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# Gender equality and its heterogeneous impact on the incarceration of women in Turkey

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## 1. Introduction

Gender is amongst the most enduring predictors of criminal behavior as well as sentencing and imprisonment outcomes (Steffensmeier et al., 1993; Schwartz et al., 2015). Despite these stable observations, with varying increases in gender equality around the world, the link between gender and criminal justice responses is not homogenous or consistent over time (Kabeer, 2005). Attempts to understand the link between gender and incarceration have also indicated that this relationship is dependent upon legal and social contexts (Koons-Witt, 2002). Thus, while recent studies from the US reveal a closing gender gap for incarceration rates and other criminal justice responses for certain offenses (Schwartz et al., 2009; Embry and Lyons, 2012; Schwartz, 2013), these findings may mean little for nations with vastly different legal systems and socio-cultural backgrounds. As such, it remains an important empirical endeavor to observe the universality of gender gaps (Steffensmeier and Allan, 1996), and to examine whether societal changes may be connected to closing or expanding gender gaps in incarceration. As the law can be used as a means to reinforce and maintain gender inequality (Schlossman and Wallach, 1978; Smart, 1990), this study explores whether broader societal changes in gender equality present a key factor that may be driving variation in incarceration gender gaps.

Increases in gender equality traditionally have been linked to female offending, most notably in the work of Adler (1975) and Simon (1975/76). Despite the widespread impact of these pieces, this empirical link was dismissed nearly forty years ago when Steffensmeier (1978) suggested that the predicted 'new female offender' was more of a social marvel than an empirical reality. Steffensmeier (1978: 580) further concluded that, "the proposed relationship between the women's movement and crime is, indeed, tenuous and even vacuous." Yet, it is possible that this conclusion was premature. Given that previous analyses aggregated the experiences of all women across a given nation, there may be reason to believe that important variation in gender equality was not captured by the early empirical tests of women's emancipation, masking potential impacts on crime and criminal justice practices. Further, increases in gender equality may interact with traditional gender views, shaping judicial responses (Schlossman and Wallach, 1978; Griffin and Wooldredge, 2006). This renders it unclear whether these extant findings can be generalized from the limited English-speaking contexts in which the studies originally were conducted. Concordantly, it is of central theoretical and social importance to assess whether empirical trends in gender equality within a society are related to criminal justice outcomes. Seeking to explore this potential relationship, this study draws upon data from Turkey between 2000 and 2013 to examine the link between changes in gender equality and the relative incarceration of women.

As a nation with strong ties to both Europe and the Middle East (Özcan, 2006), Turkey provides an ideal context to explore potential variation in the relationship between gender equality and gender gaps in incarceration. Gender equality has been a salient issue within Turkey since it became a nation in 1923, as women's rights were politically central to eschewing the previously theocratic state (Tekeli, 1981). Indeed, Turkey's first president, Mustafa Kemal Atatürk, publicly appealed to women as the group most visibly oppressed by religion through practices such as veiling, seclusion, and polygamy (Tekeli, 1981). While the twentieth and beginning of the twenty-first century saw the global erosion of traditional segregated gender roles (Ingelhart and Norris, 2003), developments toward women's empowerment and gender equality have varied immensely across nations (Kabeer, 2005). This variation is not limited to international comparisons however, and key differences in culture, religion, and social practices within

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Turkey have endured from its history as part of the Ottoman Empire. This is particularly prominent with regard to the treatment of women, with views and practices related to gender equality varying across the different regions in Turkey based upon dominant religious beliefs (Natali, 2005). While Turkey is historically a secularist state and has advocated for gender equality, divergent gender roles promulgated by Islamic traditions remain strong, particularly among those who do not identify with the Turkish Government and its policies in the southeast (Keskin, 1997). As such, this regional variation within Turkey provides an opportunity to observe whether there is meaningful variation within a nation with regard to gender equality, as well as the relative incarceration of women. By examining data from each of the 81 provinces within Turkey, this study investigates whether changes in gender equality may have a potentially variable impact upon the relative incarceration of women within a non-Western and non-English speaking context.

## 2. Gender equality and incarceration

A growing body of literature focusing on western nations has displayed that there are overall gender differences favoring women within criminal justice systems (Daly and Bordt, 1995; Koons-Witt, 2002; Jeffries et al., 2003; Curry et al., 2004; Schwartz, 2013). Claims that this constitutes ‘special treatment’ have been treated with healthy skepticism (Daly and Chesney-Lind, 1988), and it has been claimed that such differences may reflect warranted leniency toward women and not necessarily gender bias against biological men (Steffensmeier et al., 1993). This was traditionally attributed to patriarchal chivalry hypotheses whereby women were perceived to be of greater need of protection from the hardship of incarceration and should thus be treated more leniently (Schlossman and Wallach, 1978; Griffin and Wooldredge, 2006). However, observed gender impacts on sentencing and the decision to incarcerate have often been diminished after controlling for factors such as prior record and the circumstances around the criminal event (Daly and Bordt, 1995). Complicating strict ascribed gender influences, factors such as one’s family status have also been found to impact incarceration decisions for both men and women (Daly, 1987). In addition to these individual-level influences, broader social and structural forces may impact the interaction between judicial attitudes toward gender and incarceration. Koons-Witt (2002) found that prior to the introduction of US sentencing guidelines aimed at reducing unwanted sentencing disparities, women with dependent children, rather than women in general, were less likely to be incarcerated. As this impact was not evident in the years immediately following the guidelines’ introduction (Koons-Witt, 2002), there is empirical evidence suggesting that the impact of gender on judicial decisions may vary even within a single judicial context. Consequently, gender disparities in the application of criminal justice are part of a dynamic process that is affected by both micro and macro influences (Sealock and Simpson, 1998).

The gender gap in crime has been thought to be universal, whereby ‘women are always and everywhere less likely than men to commit criminal acts’ (Harris, 1977; Steffensmeier and Allan, 1996: 459). Independent of unique conditions applicable to women or men, numerous empirical studies have also suggested that female crime rates respond to the same legal and social forces as male crime rates (Steffensmeier, 1980; Boritch and Hagan, 1990; Steffensmeier and Streifel, 1992). Despite these findings, Steffensmeier and Allan (1996) have critiqued the gender equality and crime literature on the basis that many theoretical ideas take for granted that women generally have experienced greater social equality over time, and that the gender gap decreased within the specified groups and times. Particularly in analyses that have aggregated the experiences of all women across a given nation, the average experiences presented by these studies may obscure important trends. Specifically, nation-wide aggregations may obfuscate experiences of socially and religiously marginalized women, and many of the previous analyses have not attempted to measure heterogeneity at the sub-national level. As such, this study aims to evaluate whether it is plausible that some previous findings (or lack thereof) were an artifact of nation-aggregated data that masked important heterogeneity within subnational gender equality trends.

These ideas build upon previous themes and goals within the feminist literature. Early on, feminist scholars recognized the failures of essentialism—assuming that the lives of white middle-class women represented all women’s experiences (Kandiyoti and Kandiyoti, 1987). Although the presence of certain gender gaps may be universal (Steffensmeier and Allan, 1996), the size of any gender equality gap and its consequences to society vary immensely between nations (Kabeer, 2005) and within nations (Kandiyoti and Kandiyoti, 1987). Given that gender equality is among the most central ‘cultural fault line[s] between the West and Islam’ (Norris and Inglehart, 2002: 235), exploring the impacts of variation in gender equality in a nation with Islamic heritage such as Turkey provides an ideal setting to test the universality of gender equality claims.

### 2.1. Gender equality and criminal justice

Notwithstanding the ability to incarcerate individuals against their will, the law is a powerful and pervasive form of discourse that lays claims to hold truth within society (Smart, 1990). It can silence and disenfranchise women who come into contact with it as well as those who seek to challenge it from within and without (Schlossman and Wallach, 1978; Smart, 1990). Identifying and addressing sources of inequality within criminal justice systems has been a major stream of empirical research (see Zatz, 1987; Spohn, 2015). MacKinnon (1991: 1285) however laments that structural legal changes have too often been in response to attempts by ‘women [who] have long demanded legal change as one vehicle for social change,’ rather than being driven by politics, legal practice, and scholarship. Thus, while advances have been made addressing unwanted sources of disparity within criminal justice systems, it is evident that criminal justice responses to individual actions vary over time and may be influenced by variations in the relative level of gender equality within a society.

A growing body of quantitative analyses have demonstrated that changes in the criminal justice gender gaps are attributable to official reactions to female behavior rather than changes in female behavior. In examining official and self-report data from the US between 1980 and 2003, Schwartz et al. (2009) present that rather than being a product of increased female violence, changes in the management of violence are instead responsible for the observed reduction in criminal justice gender gaps. Examining both

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