents as secret of state. Although many of the participants in the survey state that they do know, there are a lot of participants whose responses were prime minister, ministries or both. This situation draws attention to small but conscious mass.

What becomes prominent in participant's answers is that Assembly and National Security Council should decide the secret of state. When Assembly reflects the will of people, National Security Council indicates a group of people who wants the military wing to be authoritative in decision making as well.

Finally, participants were asked if they could evaluate some of the statements which were given in the frame of the right to information act. These statements and the degree of agreement are given in the table below;

Table 4. General Opinion About Right To Information

%	Strongly agree	Agree	Neither agree Nor disagree	Disagree	Strongly disagree
In the relationship between public institutions and the citizens, citizens cannot find sufficient answers to their questions.	18,8	47,3	28,2	5,4	0,3
The information given to citizens by the right to information act threatens the security of public institutions.	4,7	15,1	26,5	44,3	9,4
In the public institutions, the right to information act functions effectively.	7,1	19,9	39,9	27	6,1
In the frame of the law, I can obtain any kind of information that I demand from the public institutions.	8	31,5	35,3	20,8	4,5
The right to information act provides citizens' participation in and reliability on administration.	24,7	57,4	13,2	3,7	1
The state needs secrecy to protect itself.	18,4	39,8	23,4	13	5,4
The borderlines of the right to information act are explained clearly.	37,2	51,7	9,1	2	0
People should have a voice in determining the secrets of State.	11,4	33,4	26,4	21,4	7,4
Secrecy hinders the right to information act.	11,1	36,5	29,1	17,9	5,4
There should not be boundaries in informing the public.	11,7	30,1	25,4	25,1	7,7

Regarding the results above, it is understood that lucidity in the public institutions and the right to information act are supported highly. Specific questions about the right to information act do not have a accumulation at the same density. The reason of this can be mentioned as the information lack about the law when it is considered related to other questions. Apart from supporting the law, it is considered that the state needs secrecy as well. For this reason, even though the notion of the secrecy is not considered as unnecessary, it should be defined and the ones who will make this definition should be determined. The positive, negative and indecisive answers which are given to the statement of "There should not be boundaries in informing the public" support this assumption.

Whether there is a difference between the statements of bureaucratic, traditionalist, reliable etc. which is given to describe public institutions with demographic features was analyzed with t-test and it was seen that the most reasonable result is between genders with the statements of bureaucratic and traditionalist. Women describe public institutions as more bureaucratic and traditionalist.

One way anova was used between the variables of being informed about the right to information act and educational status. According to the test results, there is a significant difference between these variables. When the educational level rises, the level of being informed about the right to information act rises, too.

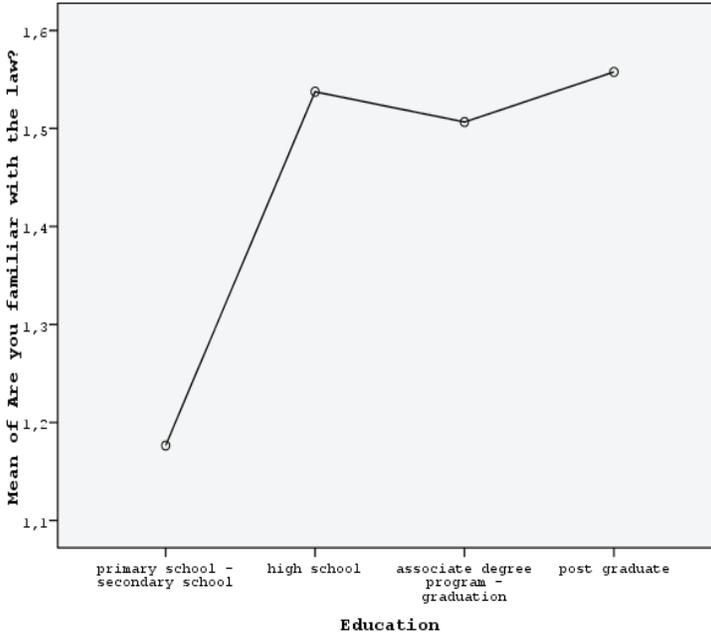


Figure 1. Relation Between Education and Familiar with Law

When the distribution between the answers to the questions “Can you get sufficient response from public institutions when you need information or you encounter with a problem?” and “Are you informed about the right to information act?” are observed, a significant difference can be seen.

Table 5. Relation Between Sufficient Response and Informed About The Right to Information Act

		Are you informed about the right to information act?"		Total
		No	Yes	
Can you get sufficient response from public institutions?	Sometimes	97	74	171
	No	29	49	78
	Yes	23	25	48

Pearson Chi-Square sig. ,000

Most of the people who are informed about the right to information act think that they cannot get sufficient respond from public institutions. This situation reveals the fact that there are problems about the operation of the law.

Discussion and Results

Regarding the historical development of administration, it is seen that confidentiality has dominated for a long time; whereas, in our day, transparency has gained importance. Governance is a notion that emerged during the process of administration's transparency. With new regulations, the effectiveness of governance; which aims interaction in public institutions, public feedback changing and converting the public institution and public institutions' lucidity to the communication, is tried to be risen in many countries.

One of the notions that are emphasized in governance is lucidity. Lucidity puts the being informed by the public institutions as an obligation for interaction. Therefore, in terms of rising social audit and participation in Turkey, secret notion and the right to be informed especially in public institutions should be reconsidered and regulated according to the conditions of our day.

In the context of practicing the fundamental rights and freedoms, the right to information act is regarded as one of the indispensable rights in democratic countries. This right has been in constitutional rights in many democratic countries. Transparency is stated in the field of communication freedom in article 19 of Universal Proclamation of United Nations at an international level for the first time. In general terms, the article emphasizes the necessity of the right to search information and thoughts in any way, to gain and disseminate them (www.kamudenetciligi.gov.tr). The freedom to reach the documents and the task to guarantee public's right of being informed are mentioned in United Nations 1000 Years Proclamation and European Union Charter of Fundamental Rights.

In Turkey, Right to Information Act and in this sense the law draft related to the regulation of Secret of State are the two main works related to the lucidity in public institutions. While The Right to Information Act takes the public interest into consideration, at the same time, it considers personal benefits. The notion of Secret is the leading one among the issues that affect the right of being informed. While making arrangements about an area related to Secret of State, public interest and personal benefits should be balanced and it is interfered in the scale of which democratic society necessitates in case only public interest should be prioritized.

In this work, the right to be informed and secret of state dealt in the context of this right was observed, and setting the perception and deficiencies in these areas was aimed. To that end, firstly the perception of public institutions tried to be measured. State institutions that are qualified as close, bureaucratic and traditional were not regarded as reformer and transparent. When the percentages of being informed about The Right to Information Act which was put into action to eliminate this situation which can be considered as the mutual problem of public institutions in many countries, it is observed that almost half of the participant have no information. Most of the participants who are informed about the law and use stated that they could not get the result.

These results show that the law which was put into action to change the perception in public institutions could not reach the sufficient portion of its target group. In the cases of that it reaches the target group, the problem of sufficiency emerges. The people benefiting from the law consider that they cannot get the wanted results. Only the interaction with the citizens in public institutions will serve to eliminate these problems.

The level of being informed about the law shows difference according to the educational level. When the educational level rises, the level of being informed about the law rises, too. Similarly, there is a significant relationship between being informed about the law and getting information from public institutions. Most of the people who were informed about the right to information act law consider that they cannot get sufficient responses.

When all the results of the data are observed, it can be seen that citizens desire lucid and transparent public institutions and support them. That The Right to Information Act, which is an important practice to create lucid and transparent public institutions, could not reach sufficient target group and that the results were not satisfactory are the points that should be insisted on carefully. Along with the fact that there is a huge group of people who are likeminded about state's need of secret, again another huge group of people consider that secrecy is an obstacle for the right to be informed and citizens should decide the borders of state's secrecy.

While The Right to Information Act and the notion of secret within this law should develop the relationship between the citizens and public institutions, the fact that practices are put into act independent from the citizens results in meeting with deficiencies. In the processes whose results affect the citizens, citizens should be the part of these processes and communication should be regarded as a whole.

References

Altunok M. (2011). Türkiye'de Kamu Yönetimi Disiplininin Temelleri Üzerine, Süleyman Demirel Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi, c. 16: 3, 231 - 252

Çamdereli M. (2004). Yönetişim ve Reklam İletişimi, Ankara, Nobel.

Kesim, H. K. Petek, A. (2005). Avrupa Komisyonu'nca Belirlenen İyi Yönetişimin İlkeleri Çerçevesinde Türk Kamu Yönetimi Reformunun Bir Eleştirisi, Amme İdaresi Dergisi, C. 38: 4, 39-58.

Keskin N. E. (2006). "Türkiye'de Kamu Yönetimi Disiplininin Köken Sorunu", Amme İdaresi Dergisi, Cilt 39, Sayı 2 (Haziran), 1-28.

Özer, M. Akif (2006). "Yönetişim Üzerine Notlar", Sayıştay Dergisi: 63, 59-89.

Yüksel, M. (2000). "Yönetişim Kavramı Üzerine", Ankara Barosu Dergisi: 3, 145-159.

Habitat and Toki: <http://www.toki.gov.tr/habitat/habitat/index.html> (retrieved, 05.04.2013)

Habitat and Toki: <http://www.toki.gov.tr/habitat/ulusal/forum.html> (retrieved: 05.04.2013)

The Law on the Basic Principles and Restructuring of Public Administration: <http://www.tbmm.gov.tr/kanunlar/k5227.html> (retrieved: 16.05.2013)

Okçu Murat: Avrupa Yönetişim Alanına Doğru Türk Kamu Yönetimi: Çok Düzlemli Yönetişim http://www.tepav.org.tr/upload/files/1269868421r8525.Avrupa_Yonetsel_Alanina_Dogru_Turk_Kamu_Yonetimi_Cok_Duzlemli_Yonetisim.pdf (retrieved: 13.05.2013)

EU Ministry Projects: <http://www.abgs.gov.tr/index.php?p=19> (retrieved: 06.06.2013)

Draft Law on State Secrets: <http://www2.tbmm.gov.tr/d24/1/1-0484.pdf> (retrieved: 20. 05.2013)

Draft Law on Trade Secrets: http://www.alomaliye.com/ticari_sirlar_kanun_tasarisi.htm (retrieved: 13.05.2013)

European Commission: European Governance A White Paper, http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf, (retrieved: 21.01.2013).

REPUBLIC OF TURKEY Ministry of Finance and the Department of Foreign Affairs of the European Union (2003). İyi Yönetişimin Temel Unsurları, <http://www.abmaliye.gov.tr/node/142>, (retrieved: 23.01.2013).

Universal Declaration of Human Rights: <http://www.kamudenetcligi.gov.tr/contents/files/688B1--Insan-Haklari-Evrensel-Beyanamesi.pdf> (retrieved: 21.01.2013)