Ethical Violations and Sanctions in Scientific Publications: A Framework Proposal for Social Sciences and Humanities*

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Abstract: *In Turkey, there is a significant regulatory gap and confusion in implementation of existing regulations concerning ethical violations in academic publications. Moreover, sanctions towards such kind of misconduct widely differ in terms of institutions and ethics boards. In this study, plagiarism and other ethical violations on research/publication are examined based on the discussions in the relevant literature and judgments of the Council of State and the Supreme Court of Appeals. We have classified almost all ethical violations in scientific publications, and then have developed a sanction framework.*

Key Words: *Research ethics, plagiarism, publication ethics.*

INTRODUCTION

Perfection cannot be achieved by incomplete tools.

In recent years, Turkish scientists' spurt in international field of publication is outstanding. The widespread use of publication activities in academic promotions and appointments as criterion has brought about an increase in plagiarism[1] or publication/research violations.[2] Undoubtedly, the determining role of publication activities in academic promotions or appointments is not the sole reason for plagiarism or publication/research viola-

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[1] Behaviors in violation of scientific ethics are commonly known as "plagiarism". However, this concept, along with plagiarism, covers a wide spectrum of other violations of scientific ethics too. For related discussions, see: http://www.plagiarism.org/plag_article_what_is_plagiarism.html [Access date: 9 September 2010]. For a detailed study on the subject, see: Uçak, Nazan Özenç and Hatice Gülşen Birinci (2008: 187-204); Başpınar - Kocabey (2007: 47 et al.); Öztan, (2008: 81); Ceritlioğlu Sengel, Filiz (2009: 75 et al.); Gökyayla, (2009: 285 et al.); Öncü, (2010: 29 et al.); Gürsul, (2010: 31).

[2] For detailed scientific discussions on the definition of non-ethical behavior and publication ethics, see: Ertekin - Berker - Tolun - Ülkü, (2002).

tions. However, other factors will not be discussed due to their being outside the scope of this study.[3]

News and comments on a rise in unethical scientific behaviors in recent years find place in the media as well.[4] These point to the society's high sensitivity towards the academic community's observance of ethical and professional codes. In this respect, the statistics of cases should be looked at of associate professorship forwarded to the Board of Ethics on the ground of alleged breach of scientific ethics between 2005 and 2009 that indicate the extent of the said violation (Ruacan, 2009: 41-44).

In 2005, out of 3154 candidates applied for associate professorship, the number of those, whose files were examined, was 120, while the number of those punished was 28. According to these figures, 23% candidates were penalized. In 2006, of 2178 files submitted for associate professorship, 83 files were considered; 30 candidates were penalized (36%). In 2007, the number of files submitted for the position of associate professorship was 3499; 135 files were reviewed; 38 candidates were penalized (28%). In 2008, the number of application files was 3195. 140 files were considered in alleged ethics violation; 28 were punished (20%). The consideration of 2009 applications has not been concluded yet.

In 2009, among the applicants for associate professorship exam in the field of social and human sciences (including philology, education, theology), the number of those, whose files were subjected to consideration, was 28. The Board of Ethics found the allegations of unethical practice for 12 files serious enough to request defense. Among the most common ethical violations detected by the Board of Ethics for the associate professorship exam are unfair authorship, quotations beyond reasonable extent, duplication and salami slicing, falsification, misleading/incorrect /incomplete statements, direct quotation from the thesis he/she supervises, publishing the work without mentioning the name of the student, presenting the publication, which he/she reproduced from the postgraduate thesis, as if it is a new research.

It can be said that in Turkey, there has not yet been a notable awareness of unethical scientific practices in postgraduate education, let alone in

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[3] Büken, Nüket Örnek (2006). The students of many Western universities use special software in their projects and researches in order to detect unethical behavior, and create special sections in web pages. One of the examples is the web page of Maryland University in the United States. http://www.umuc.edu/distance/odell/cip/links_plagiarism.shtml#detection.

[4] http://www.sabah.com.tr/Egitim/2010/05/27/universite_kontenjanlari_artacak_mi [Date of access: 1 September 2010].

graduate and undergraduate education. Firstly, a number of measures should be taken to raise awareness during masters and doctoral programs. In this framework, the need for legal arrangements regarding plagiarism and unethical conduct is gradually increasing. Therefore, it is necessary to establish a relationship between the frequency of plagiarism and unethical practices and the qualifications of lecture staff, and to give necessary importance to these matters during the training and education of lecturers.

Those, who perform scientific activities, are expected to comply with the principle of academic honesty, along with fairness, transparency, accountability, responsibility and similar principles. The basic principle of scientific activities is to respect human rights and honor, and to strictly adhere to the principles of publication ethics. The noteworthy point here is the procedure rather than the principle. Indeed, establishing the procedures relating to scientific and publishing activities is more important than what will be done. Undoubtedly, in the process of detecting whether or not scientists violate the said principles, the observability, measurability, and evaluability of these principles are prerequisite for taking measures in the event of any violation. Although the concepts of ethical codes in scientific institutions, mainly among scientists, have begun to be discussed in developing countries like Turkey at the end of the 1980s (Ruacan, 2009), it is noteworthy that the relevant arrangements have come on to the agenda not earlier than the last decade. Therefore, while until recent years, focusing on the essence of the matter (publishing) was more prominent, the procedure (how it is performed) was largely overlooked. There is no doubt that the compliance of publishing procedures with professional and ethically acceptable standards is compulsory as much as the scientificity of the publication.

In Turkey, at present, academic titles are acquired within the central system under the government's regulation and supervision. Bringing minimum standards to academic titles at central level in the framework of the powers of the Council of Higher Education and the Inter-University Board and thus, securing the system as a whole are of great importance. In Turkey, teaching staff in public universities slightly differ from other government employees in respect of the legislation they are subject to. It can be said that this fact lightens the heaviness of the expression "academic", while makes the title of "public servant" more prominent. In the end, what is relatively important in public duties is the operation of existing procedures and processes as stipulated. However, in academic life, creativity, innovation, and originality are elements that have to become more prominent. In recent years, the view that ethic violation is increasingly becoming more common

in academic life is grounded on available findings. Yet, the difficulties in detecting violations in the past due to various reasons make the belief that the cases of violation were relatively less in the past questionable.

This study first discusses legal arrangements and sanctions for unethical scientific behavior in Turkey, and evaluates the relevant authorized institutions and their attitude towards such behavior. Secondly, literature on plagiarism and ethical violation is reviewed; arguments on the statute of limitation in unethical scientific behavior are scrutinized, and an evaluation is made for unfairly acquired titles. In scientific ethics violation, apart from the author, the responsibility of publisher and editor continues to stand out as an important field of argument. This article, by also discussing the responsibility of publisher and editor, has attempted to look at the subject from a broader perspective. The final section of the study is allocated to establishing a framework by classifying unethical scientific behaviors and sanctions in the international arena. This study ultimately aims to develop a practical instrument with international perspective, which takes into account national legislation and judicial decisions regarding scientific ethics in respect of both authors and the evaluation jury members, and publishers, editors and referees.

LEGISLATIVE ARRANGEMENTS FOR UNETHICAL SCIENTIFIC PRACTICES

Even though there are no legal arrangements specific to ethical behaviors in academic life, basic legal norms and general principles of ethics are, in fact, adequate by themselves. However, the prevalence and depth of the problem has necessitated and required legal arrangements specific to this field. In addition, due to the principle of legality in crime and penalty (Turkish Penal Code, Article 2), numerous cases that were submitted to the court became one the main reasons for legal arrangement.

The legal arrangement that governs the least common denominators of living together in the Turkish society is the Turkish Civil Code (TCC). It can be said that this law, as it lays down "*civil*" principles of collective living, is more comprehensive and vital than both the Constitution and the Turkish Penal Code. In the preliminary section of the Turkish Civil Code, a universal principle is laid emphasis upon in the judge's decision. Accordingly "*Where no written provision is applicable, the judge shall decide according to customary law and, in default thereof, according to the rules, which he would lay down if he, himself had to act as legislator*" (TCC, Article 1). The principles of conduct in good faith (TCC, Article 2) and bona fides (TCC, Article

3) are fundamental rules and principles citizens should take as basis in exercising their rights and performing their duties. However, no person can plead bona fides in any case where he has failed to exercise the degree of care required by circumstances (TCC, Article 3/II). Even the preliminary provisions of the Turkish Civil Code alone have a significant content and nature in terms of drawing a general framework for unethical practices.

In Turkey, legal regulation on copyright is accepted as special regulation applicable to ethical violations in universities as well. Thus, owners of intellectual and artistic works may claim their rights at judicial authorities based on the said legal arrangement on the grounds of the violation of their rights to their intellectual and artistic works. Law No. 5846 on Intellectual and Artistic Works (LIAW) of 1951 is one the two basic regulations concerning plagiarism or crimes that are considered violation of publication/research ethics in universities. The reason is that the aim of the law was "….. *to specify and protect the rights of the owners of works, who produce intellectual and artistic works and…… institutions on their products, to set out the conditions for using these products, and to lay down the sanctions to be imposed in cases of use in violation of the stipulated principles and procedures*". Hence, preventing unethical scientific practices is not the purpose of this law.

Higher Education Law No. 2547 is the second basic regulation regarding unethical scientific practices. The Higher Education Law governs the supervision of unethical scientific practices by Articles 53 and 65. In Turkey, the Council of Higher Education (YÖK), the Inter-University Board (ÜAK), The Scientific and Technological Research Council of Turkey (TÜBİTAK) and the Turkish Academy of Sciences (TÜBA) are the main regulatory and supervisory agencies in higher education institutions and scientific research-development activities. Nevertheless, the responsibility and powers are primarily entrusted with YÖK. YÖK is actually the most effectual institution responsible for evaluating unethical scientific practices in universities, while TÜBİTAK is empowered for evaluating the projects conducted by scientists working in universities. Besides, universities can make their own special regulations for publication ethics, provided that these are compatible with general frameworks.

In Turkey, plagiarism and other research and publication ethical violations usually come to surface when applied to the court, or during the associate professorship exams. In accordance with Articles 53 and 65 of Higher Education Law No. 2547, YÖK has introduced *Disciplinary Regulations for Administrators, Academic, and Non-Academic Staff*. Under the

present legislation, excluding, indemnity cases filed with the jurisdiction, ethics violations are subject to two types of penalty in the scope of disciplinary regulations. One of them is dismissal from the profession; the other is warning. While the crime of plagiarism stipulates dismissal from the profession, other practices in violation of research and publication ethics are subject to the penalty of warning.

Undoubtedly, considering both the nature and degree of unethical behavior, it is clear that these two stipulated penalties are highly inadequate, unfair, and they lead to unfair practices. Because the articles of *Disciplinary Regulations for Administrators, Academic, and Non-Academic Staff* governing the disciplinary penalties were devised inspired by Civil Servants Law No. 657, there are difficulties in adapting it to ethical violations specific to universities. Thus, the penalty for the crime of plagiarism is specified in Article 11-a (3) of YÖK Disciplinary Regulations. Accordingly, the act of "*presenting someone else's work or study, either partly or wholly, as one's own without citing source material*" is subject to the penalty of dismissal from the university teaching profession. There is no doubt that the stipulated penalty is an extremely severe penalty. As can be seen in the subsequent lines, the act of plagiarism has very different dimensions and degrees. Thus, it cannot be spoken of a monotype of the crime of plagiarism. Therefore, stipulating just a single penalty for each type of plagiarism does not comply with justice and fairness.

No scale of punishment for varying degrees and types of crimes or faults in the Regulations accompanied by the lack of established convictions cause serious chaos in practice. A few examples should be given for cases that come to the forefront especially during the associate professorship exams, which eventually are submitted to ethics commissions: a faculty member's joint publication with his/her student, for whom he/she serves as thesis advisor; sub-standard publication; publication based on academic theses; not giving reference to generally accepted facts; citing same sources as references in different studies (however, not referring to his/her previous study in any of his/her studies); more than one publication based on the same field study or data are behaviors that lead to confusion in the evaluations of plagiarism and ethical violations. Likewise, the presentation of the same study as paper, and later extending it to turn into an article, publication of some of the previously published studies as book sections, presentation of a translation-based literature collection as a literary work, re-publication of previously published studies with minor differences, multiple publication of the same research (on grounds of the difference in target

reader), publication of the same research in multiple languages, publication of research without the acknowledgement of any of the co-authors and the publication of researches based on Master's theses under the name of the thesis advisor are among other examples that might lead to confusion in evaluation.

Apart from those stated above, there are also cases submitted to the Ethics Board with an aim to discredit people due to personal enmities and ideological reasons. When the members of the jury refer the cases of candidates to the Ethics Board with their own names, they, along with general expressions like "*doubtful, the examination of the issue by the Ethics Board will be helpful*, no *conviction could be reached*, *or serious findings were detected*", sometimes may directly state the violation of research and publication ethics and use incriminating expressions. However, because of the inadequacy of penalties corresponding to the charges of "plagiarism or the violation of research and publication ethics", people usually are not subjected to heavy penalties that they actually have to be. While they usually get away with the penalty of warning, while some others are subjected to heavy penalties, which they do not deserve such as dismissal from the profession, and eventually, the case is referred to the court. In order to prevent the jury members to exercise their powers against people or to misuse them, Article 7 (6) of the Regulation on the Associate Professorship Exam stipulates, *"If the claim is found to be ungrounded, the process of associate professorship continues from where it left off, and administrative and judicial investigation is conducted about the relevant jury member if the conditions are available"*.

In cases referred to the court, inadequate legislative arrangements lay foundation for conflicting judicial decisions. The Turkish Civil Code contains the following article "The judge shall decide *by referring to scientific opinions and judicial decisions*" (TCC, Article 1). Therefore, a commission of experts is established for cases on intellectual and scientific offenses referred to judicial authorities for legal action, and decisions are mostly made based on the reports of these commissions.

THE AUTHORIZED INSTITUTIONS AND THEIR ATTITUDES TOWARDS UNETHICAL SCIENTIFIC PRACTICES

When YÖK or ÜAK is informed of cases of plagiarism or violations of publication/research ethics, such cases are usually not considered in terms of whether it leads to indemnity for moral damages; they are examined in

terms of its violation of scientific honesty.[5] On the other hand, TÜBİTAK imposes a sanction of cutting off incentive for scientific publication for a certain period of time.[6] As for plagiarism or unethical publication/research practices that result in indemnity, people, whose immaterial rights are damaged, may sue a case for the payment of an immaterial indemnity pursuant to Articles 70[7] and 71 of LIAW, while those, who believe their immaterial rights are violated, may file a suit for immaterial indemnity under Article 49 of the Law on Obligations[8].

As can be seen in the explanations above, the provisions of Law on Intellectual and Artistic Works (FSEK) is highly *irrelevant* in terms of academically penalizing violations of scientific ethics. The YÖK Law, as the second basic legal arrangement on this matter, too has not separately laid down the penalties for the violations of scientific honesty; a secondary legal arrangement was preferred, and thus, a separate disciplinary regulation was introduced. Unethical scientific practices are governed by Disciplinary Regulation on Higher Education that stipulates the penalty of dismissal from the profession for plagiarism, while other violations of scientific ethics are subject to the penalty of warning. Acts and cases stipulating the penalty of warning are governed by Article 5 (e) of the Disciplinary Regulation on Higher Education as follows "*To perform attitude and behavior not complying with the dignity of his/her title*". Plagiarism that requires dismissal from university teaching profession is regulated in Article 11(a)-3 as follows "*Pre-*

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[5] For an evaluation also discussing institutional sanctions for violations of publication ethics, see: Koç, Sermet; "Yayın Etiği İhlalleri ve Hukuksal Düzenlemeler", saglikpaneli.com (5 September 2010).

[6] An example is that due to a plagiarized publication in 2003, TÜBİTAK decided not to grant publication incentives to the plagiarists for three years.

[7] The 11th Civil Chamber of the Supreme Court of Appeals, date: 1 December 2003, Case No. 2003/429211, Decision No. 2003/1126: "Article 68/2 of LIAW stipulates that in case a work is used by way of unauthorized duplication and the duplicated copies have not been marketed, three times as much the amount of the usual royalty might be demanded. In addition, pursuant to Article 70/3 of LIAW, the person, whose material and immaterial rights are damaged and is subjected to violation, may demand the delivery of the gained profit to himself besides the indemnity" (KBİBB, 5846/Article 70).

[8] Joint Civil Chambers of the Supreme Court of Appeals, date: 10 May 2006, Case No. 2006/4-230, Decision No. 2006/288 "In the expert review, after the similarities between "The Mother's Book" written by the plaintiff, which is the subject of the case and Benjamin Spock's book, which is claimed to be the original version of the former book, are mentioned, it is stated some pictures contain narrative similarities based occasionally on translations. However, in the "Concluding" section of the first edition of the book, the author mentions Benjamin Spock, the author of the original book that points to a source citation. Thus, it was decided that in such a case, there cannot be spoken of plagiarism. This conclusion was also approved by the local court, and thus, it was accepted that the defendant (counter-plaintiff), by the publication titled "First Doğramacı Must be Condemned" in Milliyet Newspaper dated 15 November 2000, attacked personal rights of the plaintiff (counter-defendant)" (KBİBB, 4721/Article 24).

senting someone else's work or study, either partly or wholly, as one's own without citing source material". Thus, the legislation does not specify any other types of penalty for plagiarism and unethical scientific behaviors between warning and dismissal from the profession.

As can be seen, plagiarism, along with its other consequences, is considered a disciplinary offense under administrative law as well. Besides, with the said regulation, like plagiarism of a scientific work, plagiarizing someone else's scientific study is also counted as disciplinary offense. Thus, the formation of disciplinary offense specified in the provision absolutely necessitates appropriating somebody else's work. Therefore, appropriating someone else's uncompleted scientific study is enough to constitute the said disciplinary offense. The reason is that the relevant provision refers to appropriating a scientific study (Öncü, 2010: 33-34). Indeed, the act penalized here is not the violation of the rights of the author under Law on Intellectual and Artistic Works, but the candidate's behavior violating scientific and academic ethics (Öncü, 2010: 34). The Supreme Court of Appeals, too, holds in the same opinion.[9]

Some of those subjected to administrative proceedings due to plagiarism or violation of research and publication ethics go to court. In the meantime, those who applied to court and those, who were under investigation, have begun to be amnestied of their offenses upon an interpretation of Disciplinary Regulation on Higher Education. The legal ground of this recent interpretation is Law No. 5525 on Amnesty of Some of Disciplinary Penalties of Civil Servants and Other Public Employees of 2006. The reason is that this Law keeps some penalties outside the scope of disciplinary amnesty. Thus, according to the Law, "…*disgraceful or dishonorable offenses such as theft, fraud, forgery, breach of trust, or fraudulent bankruptcy …excluding penalties of…….; as stipulated by laws, codes and regulations, disciplinary penalties for offenses committed by civil servants and public employees and those held these positions from 23 April 1999 until 14 February 2005 have been amnestied with all their consequences*" (Article 1). Hence, it can be said that disgraceful offenses like theft and forgery or dishonorable offenses are out of the scope of amnesty. However, YÖK, in a plagiarism case referred to it, expressed an opinion that plagiarism and other unethical scientific practices also fell in the scope of the disciplinary

[9] 11th Civil Chamber of the Supreme Court of Appeals, date: 3 February 2006, Case No. 2005/354, Decision No. 2006/915 "… In some cases, even though the work is not completed, if it has progressed enough to reflect the peculiarity of its owner, and thus, as it will be considered a "work" as defined in Articles 1/B and 5 of LIAW …" (KBİBB, 5846/m. 1).

amnesty.[10] Indeed, in the relevant case, in 2003, in his assertion, a doctoral student cited quotations from two articles including spelling errors without any reference. The investigation launched about the said person resulted in his dismissal from university teaching profession. In the said case, YÖK did not find it necessary to dismiss the thesis advisor from the profession on the ground that "he was not the main responsible." As a result of the case filed with the Supreme Court of Appeals against YÖK's decision that acquitted the advisor, the YÖK Disciplinary Board took the request for the dismissal of the advisor from the profession on its agenda on 19 February 2009[11], and deliberated the case within the scope of Law No. 5525 mentioned above. Accordingly, the provision "*disciplinary penalties for offenses committed from 23 April 1999 until 14 February 2005 has been amnestied with all their consequences*" has been generalized for all unethical scientific behaviors, primarily for plagiarism.

However, considering that Law No. 5525 is by nature a special amnesty law (Gözler, 2010), it can be said that the decision of the Disciplinary Board of Higher Education is highly controversial. For example, a plagiarist's getting away with the penalty of dismissal for profession does not mean that he has been acquitted from the charge of plagiarism. It is not clear whether the titles acquired through plagiarism will be annulled or not.

Turkish Penal Code No. 5237 makes a distinction between general amnesty and special amnesty, and contains the following provisions: "A general amnesty shall have the effect of discontinuing the criminal proceedings and setting aside any penalty imposed and its consequences … The sentence relating the revocation of certain rights, which is either identified in a judgment or consequent upon a penalty, shall continue to be effective despite any special amnesty" (Article 65). According to an opinion in the doctrine on the provisions of the Penal Code in the doctrine: "In case of a special amnesty, the conviction and its penal consequences remain the same, and for example, if the offender commits crime for a second time, the reoccurrence provisions are applied. That is to say, special amnesty only brings about consequences related to the actual execution of the sentence" (Keyman, 1965: 43).

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[10] http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetay&ArticleID=947830&Date=02.08.2009&CategoryID=77

[11] The thesis advisor has the right to publishing as coauthor with the person, to whom he serves as advisor, as much as he is responsible for the compliance of the relevant thesis with scientific ethical codes. Therefore, the judicial decision that held the advisor equally responsible for the content of thesis in terms of rights and liabilities seems to be right.

In this case, even though those, who commit plagiarism or perform other unethical scientific acts, are considered within the scope of amnesty under Law No. 5525, the revocation of rights must continue. For example, even though a person, who has acquired his academic title with a plagiarized study, is exempted from the penalty of dismissal from the profession as he is considered within the scope of amnesty, the academic title he has acquired should be revoked. Thus, while general amnesty eliminates a penalty with all its consequences, special amnesty does not refer to a provision related to the committed offense; it only establishes a provision for the sentence awarded (Keyman, 1965: 42). The same opinion reaches the following conclusion for the Western legal systems: "*There is an eye-catching difference between special amnesty that can be interpreted as pardoning the offense without forgetting it and general amnesty that refers to pardoning the offense by forgetting it. This can be explained that special amnesty is rather of legal nature, whereas general amnesty has a significant political content*" (Keyman, 1965: 43). In that case, the results of the proceedings for plagiarism and other unethical scientific practices launched by higher education institutions not only might differ from one proceeding to another due to the Disciplinary Board of Higher Education's consideration of unethical scientific behaviors within the scope of amnesty, but also might have different consequences in the future.

PLAGIARISM AND ETHICAL VIOLATION

Dictionaries generally define plagiarism as the appropriation or use of somebody else's copyrighted work, an artistic work, or some sentences wholly or partially without citing any source or giving credit to the original author, and as the violation of copyright ownership rights through stealing.[12] Accordingly, presenting the phrases of a book, or the lyrics or notes of a particular piece of music as if one's own work through transposition or by falsifying the whole original work to the extent it can be understood is considered plagiarism (Turkish Law Institute, 1991: 163). Plagiarism, whose meaning in English is some kind of academic corruption, is defined in the doctrine as presenting or using a particular section, tune, paragraph, scene or whole of the work of somebody else as if one's own work without citing source or requesting permission of the original author or by violating his/her rights (Ceritoğlu Sengel, 2009: 79; Öncü, 2010: 29). In this sense,

[12] For definition, see: Parlatır, İsmail, *Osmanlı Türkçesi Sözlüğü*, 2. Baskı, Ankara 2009, s. 751; Ayverdi, İlhan, *Misalli Büyük Türkçe Sözlük*, 2. Baskı, İstanbul 2006, s. 1421; Yılmaz, Ejder, *Hukuk Sözlüğü*, 5.baskı, Ankara 1996, s. 166; Özcan, Hüseyin, *Ansiklopedik Hukuk Sözlüğü*, Ankara 1980, 335; Öztan, *Hukuk*, p. 203.

plagiarism involves a conscious possession. Therefore, in plagiarism, there exists conscious violation of the intellectual rights of the owner of work (Öncü, 2010: 29; Öztan, 2003: 545). Then, plagiarism is always subject to the claim of appropriation of somebody else's work. The appropriation here manifests itself as claiming his/her ownership of the work (Öztan, 2008: 203).

Another concept closely related with the concept of plagiarism is "inspiration." In the doctrine, inspiration is defined as by using by someone else's work to produce an independent work with no association with the work used (Ceritoğlu Sengel, 2009: 127 et al.). Law on Intellectual and Artistic Works does not govern inspiration. Nevertheless, the German law contains the following provision for inspiration: *"an independent work created by the use of another work can be published and exploited without the permission or consent of the owner of the used work*" (Ceritoğlu Sengel, 2009: 128). The reason is that Article § 24/I of German Copyright Law (Urhebergesetz) contains the following provision "*An independent work created by free use of the work of another person may be published and exploited without the consent of the author of the used work."* Therefore, it is possible to use intellectual and artistic works that do not fall in the scope of protection in Law on Intellectual and Artistic Works. However, this use should remain at and within the scope of inspirational level; it should not go beyond inspiration. That is to say, in order to speak of an inspiration, the use of the work of another author must be at the level of giving idea or being source of inspiration. The Supreme Court of Appeals shares the same opinion.[13] According to a decision of the Supreme Court, "*It should be concluded in view of the expert reports, the content of the first decision of reversal of the special chamber and the decision of the court that the movie shot by the defend-*

[13] 11th Civil Chamber of the Supreme Court of Appeals, date: 29 January 2007, Case No. 2005/14088, Decision No. 2007/963 "The opinion of a faculty member specialized in literary works must be received in order to determine the peculiarity and to decide whether or not it has been used in the lyrics, which is the subject of the case, by the defendants without permission, whether or not the similarity remains within the boundaries of inspiration, thus, whether or not the defendant's lyrics are entirely a different work " (KBİBB, 5846/Article 1); 11th Civil Chamber of the Supreme Court of Appeals, date:. 3 April 2006, Case No. 2005/3742, Decision No. 2006/3428 "the subject of the case is whether or not the musical composition of the works are same or similar; if so, whether hat might be found in every musical work or inspiration; whether or not they fall within the scope of freedom of borrowing under Article 35/3 of LIAW. According to Article 3 of LIAW, works of music are all kind of worded and unworded compositions. In musical works, the subjects of protection are sequence and subordination between the works listened, certain mixtures of sounds with melody, rhythm, and harmony and at the same time, the content of musical works expressed in sound. While determining the existence of the peculiarity of the owner of a musical work, the impression, which the relevant work gives to an ordinary listener, should be taken as basis. However, in determining the said impression, a scientific method specific to the nature of the dispute should be adopted" (KBİBB, 5846/Article 3).

ant is not a product of general interaction created as an outcome of solely inspiration or emulation, but it is composed of quotations at the level of plagiarism. According to the practices and teachings, if the quotations in a work prevail over the new work created, it is no longer possible to speak of an innocent quotation. The defendant has created a documentary movie by means of various quotations, adaptations, and modifications from the plaintiff's scientific work in the nature of a sociological study. The defendant's action is to create an adapted work based on the plaintiff's scientific work without his permission. Here, the plaintiff's scientific work has been adapted to turn into a "work of cinema." However, according to Article 21 of LIAW, "the right to make use of a work by way of adapting it" rests exclusively with the owner of the work … Thus, the defendants have adapted a "scientific work" owned by the plaintiff, and have transformed it into a "work of cinema ", and thus, they violated the owner of the work's right to duplicate and disseminate by duplicating and broadcasting the adapted work on TV."[14]

Some decisions made by the Council of State and the Supreme Court of Appeals are given below. These decisions are discussed rather in terms of their approach to plagiarism, and violations of research and publication ethics. In a decision of 1998, the Council of State defined plagiarism as word-for-word adaptation, and ruled that of the two Turkish works, the owner of the previously published one had no right to accuse the owner of the one published later by plagiarism. In the case, the administrative judicial authority revoked the university's sanction towards the person, who lost his doctoral degree, on the ground that it did not comply with law.

The Council of State, in one of its decisions of 1999, reversed a decision of cancellation of diploma due to illegal quotations in the doctoral assertion from another assertion on the ground that "the quotation does not harm the scientific nature and the originality of the plaintiff's thesis."[15] The Council of State, in a 2001 decision, found that the cancellation of the doctoral diploma on the ground of plagiarism due to "*excessive citations in the assertion, which are in the form of direct quotations (without plagiarism), and the fact that 72% of the assertion consist of translated texts*" did not comply with law owing to incomplete examination, and decided for the re-evaluation of quotations within the framework of the criterion of "borrowing

[14] Joint Civil Chambers of the Supreme Court of Appeals, date: 2 April .2003, Case No. 2003/4-260, Decision No. 2003/271 (KBİBB, 5846/m. 14).

[15] The 8th Chamber of the Council of State, Case No. 1999/896, Decision No. 1999/7670, 14 December 1999.

to the extent justified by its purpose in a comprehensible *manner*".[16] The plaintiff, whose diploma was cancelled, applied to YÖK, and put the said decision in to case file. YÖK, in its letter of response of 1998, stated that the criteria specified in Article 35 of LIAW were taken as basis in determining whether there is plagiarism in a thesis or not.

The Article stated above specifies under which circumstances borrowing (quotation) from a work is permissive, and allows for the use of "(i) some sentences and paragraphs of a publicized work …., (iii) Including publicized works of fine arts and other promulgated works in a work of science to the extent justified by its purpose and for the purpose of describing its contents".[17] Needless to say, full citation of that source should be provided in such a way to avoid any doubt. While not giving the full citation of the work (not mentioning the owner of the work) is considered plagiarism, excessive citation brings about the violation of personal benefits and immaterial indemnity. Immaterial indemnity in case of the violation of immaterial rights of the owner of the work is governed by Article 70 et al. of LIAW,[18] while violation of personal benefits is regulated by Article 49 of Law on Obligations. A work at the same time bears the personal characteristics of its creator. Therefore, with plagiarism that refers to intellectual theft, personal rights of the owner of the work are also violated. Such violation of personal rights of the work of the owner results in immaterial indemnity. In that case, "The person, whose personal rights are illegally infringed, may sue for the payment of a sum of money against the immaterial damage he has been subject to" (Tekinalp, 1999: 190, 191, 312). Hence, both LIAW and Law on Obligations govern the claim for indemnity in case of the violation of immaterial and personal rights of the owner of the work.[19]

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[16] The 8th Chamber of the Council of State, Case No. 2000/1806, Decision No. 2001/3586, 5 July 2001.

[17] For a detailed argument on publicization and publication, see: Ateş, Mustafa; "Fikir ve sanat eserlerinin kamuya sunulması: Alenileşmemiş ve yayımlanmamış eserler fikrî hukuka göre korunamaz mı?", *BATIDER*, C. XII, 2006/3, p.22-253.

[18] LIAW Article 71-3: "A person, who make quotations from a work without citing source is sentenced to imprisonment from six months to two years or is subjected to punitive fine".

[19] Joint Civil Chambers of the Supreme Court of Appeals, date: 8 May 2002, Case No. 2002/4-410, Decision No. 2002/358 "In the concrete event, it is understood that the plaintiff published a literary work translated from a foreign language like his own work without stating that it was a translated work. In this case, it is not possible to say that the said publication is not original. The defendant newspaper published this subject more than once, and it became the topic of a television program. All these stem from the importance given to the event by the public. The plaintiff not only did not write the work himself, but also is in a position he can know it is a translated work. In this context, the adjective "thief" used for him during the broadcast and the description of this act as "scientific theft" do not constitute an attack to the personal rights of the plaintiff, as his gross fault caused the broadcast about him" (KBİBB, 818/Article 49).

In universities, the penalty of the cancellation of diploma or dismissal from the profession is imposed for people "on the ground of plagiarism." Although the judicial approach is that these offenses do not refer to plagiarism, there is no provision that it is contrary to the publication/research ethics; even some decisions emphasize that the offense committed constitutes violation of scientific ethics. Accordingly, in one of its decisions of 1977, the 4th Chamber of the Supreme Court of Appeals ruled that the publication of a work plagiarized from a publicized and published work was subject to special rules. These rules can be gathered under three headings: "*borrowing must be to the extent justified by its purpose, even though borrowing aims to enlighten the public, it should be done without damaging immaterial rights of the work and its owner, and lastly, borrowing should be made by making reference.*"[20]

In a 2004 decision, the Administrative Court did not consider as plagiarism the defendant's act of publishing the summary of his doctoral assertion in a publication under his name, and then publishing it in another publication by adding other authors. Instead, the Court found it contrary to scientific ethics.[21] In his publication, the said person made exact quotations from the compiled translation of another person. The owner of the publication composed of compiled translation was not seen as the owner of the work in terms of his contribution, and this case was not accepted as plagiarism. However, the practice of the author was at the same time found contrary to scientific ethics. At this point, the jurisdiction's approach to the concept of "work" assumes importance. In LIAW Article1/B-a defines a work as "*any kind of intellectual and artistic product bearing the characteristics of its owner and which is considered a work of science and literature, music, fine arts or cinema*." Hence, a compiled translation is not considered a work, because it does not bear the characteristics of the compiler.

Apart from the original work, Law on Intellectual and Artistic Works provides definitions for two types of work as well. Accordingly, "adapted work" refers to "intellectual and artistic product bearing the characteristic of the adaptor, which is created by benefiting from another work, but which is not independent of such works." Collected work is defined as "works such as encyclopedias and anthologies, whose content consists of selection and arrangements, which are the results of intellectual creativity, provided that the

[20] The4th Civil Chamber of the Supreme Court of Appeals Case No.1976/8866, Decision No. 1977/5628, 10 May 1977.

[21] The 6th Administrative Court of Ankara 6, Case No. 2003/142, Decision No. 2004/18688 October 2004.

rights on the original work are reserved." Considering both provisions, an intellectual products must fall within the scope of Article 1/B-a to be considered a work (objective condition), and it must bear the characteristics of its owner, i.e., it must be original (subjective condition).[22]

Plagiarism is a kind of violation of the property right. The property right is a real, complete, absolute, exclusive, sacred, indispensable right, which grants all the powers of direct exercise, use, and discretion to its owner, and which is a right in rem (Ünal, 2006: 903). Thus, when considered within the framework of both Law on Intellectual and Artistic Works and Law on Obligations, plagiarism's cause of rights for the owner of the work arises from the violation of the property life. The protection of the property life has essential functions for a society. In fact, sacredness attributed to ownership comes from here. Among the functions of ownership, the most outstanding ones can be listed as follows: developing personality, ensuring competitiveness, developing democracy, ensuring freedom, ensuring justice, protecting environment, teaching patience, establishing peace and tranquility and incentivizing investments (Başpınar, 2009: 119-146).

THE STATUTE OF LIMITATIONS AND WRONGFULLY ACQUIRED TITLES

The statute of limitations for disciplinary offenses committed by the academic staff is governed by Article 19 of Disciplinary Regulations for Administrators, Academic, and Non-Academic Staff. Accordingly, "Under this by law, as *from the date it has come to the attention of the discipline officers that there has been committed physical or other similar offenses, to immediately cease/withdraw the warning, the reprimand or the financial penalizing by reduction of monthly salary of the accused and to commence within a month thereof a disciplinary investigation; in case of dismissal, to start disciplinary prosecution within 6 months, failure to do so brings into effect the statute of limitation and the authority to discipline/punish becomes null and void. If there has been no disciplinary punishment within a time limit of two years from the date physical or similar offences have been committed meriting disciplinary action, then the authority to prosecute becomes null and void due to statute of limitation*." In that case, particularly the members of the jury for professorship must forward persons to the Board of Ethics by taking into account the statute of limitations applicable to the contents of files submitted to them.

[22] For detailed information about objective and subjective conditions, see: Ceritoğlu Sengel, 2009: 20 et al.; Öncü, 2010: 109 et al.

The regulation for the statute of limitations was in favor of influential people. Therefore, YÖK introduced a new regulation on 3 June 2005 because of the inconclusiveness of claims of plagiarism towards influential people due to the statute of limitations. Accordingly, it has been concluded as regards the offenses of plagiarism that in cases of the continuation of offense, in cases where the work subject to the plagiarism is sold and bought in any way, or it is available in libraries, or it is accessible in internet environment, and thus, it is used and exploited by its authors or third persons, quoting from or referring to the work subject to plagiarism by the author or authors from another work, the use of the work for another purpose or benefit, a legal, administrative or scientific decision made or the proceedings initiated on the ground of or referring to the work, the time limit of two years for disciplinary punishment shall start from the date on which the recent act or situation has occurred. As for the offenses other than plagiarism, it has been accepted that if the continuation of offense brings about a legal or actual consequence at a date following the occurrence of the act, the two-year time limit of the statute of limitations shall commence starting from the date the most recent act or situation has occurred.

As can be frequently witnessed in the practical life, academic titles might have been acquired through plagiarism and other practices contrary to scientific ethics. In such a case, the relevant academic publication's degree of contribution to the acquisition of the title in question should be determined. If the relevant work is a Master's thesis or a doctoral study or a primary original work in the professorship, its degree of violation of scientific ethics must be identified with it qualitative and quantitative dimensions. If it is concluded that the studies that constitute basis for academic titles lack "*the originality to the extent they reflect the characteristics of their owner*", the said titles are revoked, and the statute of limitations does not apply in such situations. If plagiarism in the work is in the quantity and quality so as to stipulate the revocation of the title, the interested person should be imposed a disciplinary penalty along with the sanction of the revocation of the title. However, in such cases, the time limits of the statute of limitations specified in the YÖK Disciplinary Regulations should be observed.

THE RESPONSIBILITY OF THE PUBLISHER AND EDITOR

It is seen that the majority of unethical scientific behaviors are disclosed through publicization and publication. In such situation, the publishing house and thus, the editor are responsible as much as the author due to the violation of personal rights. Accordingly, many periodicals request from

the authors to sign a letter of undertaking containing the statement of compliance with scientific ethical principles and Copyright regulations. It is understood from spelling and translation errors and publications with minimum contributions that the process of editorial and refereeing are generally not duly performed in Turkey.

In multi-author publications, serious problems arise in measuring the contribution of each author. If the contribution of each author is clearly written, it will be relatively easier to identify the responsible author in case of the detection of unethical behavior. However, the contribution of co-authors is usually not precisely specified, all authors are equally responsible. Therefore, in the inter-disciplinary co-publications of especially authors from different disciplines, it will be very helpful to indicate the contribution of each author. Currently, as the members of the jury mostly cannot determine the contribution of the candidate as co-author, they face difficulties in academic evaluations. In co-author publications, it is of importance, in this context, whether unethical scientific behavior comes out intentionally, inadvertently or negligently; and this might bring about different scales of penalties for co-authors.

Particularly in health field, various researches are sponsored, and by keeping confidential the name of the sponsor company. An impression is created that the findings of such researches are scientific for profit-seeking purposes, which thus leads to competition infringement. Therefore, the letter of taking to be submitted by the author also contains provisions concerning financial sponsorship depending on the content of the publication.

In fact, the contracts of publication houses that stipulate the transfer of copyright also serves as a function that prevents authors from publishing the same publication or its partially different version in other publications. Indeed, this leads to conflicts between the author and the publication house that publicized it first. Thu publication house also requests a letter of undertaking that the study, which sent for publication, is not in the process of consideration by another publisher.

SCIENTIFIC MISCONDUCTS AND SANCTIONS: A FRAMEWORK PROPOSAL

The Turkish legislation in force governs unethical scientific behaviors under two different categories. Accordingly, while the penalty stipulated for plagiarism is "*dismissal from the profession*", violation of publication/research ethics is subject to the penalty of "*warning*."

Plagiarism: The Regulation of Associate Professorship Exam stipulates that a member of the jury, who detects a finding of plagiarism, shall report the situation to the Inter-University Board (Article 7(1)); according to the Regulation of Assistant Professorship Exam, the person, who is proved to be guilty of plagiarism shall be dismissed from the university teaching profession (Article 11(a)-3).[23]

Violation of publication/scientific ethics: Under the Regulation of Associate Professorship Exam, a member of the jury, who detects a violation of publication/research ethics, shall report the situation to the Inter-University Board (Article 7(6)); the Regulation of Assistant Professorship Exam stipulates the penalty of warning for this offense (Article 5(e)).[24]

The framework of penalties stipulated for misconducts, which are briefly described above, is extremely narrow, and tends to see the problem–so to say–merely in two categories as "*black and white*". In this context, it can be said that the consistency between the defined offense and the stipulated penalty fails to meet today's needs; that it remains highly general and it is not much functional in terms of being adapted to concrete events. It is clear that more time is needed for the problem to enter into the agenda of the academic society, as it should, and to attract the attention it deserves. In this framework, the acceptance of a highly generalizing approach seems reasonable unless it is permanent. In this scope, not only the academic

[23] The relevant provision of the Regulation on the Associate Professorship Exam: Article 7 (1) If the members of the jury, who examine a work, detect any kind of plagiarism in the application file, this is informed to the Inter-University Board by a report. Until a decision made about the claim of plagiarism, the Inter-University Board does not make any transaction concerning the application for associate professorship". The relevant provision of the Regulation on the Assistant Professorship Exam is as follows: "Article 11 – Of the following disciplinary offenses (a) the persons, who have committed those specified in paragraph (a) shall be subject to the penalty of dismissal from the university teaching profession, …. (a) Acts and cases subject to the penalty of dismissal from the university teaching profession are as follows…. (3) Presenting someone else's work or study, either partly or wholly as one's own without citing source material".

[24] The provision of the Regulation on the Associate Professorship Exam related to the ethical misconduct in publication/research is as follows: Article 7c (6) "If the members of the jury, who examine a work, detect the existence of ethical misconduct in publication and research in the application file other than plagiarism, this is informed to the Inter-University Board by a report. Until a decision made about the claim of plagiarism, the Inter-University Board does not make any transaction concerning the application for associate professorship. In such situation, immediately an investigation is initiated about the candidate pursuant to the provisions of disciplinary legislation on higher education. If the claim is found to be ungrounded, the process of associate professorship continues from where it left off, and administrative and judicial investigation is conducted about the relevant jury member if the conditions are available. If the claim is found to be grounded, the candidate is considered unsuccessful in his/her application for associate professorship". The Regulation on the Assistant Professorship Exam lays down the penalty stipulated for ethical misconduct in publication/research is as follows: Article 5(e) "To perform attitude and behavior not complying with the dignity of his/her title".

staff's awareness of the issue has to be raised, but also the compatibility between offense and penalty should immediately be established.

In Turkey, the phenomenon, which is attempted to be explained by the word 'plagiarism" with a general approach, and which also covers violations of publication/research ethics in everyday life, incorporates three main characteristics: the act (i) must be of such a nature that requires referring to jurisdiction, such as immaterial indemnity and violation of personal rights; (ii) must be of a nature of a disgraceful behavior, which conflicts with scientific and academic honesty; which is consciously performed, and which will be considered unethical when revealed; (iii) must be a behavior with low profile, which does not comply with the professional standards, and which stems from poor legislation, and thus, is not fully identifiable. These three characteristics may not only exist concurrently at different degrees, but may also appear individually. Undoubtedly, these three different behaviors require serious differences in assessment and punishment they stipulate. In this general framework of classification, each phenomenon should separately be considered.[25]

The sanctions to be imposed on the situations defined in the first two rows and other violations provided in the following table (Table 1) containing the situations that require judicial proceedings and classification of scientific violations should be proportionate, and the penalties as a whole should be deterrent. The implementation of a systematic program for raising awareness of plagiarism and violations of publication/scientific ethics in the academic society should be attached importance to. At this point, if the Master's theses of at least the last few years are reviewed in terms of plagiarism and their compliance with publication/research ethics and other criteria of compliance with standards, and if it is found at the end of the evaluation that that thesis advisors have not exercised due diligence, the issues such as banning such advisors from supervising theses, warning the interested institutes and establishing the sanctions imposed on the institutions in such cases must urgently be taken to the agenda. As for the strengthening of substructure, it is an urgent need that that students must comply

[25]The most visited website on unethical behaviors in the international field is the website called plagiarism (http://www.plagiarism.org/plag_article_types_of_plagiarism.html). In Turkey, along with ÜAK and TÜBİTAK, some universities have also introduced various regulations on publication/research ethics. These regulations are primarily composed of translations and compilations from foreign sources. For an example of commonly used frameworks, see: Ş. Ruacan; "Bilimsel Araştırma ve Yayınlarda Etik İlkeler", http://www.ulakbim. gov.tr/servisler/uvt/tip/sempozyum/sruacan2.pdf [Erişim: 20.06.2010]. As a study on legal consequences of publication ethical violations in Turkey, see: S. Koç; "Yayın Etiği İhlalleri ve Yasal Sonuçları", *Hekim Forumu*, Ocak- Mart 2005, 161: 30-32, [Access date: 20 June 2010].

with ethical rules during their studies such as homework, research, research, presentation, and thesis; in higher education institutions, ethical principles and norms must be updated and regulated so as to cover students.

In the Table below, the acts violating scientific ethics are classified in 11 different categories. In each category, proposals for penalties of different scales have been developed depending on the degree of violation. Thus, not only the offense committed by a person can be considered within more than one category, but also, different people might be subject to different scales of penalty. At present, the Turkish legislation on higher education regulates only penalties of warning and dismissal from the university teaching profession. Therefore, the penalties provided in the table must at least be introduced as secondary penalties, and must be announced to the academic society.

Below, the examples of classification of plagiarism and ethical violations are given along with their proposed sanctions.

FALSIFICATION, FABRICATION, DECEPTION, FRAUDULENCE

The most dangerous and misleading scientific violations are the acts of "Falsification, fabrication, deception and fraudulence." A research, which has not been done, or the act of making up data, doing analysis based on these fabricated data and reporting is a severe scientific violation. In addition, the act of fabricating the data of a research, or producing results for misleading purposes via interpreting by deliberately using inappropriate analysis techniques is also a severe violation in this framework. This type of violation is usually witnessed in sectors with large monetary size and publications/researches for steering purposes.

Although the author's citation of inaccessible primary sources via giving false information is a serious violation, one point should be noted. The author's reference to a scarce source by giving false information may not always be considered within this scope. For example, it is witnessed that some historians falsely and intentionally cite a scarce historical documents they use in their publications, and when later these references are used in other publications by directly referring to the relevant document without mentioning their publications, they claim this is plagiarism. Although in this example, the act of the historian, who has used the original document, constitutes an ethical violation as well, it will not be very appropriate to consider it within the scope of falsification, fabrication, deception, and fraudu-

lence. Instead, it seems more right to make a consideration of violation in the framework of "non-compliance with standards."

A person, who commits this serious scientific violation, is penalized at different rates depending on the degree of his/her purposefulness, inadvertence, or negligence. Accordingly, if the work, in which he/she has committed the said act of violation, has been considered for the title he has acquired, he loses his title. As for the disciplinary penalty, if the relevant person has intentionally committed the act, he/she is penalized by warning, the stop of the stages of progress, deductions from salary or the dismissal from university teaching profession depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. According to the content of matter and its degree of interest of third persons, also administrative and judicial proceedings are initiated for that person. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. Currently, phrase (3) of paragraph (a) of Article 11 of Disciplinary Regulations for Administrators, Academic, and Non-Academic Staff stipulates dismissal from university teaching profession for this type of violation.

Plagiarism

Publicizing or publishing someone else's method, data, finding or publication without referring to him/her is defined as plagiarism in such a way so as to directly or indirectly to give the impression that it is his/her own. In addition, presenting or publishing someone else's work only by altering words without making any notable contribution is also a form of plagiarism. Lastly, publicizing or publishing translated foreign sources as if his/her own work is also regarded as plagiarism.

A person, who commits this unethical act, is penalized at different rates based on his/her purposefulness, inadvertence, or negligence. Accordingly, he/she loses his/her title, which he/she acquired by the work, where he/she has committed the act. As for the disciplinary penalty, if the offense is intentionally committed, he/she is penalized by the penalty of warning, the stop of the stages of progress, deductions from salary or the dismissal from university teaching profession depending on the quality and quantity of the publications containing ethical misconduct, and he/she is dismissed from administrative duty. If he/she has committed the offense inadvertently or negligently, the penalty is commuted one degree. At present, the penalty stipulated for this type of violation in phrase (3) of paragraph (a) of Article

11 of Disciplinary Regulations for Administrators, Academic, and Non-Academic Staff is dismissal from university teaching profession.

Manipulative Hidden Target

Not citing the financial sponsor of the research/project/publication for steering purposes and presenting it as if it is an independent work is a severe violation. Making falsifying/misleading, biased, non-scientific standard publication for profit-seeking purposes, and misleading and falsification via using biased sources on purpose is also an example of severe scientific violation. Such violations are usually committed for pecuniary advantage, and sponsored by a particular product or sector. It is a practice relatively common in the promotion of new techniques in the pharmaceutical industry and health service sector.

A person is penalized at different rates depending on the degree of his/her purposefulness, inadvertence, or negligence. Accordingly, he/she loses his/her title, which he/she acquired by the work, in which he/she has committed the act. As for the disciplinary penalty, if the relevant person has intentionally committed the act, he/she is penalized by warning, the stop of the stages of progress, deductions from salary or the dismissal from university teaching profession depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. At present, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity of his/her title", and stipulates the penalty of "warning" for such behavior.

Unfair Authorship

Adding a new author owing to a small contribution, which does not justify to be mentioned as an author, changing the order of authors without permission, honorary authorship, gift authorship, mutual authorship, citing an esteemed person as co-author without permission, removing the name of a co-author, and hiring a professional author (ghostwriter) for a fee to write or publish on one's behalf are among the examples for such negligence.

A person, who commits this unethical act, is penalized at different rates depending on his/her purposefulness, inadvertence, or negligence. Accordingly, if he/she is the one who is provided with unfair authorship, he/she loses his title, which he/she acquired by the work, where he/she has com-

mitted the act. As for the disciplinary penalty, if the relevant person has intentionally committed the act, he/she is penalized by warning, the stop of the stages of progress, deductions from salary or the dismissal from university teaching profession depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. At present, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity of his/her title", and specifies the penalty of "warning" for such type of violation.

Duplicating Others' Works

Presenting others' previous works by considering individually or jointly without making any significant new contribution as if it is a new work without mentioning this situation is the typical example of such type of violation. In addition, expressing others' works in new phrases by changing the writing style also falls into the scope of this type of violation. Ambiguity appears regarding this type of violation especially in literature review and application. For example, a person has composed his/her 300-page doctoral dissertation of other existing publications in the form of literature review and summary, and as application, he/she has analyzed a model in the literature by using new data. In such case, what will be this person's title of doctor and doctoral dissertation? If that person's work excluding the model application is, by itself, not in the quality and quantity that will make him deserve the title of doctor, then he/she loses his/her title. If that person has failed to present the literature review along with an evaluation and original construction, "quoting" alone is not considered a contribution with regard to this part of the study. Excluding the situations, where academic titles are acquired, it is usually more appropriate not to grade such compilation or translation-compilation activities, emphasizing the lack of author's contribution. If a person has used others' works without sourcing them, this should be considered in terms of chiefly plagiarism and other types of scientific violation.

A person, who commits this unethical act, is penalized at different rates de-pending on his/her purposefulness, inadvertence, or negligence. Accordingly, he/she loses his title, which he/she acquired by the work, where he/she has committed the act. As for the disciplinary penalty, if the relevant person has intentionally committed the act, he/she is penalized by warning,

the stop of the stages of progress, or deductions from salary depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. At present, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity of his/her title", and specifies the penalty of "warning" for such type of violation.

Harmful Scientific Research

Falsifying, misleading, anti- human right, hatred/grudge-provoking and non-scientific standard publications are among the examples of such type of violation. Doing research/publication without being designed compliant with ethical rules, without obtaining permission from the relevant boards, or without completing necessary procedures, or publications with high possibility of giving harm to test subjects/environment are mostly witnessed in health and health-related sectors. Besides, some social and political researches, either intentionally or non-intentionally, provoke xenophobia, gender, and ethnic discrimination, or thus, damage social peace.

A person who commits this unethical act is penalized at different rates de-pending on his/her purposefulness, inadvertence, or negligence. As for the disciplinary penalty, if the relevant person has intentionally committed the act, he/she is penalized by warning, the stop of the stages of progress, deductions from salary or the dismissal from university teaching profession depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. At present, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity, and specifies the penalty of "warning" for such type of violation.

Unauthorized Use

The most common types of this violation are as follows: unduly or slipshod citation; use of someone else's citation, reference or footnote is if he/she has personally accessed, or as if his/her own; unauthorized use of data; cryptomnesia, illusion; unauthorized disclosure of data/findings; noncompliance with the rule of confidentiality.

A person, who commits this unethical act, is penalized at different rates depending on his/her purposefulness, inadvertence, or negligence. As for the disciplinary penalty, if the relevant person has intentionally committed the act, he/she is penalized by warning, the stop of the stages of progress, deductions from salary or the dismissal from university teaching profession depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. Currently, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity, and specifies the penalty of "warning" for such type of violation.

Copyright Infringement

This type of violation refers to violation different from plagiarism, because it involves unauthorized use although the identity of the owner of the work is cited. There are many legal cases concerning this type of violation. As it is about copyrights, it falls into the realm of legislation on the protection of intellectual and artistic works as well, and the case is usually submitted to the jurisdiction. The unauthorized use of a work in such a way so as to go beyond the reasonable extent that can be accepted as quotation, citation from or publication of a work are considered copyright infringement.

A person, who commits this unethical act, is penalized at different rates de-pending on his/her purposefulness, inadvertence, or negligence. As for the disciplinary penalty, if the relevant person has intentionally committed the act, he/she is penalized by warning, the stop of the stages of progress, or deductions from salary depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. Currently, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity, and stipulates the penalty of "warning" for such type of violation.

Duplication, Self-Stealing, Salami Slicing

Presenting his/her previous works by considering individually or jointly without making any significant new contribution as if it is a new work, thus acting contrary to scientific ethics, is a common type of violation. However, if a person does not present such work as a new study, or does not grade

it, the nature of violation changes. In that case, considering only one of the works and ignoring others is a more appropriate attitude. Another example of this type of violation appears as publishing more than one works by dividing the results of a research into sections in such a way so as to disrupt the integrity of the research, or to publish more than one work based on the same data set without making any specific contribution. But it should be careful here. For example, if a person conducted a field study consisting of four different subjects, and transformed each topic into an independent publication, it might not be appropriate to consider it salami slicing. After all, factual status information (identity and tendencies of the subjects, universe, sample size and breakdown, etc.) will be same in all four publications. However, this does not mean duplicating from a publication. Here, the main data set covers four sub-data sets. Self-stealing is a common practice, which is sometimes interpreted wrongly. For example, what happens if a person produces more than one works using the publication and data set materials available in his/her hands? If the references provided in a person's more than one publication are largely the same, how should this be considered? In such a case, the content of each publication should be examined, and it should be looked at whether the cited references have been actually used.

A person, who commits this unethical act, is penalized at different rates depending on his/her purposefulness, inadvertence, or negligence. Accordingly, he/she loses his title, which he/she acquired by the work, where he/she has committed the act. As for the disciplinary penalty, if a person has intentionally committed the act, he/she is penalized by warning, the stop of the stages of progress, or deductions from salary depending on the quality and quantity of the publications containing ethical violation, and he/she is dismissed from administrative duty. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. At present, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity, and stipulates the penalty of "warning" for such type of violation.

Publication Misconduct

Sending a work to more than one publisher, or retracting it on unreasonable grounds, is regarded as publication misconduct. A person, who commits this unethical act, is penalized at different rates depending on his/her purposefulness, inadvertence, or negligence. As for the disciplinary

penalty, if a person has intentionally committed the act, he/she is penalized by warning or reprimand. If a person has committed this offense inadvertently or negligently, the penalty is commuted one degree. At present, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity, and stipulates the penalty of "warning" for such type of violation.

Non-Compliance with Scientific Standards

References non-compliant with scientific criteria; biased sources; deficient (inadequate) sources; inaccessible original sources via giving false or incomplete information; quotations beyond reasonable extent; quotations marked unclearly.

A person, who commits this unethical act, is penalized at different rates depending on his/her purposefulness, inadvertence, or negligence. Accordingly, he/she loses his title, which he/she acquired by the work, where he/she has committed the act. As for the disciplinary penalty, if a person has intentionally committed the act, he/she is penalized by warning, reprimand, deductions from salary, or the stop of the stages of progress depending on the quality and quantity of the publications containing ethical violation. If a person has committed the offense inadvertently or negligently, the penalty is commuted one degree. At present, Article 5 (e) of Disciplinary Regulation on Higher Education describes this type of violation as "to perform attitude and behavior not complying with the dignity, and stipulates the penalty of "warning" for such type of violation.

If the violations specified in this article fall into the scope of the violations specifically listed in other articles, not the penalties in this article, but those stipulated in the specifically regulated articles are applicable. This article covers the violations, which, by nature of violation, are not considered in the scope of specifically regulated articles, but which are clearly non-standard violations by nature.

Other Violations of Scientific Ethics

Those, who commit acts similar the above-stated acts and cases stipulating disciplinary penalty in terms of nature and gravity, are subject to same types of disciplinary penalty. If a scientific misconduct falls into the scope of more than one type of violation, it is considered in respect of each one of them, and is associated with the most relevant violation.

Table 1. Violations of Scientific Ethics

Types of violations of scientific ethics
1. Falsification, fabrication, deception, fraudulence
2. Plagiarism, the poor disguise, the photocopy, perfect crime
3. Manipulative hidden target
4. Unfair authorship (*honor, gift, reciprocal, ghost or paid writer, cheating*)
5. Duplicating others' works (*duplication, potluck paper, the labor of laziness, resourceful citing*)
6. Harmful scientific research
7. Unauthorized use (*slipshod research/publication, infringement*)
8. Copyright infringement
9. Duplication, salami slicing, self-plagiarism, self-stealing
10. Publication misconduct
11.Non-standard practices (*sub-standard, forgotten footnote, misinforming, too-perfect paraphrase*)
12. Other violations of scientific ethics

Note: These types of violation have been compiled from the sources cited in the list of references. Because many references have been used for almost every type of violation, it has been deemed not practical to cite every reference each violation is specified.

CONCLUSION

In Turkey, in recent years, there is a significant increase in violations of scientific standards. On the other hand, the gap in regulations for scientific misconducts leads to confusion in practice. At present, the Turkish legislation on higher education stipulates only the penalties of warning and dismissal from the university teaching profession for plagiarism and publication/research misconducts.

With an aim to make up the inadequacy of the framework of regulations on violations of scientific ethics, a review and classification of scientific misconducts has been made in both literature and practice. Suggestions for sanctions have been developed for each category of scientific misconduct. Considering the existing legislation and judicial decisions in Turkey, it is hard to minimize the violations of scientific ethics occurred in the academic society solely by means of the mechanism of punishment. The reason is that as the dismissal from the profession is considered a quite severe penalty, leaving only the mechanism of "warning"; it would be exaggerated to say that the penalty of "reprimand" is deterrent.

Accordingly, the commissions for plagiarism/ethical misconduct in different fields, which function within the structure of the Council of Higher Education, may stipulate different penalties for the same penalty; a case, where a commission sees no evidence of scientific misconduct/plagiarism, might be considered a case of clear plagiarism by another commission.

This study is hoped to serve at least as a guide in terms of updating and classification of scientific misconducts and sanction suggestions.

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