

Trust to Judiciary in Turkey and Factors Affecting Trust in The Judicial

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Abstract: Modern states realize their legitimacy and the monopoly of legitimate use of force through the judiciary. Citizens' trust in the state is directly related to their trust in the judiciary. In countries that have adopted the rule of law and democracy, the citizens' lack of trust in the judiciary causes many problems. In this context, in modern and democratic countries, it is of great importance to understand the trust of the citizens in the judiciary and the factors that affect this, and to determine the level of belief that justice is impartially, independently and quickly established. The results of the study on the trust of citizens in the judiciary at various times in Turkey show that the decrease of trust in the judiciary and shows that it is at very low levels. The aim of this study was to determine the level of trust in the judiciary in Turkey. In the study, it is tried to measure the trust of the citizens in the judiciary and their perceptions and attitudes on this issue. In this context, "What is the trust level of citizens in the judiciary? What factors affect citizens' trust in the judiciary?" answers to such questions are sought. The study aims to determining the trust of citizens in the judiciary and Turkey in line with a survey was carried out in order to determine the factors affecting it.

Keywords: Trust, government, judiciary, judicial trust, Turkey.

1. INTRODUCTION:

Trust fact is the most basic and most important condition for the continuation of social life and all kinds of association. For this reason at the present time, it is not possible for human beings to continue to living without relying on institutions or other individuals. Because trust lies at the basis of all social, institutional and individual relationships. Therefore, many studies have been conducted in the literature on the importance of trust in individual and community life. In recent years studies, it has been determined that there is a decreasing trend in the trust of citizens around the world in the state, public institutions and judicial organs. Similarly, scientific studies conducted in Turkey, citizens to other individuals, public organizations, shows that the decrease of trust in the judiciary in particular to the management processes of public institutions.

Modern states realize their legitimacy and the monopoly of legitimate use of violence by objectifying them through the judiciary. Citizens' trust in the state is directly related to their

trust in the judiciary. In countries that have adopted the rule of law and democracy, the citizens' lack of trust in the judiciary causes many problems. In this context, in modern and democratic countries, it is of great importance to understand the trust of the citizens in the judiciary and the factors that affect this, and to determine the level of belief that justice is impartially, independently and quickly established.

The aim of this study was to determine the level of trust in the judiciary in Turkey. In this direction; the aim is to seek answers to such questions “*What is the trust level of citizens in the judiciary? What factors affect citizens' trust in the judiciary?*” At the direction of this study's aim, a survey study was carried out in Turkey to determine the trust level of citizens in the judiciary and the factors affecting it. The study is a quantitative field study and it was carried out according to a cross-sectional scanning survey model as a model. A semi-structured in-depth interview and a fully structured questionnaire were used as data collection survey form. The universe of the study consisted of citizens 18 and older living within the borders of Turkey.

In the sample selection, provinces were determined based on the Nomenclature of Territorial Units for Statistics (NUTS) established by the Turkish Statistical Institute (TSI). The survey was planned to be conducted in face-to-face interviews with 2128 participants in 26 provinces, 66 districts and a total of 330 neighbourhoods.

The study contains important findings about the level of trust in the judiciary in Turkey. In the light of the findings obtained, it was concluded that the trust level of the Turkish people in the judiciary is low.

2. LITERATURE REVIEW

In addition to being the glue of the society, increasing social cooperation and being a vital element for states, institutions and individuals; trust is a fact that regulates modern life and manages the daily life tension of human beings. Trust is the product of double-sided positive expectations. In addition to defining trust as a cognitive prediction, a feeling or a psychological attitude, Luhmann (1988) defines it as an “*effective way to reduce complexity*”. Trust is one of the most fundamental factors in establishing a healthy relationship between the state and the citizen. The low level of trust in the state adversely affects the functioning of the public administration, supports corruption and puts the relationship between the citizen and the state in a vicious circle (Emre, 2003: 217-218), further threatening social peace, it causes leading to the questioning of the legitimacy of the state and the reason for its existence (Örselli, 2010: 150; Örselli, 2016). In addition, individuals who experience a sense of insecurity, fear, suspicion and distance feeling too much, instead of establishing a direct relationship with the state or the administration, try to get people or groups such as intermediaries and acquaintances to get things done. This reveals the understanding of patronage and causes some unethical undesirable behaviours. In addition, this situation can negatively affect the legal principles that require equal treatment of citizens and often harm them (Bulut and Kahraman, 2010: 339). In other words, in an environment where the judiciary is not trusted, the courts will not be the place to resolve the disputes (Gülener, 2018: 23).

For the continuity and stability of social life, individuals are expected to act within the framework of certain rules in the society and to abide by the rules of law in their relations with other individuals. At the same time, in modern states based on the rule of law and democratic principles, those in power are responsible to society. The people, who are the source of rulership, use this power through various organs. The members of the judiciary, who are the actors of the judiciary, which constitute the third pillar of the principle of

separation of powers, account for only the law and their own conscience (Jayawickrama, 2002: 1901-1902). Members of the judiciary contribute to the formation of social trust by ensuring the protection of rights and freedoms and the fulfilment of justice for the continuation of the social order. A judicial system that has not gained the trust of the public may not seem fair, even if it makes fair decisions.

In today's modern societies governed by democracy, the rule of law is an indispensable element (Kalem, Jahic and Elveriş, 2008: 2). Because the state uses the legitimate monopoly of force (Weber, 2004: 90) through the judiciary. Due to the increasing importance of law today, revealing the relationship between citizen and law is important in many aspects. Consideration of the reflections of the law in social life and the way it is perceived by individuals in the preparation, amendment and implementation of legal rules is directly related to the increase in the participation of the people in decision-making processes in democratic societies. Citizens' views and experiences are perceived as the real consequences of the law and judicial bodies (Kalem, Jahic and Elveriş, 2008: 1).

In recent years, trust in the state has decreased significantly in many countries and this lack of trust between the citizens and the state negatively affects the legitimacy of the state and its institutions (Akgün, 2001: 2-3). Especially since the 1960s, it has been observed that citizens around the world have a tendency to decrease their trust in the state and therefore in public institutions. Indeed, Turkey as well, it has been demonstrated by studies that the trust to public institutions, particularly the judiciary, followed a bumpy.

Judicial trust, especially trust in the government is at very low levels in Turkey. However, it is very important to monitor the level of trust in the judiciary. Because the judicial system is a meta-trust (broader trust) builder. It also makes more possible trust in other institutions. Level of trust in the judiciary in Turkey has declined as well over the years. This condition is not just an issue unique to Turkey also advanced many countries is reported to have low levels of public trust in the judicial system also needed (Van de Walle, 2009: 22). Turkey conducted in private, sample and scales in terms of the level of trust in judicial institutions in different empirical studies, it took part in last place overall when compared with other institutions (Bilgiç, Akyürek and Koydemir, 2015: 34).

3. METHODOLOGY

The study is a quantitative field research. Questionnaire technique was used to measure the trust in the judiciary; cross-sectional scanning survey method was preferred as a model. A fully structured questionnaire form was used as a data collection tool in the study. The questionnaire form, which will provide the necessary data for the study, is composed of two main parts. The first part includes questions to determine the demographic characteristics of the participants, and the second part includes questions to measure the trust of the participants in the judiciary.

The survey was conducted between 21.10.2019-15.11.2019 in a total of twenty-six provinces in line with the sampling plan determined. A total of 73 pollsters and 59 field coordinators took part in the survey study. After the implementation phase of the field study was completed, the data in the questionnaire forms which have consistent answers were encoded and loaded into the SPSS 22.0 program, and then the analysis phase was started.

In order to investigate the reliability of the scale used in the study, the Cronbach Alpha coefficient was calculated for similar questions. The reliability analysis (Cronbach alpha) of the questions about the trust in the judicial body or officials in the questionnaire was determined as 0.96. The obtained coefficients showed that the answers given to the questions were highly consistent level with each other.

The universe of the research and sample selection was determined as follows. The universe of the study is age 18 and older citizens living within the borders of the Republic of Turkey. In the sample selection, provinces were taken as a basis. Provinces have been determined on the basis of “*Statistical Regional Units Classification (NUTS)*”. The survey was conducted by face-to-face interviews with 2128 participants in 26 provinces, 66 districts and 334 neighbourhoods in total. The distribution of the sample by provinces is arranged in Table 1.

Table 1: Distribution of the Sample

Region No	Regions	Provinces	N	Total	%
1	İstanbul	İstanbul	439	439	20,6
2	West Marmara	Tekirdağ	50	100	4,7
		Balıkesir	50		
3	Aegean	İzmir	120	284	13,3
		Aydın	83		
		Manisa	81		
4	East Marmara	Bursa	103	198	9,3
		Kocaeli	95		
5	West Anatolia	Ankara	167	232	10,9
		Konya	65		
6	Mediterranean	Antalya	78	258	12,1
		Adana	104		
		Hatay	76		
7	Middle Anatolia	Kırıkkale	40	102	4,8
		Kayseri	62		
8	West Black Sea	Kastamonu	22	123	5,8
		Zonguldak	28		
		Samsun	73		
9	East Black Sea	Trabzon	70	70	3,3
TRA	Northeast Anatolia	Erzurum	27	55	2,6
		Ağrı	28		
TRB	Middle east Anatolia	Van	44	89	4,2
		Malatya	45		
TRC	Southeast Anatolia	Mardin	45	178	8,4
		Şanlıurfa	73		
		Gaziantep	60		
Total		26	2128	2128	100,0

By using the “stratified sampling method” in sample selection in the study; how many number of surveys will be used in districts was determined according to the number of voters. After the determination of the settlements or streets in the determined neighbourhoods which survey will be applied were chosen by random method. Probabilistic sampling was abandoned in determining the participants to be interviewed, and gender and age quotas were applied.

4. STUDY FINDINGS

In this part of the study, after mentioning the demographic characteristics of the participants, the trust in judgment and the influencing factors will be examined.

Demographic Distribution of Participants

The demographic distribution of the participants is indicated in Table 2.

Table 2: Demographic Information of the Sample

		Replies	N	%
<i>Gender</i>	Female		1058	49,7
	Male		1070	50,3
<i>Age</i>	18-24		348	16,4
	25-34		513	24,1
	35-44		443	20,8
	45-54		362	17,0
	55 and older		462	21,7
<i>Education</i>	Literate (without diploma)		52	2,4
	Primary School		541	25,4
	Secondary School		504	23,7
	High School		619	29,1
	University		375	17,6
	Postgraduate		37	1,7
<i>Job</i>	Worker		436	20,5
	Housewife		398	18,7
	Private sector employee		260	12,2
	Tradesman		257	12,1
	Retired		231	10,9
	Unemployed/Looking for a job		169	7,9
	Public official		149	6,9
	Student		146	6,9
	Self-employed		68	3,2
	Trader/businessman/industrialist		8	0,4
Farmer		6	0,3	
<i>Income</i>	0-2000 TL		753	35,4
	2001-4000 TL		583	27,4
	4001-6000 TL		589	27,7
	6001 TL and higher		203	9,5
		Total	2128	100

When the demographic characteristics of the participants are analysed; the sample is observed to have a balanced distribution in terms of gender, age, education, income and occupational status and also to reflect the universe Turkey with a very small margin.

Table 3: Political Position, Religiosity Level, Life Satisfaction and Future Expectations of the Sample

Variables	N	Minimum	Maximum	\bar{X}	St. Dev.
Position on the Ideological Spectrum*	2128	0	10	5,20	2,45
Religiosity Level**	2046	1	5	2,88	1,28
Satisfaction with Life**	2105	1	5	2,73	1,27
Future Expectation**	2106	1	5	2,74	1,23

Note: (i) *0 means Left, and 10 means Right on the scale. (ii) **The replies were organised from positive to negative in the Scale.

When the findings are examined, it can be stated that although the participants seem to have positioned themselves on the left and right on the ideological spectrum almost at the same rate, the rate of those, who position themselves on the right is slightly higher. The participants portrayed a religious image according to their level of religiosity; the percentage of those who are satisfied with their lives and those who have positive future expectations is almost half.

The Meaning of Justice

In order to determine what is understood from the concept of justice and how the society perceives this concept, a question was asked to the participants as “*What does justice mean for you?*” and they were asked whether or not they agree with the statements given.

Table 4: Meaning of Justice

Answers	N	%
Equal before the law	1919	90,2
To comply with the law / laws	1903	89,4
State and laws	1869	87,8
Protecting the rights of the oppressed / weak	1860	87,4
Distinguishing between right and wrong	1838	86,4

Note: (i) The values in the table show those who responded as “I agree” to the given statement.

According to the findings, 90.2% of the participants were “equal before the law”, 89.4% “to comply with the law/laws”, 87.8% “state and laws”; they stated that they agree with the statements 87.4% of them “protecting the rights of the oppressed/weak”, and 86.4% “distinguishing between right and wrong”.

Courts and the Meaning of the Judiciary

Another question was asked the participants, “*What do the Courts and the Judiciary mean to you when you evaluate in general?*”

Table 5: Courts and the Meaning of the Judiciary

Answers	N	%
The place where citizens' compliance with the law is checked	1909	89,7
The place where justice is distributed, that is, the right and wrong are distinguished	1832	86,1
The place where the citizens seek their rights	1760	82,7
The place where the criminals are punished	1661	78,1
The place where the victims / weak are protected	1620	76,1
The place where the word of the strong	776	36,5

Note: (i) The values in the table show those who answer the statement as “I agree”.

Participants perceive the court and judiciary as the most powerful place (89.7%) as “the place where citizens’ compliance with the law is checked”. Secondly (86.1%) “the place where justice is distributed, that is, the right and wrong are distinguished”, thirdly (82.7%) “the place where the citizens seek their rights”, 78.1% “the place where the criminals are punished”, 76.1% perceives it as “the place where the victims/weak are protected” and 36.5% perceive it as “the place where the word of the strong”.

Definition and Perception of the State of Law

In order to determine how the consciousness and perception of the rule of law in the society and how the rule of law is defined, the participants were asked whether or not they agree with a series of propositions. These propositions refer to the state of law indicators according to citizens.

Table 6: Perception of the Rule of Law

Answers	N	%
Turkey is a state of law	1607	75,5
The courts will protect me unless I commit a crime	1547	72,7
The judiciary will protect us when the official institution or government official makes a mistake	1476	69,4
A fair decision will be taken in courts	1406	66,1

Note: (i) The values in the table show those who answer the statement as “I agree”.

According to the findings, a fairly large proportion of respondents (75.5%) were stated that “Turkey is a state of law” is participating in the proposition. 72.7% of the participants believe that “the courts will protect me unless I commit a crime”. The rate of those who believe that “the judiciary will protect us when the official institution or government official makes a mistake” is 69.4%. The belief that “a fair decision will be taken in courts” is accepted at a lower rate compared to other propositions.

Trust in Judicial Bodies

In order to determine the trust in the judiciary, a question was asked as “*Would you please indicate how much you trust the following institutions or members of the judiciary.*”

Table 7: Trust in Judicial Bodies

Judicial Body / Member	Average	St. Dev.	Min	Max
Constitutional Court	5,12	2,94	0	10
Prosecutors	4,13	2,93	0	10
Bar Associations	4,07	2,96	0	10
Council of state	4,03	2,92	0	10
Supreme Court Members	4,03	3,01	0	10
Lawyers	4,03	2,91	0	10
Council of Judges and Prosecutors	4,02	2,97	0	10
Supreme Court	4,01	2,92	0	10
Judges	4,00	2,94	0	10
Courts	3,95	3,00	0	10

Note: (i) In the scale 0 means “distrust” and 10 means “trust”.

According to the findings obtained, the most trusted judicial body was determined as the “Constitutional Court”. Unfortunately, other institutions or members of the judiciary, which are among the judicial bodies, have received very low scores on the trust scale and are among

the unreliable institutions. The evaluation of the Constitutional Court as the most reliable judicial body in the trust scale (for similar results see Gökçe, 2007; Gökçe, 2013; Can, 2015; Bilgiç, Akyürek, & Koydemir, 2015; Esmer, 2012; Örselli, 2016) is an interesting result for the study.

The evaluation of the Constitutional Court as the most reliable judicial body in the trust scale is an interesting result for our study. In the study conducted by Benesh and Howell (2001) on trust in courts, they concluded that the level of trust in the United States Supreme Court is higher than the level of trust in first instance courts. They state that this difference may be due to the authority atmosphere created by the Supreme Court and the fact that they stay away from people's lives. In addition, it is stated that factors such as the Supreme Court's decisions being more abstract, containing issues that do not directly affect the life of the public and the low level of knowledge of the citizens about the Court contribute to the high rates of trust (Jahic and Kalem, 2009: 63). In Turkey, trust to "The Constitutional Court" emerging as the most reliable judicial body on the trust scale can be evaluated in this context, too.

In addition to determining the level of trust in judicial bodies, the study also sought an answer to the question of which demographic characteristics of individuals are affected. There are some findings in the studies in the literature that there is a significant relationship between trust in judgment and demographic characteristics of individuals.

First of all, in the analysis conducted on to what extent trust in judgment is affected by gender (t-test); It was determined that there is a significant relationship between trust in judgment and gender ($p < 0.05$). Accordingly, men trust institutions more than women. Additionally, as the income level decreases, the trust in the judicial organs or officials increases. However, it was concluded that age and education level had no effect on trust in the judiciary.

In addition to the demographic characteristics of the participants, analyses were made on whether the trust in the judiciary was affected by their perspective on life, their hope for the future, their political views and their level of religiosity.

Table 8: Factors Affecting Trust in the Judiciary

Judicial Body / Member	Life Satisfaction	Future Expectation	Political View ^a	Religiosity Level
Constitutional Court	,079**	,106**	,128**	,133**
Courts	,065**	,114**	,125**	,122**
Judges	,086**	,110**	,117**	,119**
Prosecutors	,085**	,098**	,086**	,131**
Lawyers	,053*	,077**	,077**	,083**
Supreme Court Members	,114**	,122**	,106**	,122**
Council of Judges and Prosecutors	,085**	,114**	,095**	,111**
Bar Associations	,085**	,087**	,081**	,080**
Council of state	,080**	,100**	,097**	,098**
Supreme Court	,098**	,104**	,104**	,097**

Note: (i) * $p < 0.05$; ** $p < 0.01$; ^aHigher scores indicate that right-wing political opinion is more dominant. (ii) Coefficients are Pearson Correlation Coefficients.

When the table is analysed, it can be seen that, in general, there are low-level positive relations between life satisfaction, hope for the future, level of piety and trust in the judiciary or officials. According to the findings, as the life satisfaction of the participants, their hopes for the future and their level of religiosity increase, the trust in the judicial body or officials

also increases. In addition, it has been determined that when the right-wing political opinion is more dominant, trust in the judicial body or officials increases.

5. CONCLUSIONS

Looking at the judicial bodies through the eyes of the citizen is of particular importance in terms of revealing the legitimacy of the system and examining the elements that damage or strengthen this legitimacy. In studies conducted in recent years has been determined that the decrease in the level of trust of citizens in the judiciary in Turkey. The findings obtained in this study also support the decrease in trust.

In the study, what the participants understood from justice, the meaning of the court and the judiciary for them, the perception of the rule of law, the level of trust in the judicial body and its members were tried to be analysed. In addition, the relationship between the demographic characteristics of the participants and their level of trust in the judiciary was tried to be determined.

When it comes to justice, the participants say “everyone should be equal before the law; when the court and judicial body are mentioned, it is seen that they understand it as “the place where citizens are inspected for compliance with the law”. It has been determined that trust in the judiciary is affected by some demographic characteristics of individuals such as gender, income level, as well as life satisfaction, future expectation, political opinion and level of religiousness. “The Constitutional Court” has been the institution of the most trusted between judicial bodies in Turkey. Other judicial bodies/institutions or their members scored lower on the trust scale. These results are quite thought provoking in terms of the judicial system in Turkey. It is not possible for the unreliable judiciary to be successful in establishing and manifesting justice. In recent years in the judiciary field in Turkey; called “judicial reform” made some arrangements, but the name of trust in the judiciary still has not come to the desired level. According to sum up results of the study on a comprehensive judicial reform in Turkey shows that urgently need to strengthen the belief in the rule of law. Because diminishing trust is a sign of dissatisfaction with the system and a system crisis. The legitimacy crisis is not a desired situation in terms of the sustainability of the system in modern states.

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