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# The gender of justice system: Women's access to justice in Turkey



Duygu Hatipoğlu-Aydın <sup>a,\*</sup>, Mustafa Berkay Aydın <sup>b</sup>

<sup>a</sup> Ankara University Faculty of Law, Cemal Gürsel Caddesi No:58, Cebece Kampüsü, 06590, Cebece, Ankara, Turkey

<sup>b</sup> Middle East Technical University Department of Sociology, Üniversiteler Mahallesi Dumlupınar Bulvarı No:1, 06800, Çankaya, Ankara, Turkey

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## ABSTRACT

Access to justice as a practical and process based concept may be defined as the capacity of people to access judicial institutions which shall bring solution to common judicial problems of the people. While the burdens before access to justice are common for various groups, women may suffer more frequently accessing these institutions and have difficult time to overcome the burdens due to other structures which produce inequality. The article focuses on women's access conditions to justice in Turkey and these conditions are assessed from the perspective of deficiency of normative frame and sufficient legal mechanisms which protect women's rights, information deficiency regarding their rights, advice and representation deficiency in their legal problems, burdens before women's access to judicial institutions, high proceeding costs, along with the slow *pace* to hear actions, complex procedures and corruption in the system, vagueness of legal language, and inability to execute court decisions topics.

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## 1. Introduction

Access to justice is one of the fields where the difference between existing codes and the implementation of the same covers a significant space in social life and socio-legal studies. On the other hand, access to justice processes provide possibilities for various discussions with respect to measuring the efficiency of equality before the law which is one of the principles on which modern law rises. It is important to deal with gender issue separately regarding access to justice processes besides social classes and groups while revealing the ambiguity between equality in rights and actual inequalities. In everyday life, the mechanisms based on equality principle fails to solve the problems and disputes arisen from gender inequality. As mentioned above, for example feminization of poverty or non-equality of going out practices have impact on access to justice.

The aim of this study is to assess the status of women in access to justice processes, which is foreseen to have been accessible under equal conditions and one of the junction points of legal equality. Referral to judicial authorities, access to legal information, economic concerns in action filing processes, urban transportation facilities etc., poverty in general, education, inequality in processes such as everyday life and urban life are some of the factors which alter the positions of women in their access to justice processes.

\* Corresponding author.

E-mail addresses: [duygu.hatipoglu@gmail.com](mailto:duygu.hatipoglu@gmail.com) (D. Hatipoğlu-Aydın), [berkayaydin@gmail.com](mailto:berkayaydin@gmail.com) (M.B. Aydın).

In the first section, we explain the method and theoretical framework of the study and make a general introduction to women's access to justice. In the second section, we discuss women's access to justice particular to Turkey with our findings. In the conclusion section we present some solutions to access to justice process.

### 1.1. Context and methods

At the very beginning of our study, we should present the situation of women within the context of gender equality. According to the overall ranking in "The Global Gender Gap Report 2015" Turkey is ranked 130th in the attempt to close the gender gap between men and women among 145 countries worldwide ([The Global Gender Gap Index Results, 2015](#)). Also, according to another survey titled "Public Perceptions of Gender Roles and the Status of Women in Turkey" conducted by [Kadir Has University \(2015\)](#), the ratio of the persons who state that men and women are not equal is 71.2%. We may say that this perception about inequality and codes of behaviour are reflections of government policies that support this situation in different ways. The government treats women as a disadvantageous group in formal Strategic Plans and is positioning women in the context of family. The ex prime minister's statements about equality may be seen as a summary of government's thoughts.<sup>1</sup> The ex and new Family and Social Policies Minister's same statements<sup>2</sup> about equality and violence strengthens our view. This perspective accompanies legislation. At this point an assessment of Turkish legal system through women's access to justice is important. The Islamic social structure caused a special experience of modernization and Turkey's modernization process has always been under tension. The field that the debate being most visible is law. From empire to nation state, all fundamental changes purport Western modernization has been started from legal field, top to bottom ([Berkes, 2003](#), pp. 527–30). The most radical changes of law have been connected with gender. And we can track the orientation of modernization debate through the relation of gender and law. All of these taken together, our topic becomes a useful toolkit to understand the past, now and the changing social structure of Turkey. Also violence is a serious problem that goes along with women's secondary position in social and economic life. According to the "Domestic Violence Against Women in Turkey" survey, the ratio of women who have suffered physical or sexual violence is 36% ([Aile ve Sosyal Politikalar Bakanlığı, 2014](#), p. 83). This situation of women is the starting point of our study. Trying to understand the experiencing of legal mechanisms or access to justice processes by women is one of the ways of seeing the output of all regulations, measures and plans. The problems of access to justice are already valid for different groups such as the poor, the unemployed, the elder and the disabled. But the woman identity is also "intersectional". So, we think that the obstacles to women at the process of access to justice, also put forth the social and economic barriers too.

As a mean of understanding the women's experience of access to justice, first, we interviewed 11 women with a woman interviewer from May to September 2013 in Ankara. Some of the in-depth interviews could be recorded by recorder, yet some of the participants did not accept some parts of the interviews being recorded. One of the writers was attorney at law previously. We found 6 interviewees from clerk's offices, made random selection of cases. Other interviewees were recommended by former colleagues of the authors of the article. All of the women interviewed held court experience in civil courts before. Nine of them had litigation in the family court while the two was related to the labor courts. The varieties have helped to see whether there are differences in the experience of litigation processes. Other details about interviewees like where the talks held, subjects of the cases or age, education, socio-economical background of women are mentioned below. Even though the legal problems concerning family law highly affect the women emotionally in particular, we observed no difference in the women's litigation processes, experiences with attorney of law, or their point of view regarding judicial system in general.

After the in-depth interviews, we needed an outside perspective because the women's narratives were based on individual and mostly private stories and their personal sufferings were so determinative. So we decided to interview organizations dealing with women's issues. We choose organizations from Ankara because living in there made easy to access. Also in Ankara, there are organizations that can provide information from different fields of access to justice process. These meetings provided convenience to understand the system of access to justice from more objective perspectives because in the interviews, we could observe both the views of organizations and the interviewees' personal experiences in regard to women's access to justice. We interviewed officials<sup>3</sup> of four NGO's from October to November 2013. One of the organizations being interviewed was the Human Rights Association (İnsan Hakları Derneği) founded in 1986, which works in the field of human rights in general. In case of violation of rights individual application is possible to the branches of the Association. In addition, it carries out activities such as tracking a case and offering legal assistance to individuals. Other NGO, Flying Broom (Uçan Süpürge), founded in 1996, is an organization that follows the world women's agenda in Turkey and the world, uses all communication channels effectively to make women, women labor and women's problems visible, and works for the integration of human rights for women. Along with the activities such as presenting an idea in the law-making process, it also carries out projects, for example, "Demokraside Kadın İzleri" (Women Traces in Democracy) and "Çocuk Gelinler" (Child

<sup>1</sup> "I don't already believe in the equality of men and women, men and women are different, they are complementary of each other" ([Gazete Vatan, 2010](#)), "The gender equality is opposite to disposition. Women's need rather than equality is to be equivalent." ([BBC Türkçe, 2014](#)).

<sup>2</sup> Fatma Şahin: "The violence against women is perceptual selectivity" ([CNN Türk, 2010](#)), Sema Ramazanoğlu: "No violence against women, there is selective perception" ([ABC Gazetesi, 2016](#)).

<sup>3</sup> Sevim Salihoğlu was member of board of Human Rights Association, Sevna Somuncuoğlu was one of the project managers of Flying Broom, Değer Güngör was attorney directory in Ankara Bar Association Gelincik Center and self-employed attorney. Pınar Çetinkaya and Sesegma Dondokova were general coordinators of projects in The Foundation for Women's Solidarity.

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