

## Trust in judiciary: a particular survey on Turkey

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### Abstract

The results of different studies on trust on judiciary show increasing distrust of the citizens' and the very low level of trust in Turkey. It is stated that the lack of trust stems from many reasons. In this context, the subject of this study is to identify the level of trust in judiciary in Turkey. The study examines the trust in judiciary from the perspective of the citizens and also tries to measure their perceptions and attitudes on this subject. For the purposes of the Study, a survey is preferred to measure the Turkish citizens' level of trust in judiciary and the main factors affecting the trust. The survey is conducted through face to face interviews with 2000 participants in 26 cities, 83 districts and 382 neighborhood units in Turkey from February 23 to March 23 in 2015.

Keywords: Trust, trust in Judiciary, Turkey.

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## 1. Introduction

The phenomenon of trust is the main and the most important condition for the continuation of the social life and all the togetherness. Therefore, it seems impossible for humanity to maintain the life without trust to other individuals and institutions. The phenomenon of trust is the essence of all the social, institutional and individual relationships. Because of this reason, there are a lot of studies on the effects of trust on individual and social life in literature. In these studies, the phenomenon of trust is frequently described as the glue of society; increasing the social cooperation; and also a vital element for the economies, the states, organizations and groups.

A declining trend in the citizens' trust in the state and also in its institutions in all over the world is stated frequently in recent studies. Parallel with these studies, the decrease in citizens' trust in other individuals, public institutions, the administrative process of these institutions and specifically in judiciary is underlined by the literature in Turkey, as well.

The modern states practice their judiciary legality and legal violence monopoly by embodying judiciary. The citizens' trust in the State depends on their trust in judiciary and the other public institutions. Assessing the citizens' level of trust and the factors which affects the trust is very important for the democratic countries. In addition to these, the determination of the level of belief in impartially, independently and quickly justice is necessary. In democratic countries where the rule of law is institutionalized, the citizens' distrust in judiciary causes many problems. And also the trustworthiness and legality of judicial bodies is directly related to the belief of judicial system (Orselli, 2016; Orselli & Sipahi, 2016).

The results of different studies on trust on judiciary show increasing distrust of the citizens' and the very low level of trust in Turkey. It is stated that the lack of trust stems from many reasons. In this context, the subject of this study is to identify the level of trust in judiciary in Turkey. The study examines the trust in judiciary from the perspective of the citizens and also tries to measure their perceptions and attitudes on this subject. In this regard, in the study aims to find out the answers to some questions like *"What is the citizens' the level of trust in judiciary? Which factors affect the citizens' trust in judiciary? What is the level of satisfaction from judicial services?"*

For the purposes of the Study, a survey is preferred to measure the Turkish citizens' level of trust in judiciary and the main factors affecting the trust. The survey has been derived through the "Judicial Ethics as a Social Value and Trust Perception of Society in Judiciary" Project, which was promoted by the Necmettin Erbakan University (Turkey) Scientific Researches Projects Coordination Office with the project number 141721001. The survey is conducted through face to face interviews with 2000 participants in 26 cities, 83 districts and 382 neighborhood units in Turkey from February 23 to March 23 in 2015. The cities were determined according to "Nomenclature of Units for Territorial Statistics (NUTS-Level 2)", in order to form a database compatible with the European Union Nomenclature Statistics System of State Planning Organization. In the light of the data to be obtained through this survey, the level of Turkish people's level of trust in judiciary and the main factors affecting the trust will be analyzed.

## 2. Trust and Trust in Judiciary

Analyzing the trust is necessary, both understanding how the citizens' attitudes and perceptions on administrative institutions are changing and what are the political and social results of trust. Because the existence of the political system is related to the trust level which should not fall down a minimum rate (Akgun, 2006). On the other hand, trust is an essential condition for a healthy relationship between the government and the citizen.

Although Uslaner (2001) calls attention to the necessity of trust which is a vital element for the social life, in establishing the social relationships, providing the economic development, satisfaction in public services and daily life pleasure, he underlines that there is a mystery about trust (2001, p. 569). So the trust is identified as a full unresolved phenomenon that brings the society and individuals together, but has some mysteries on institutional and individual lives.

There is not a common definition of trust, on which there is an agreement, in the literature (Mühl, 2014). However, there are similar definitions made by different researchers. For instance trust can be defines as the base, which directs the individuals towards voluntary collaboration for common interests of the society and makes the formation of the good-society easier in that way (Erdem, 2003).

Luhmann (1988) describes trust as “an effective way to reduce complexity”. Trust can be evaluated as a mental sense which is used to reduce the complexity of daily life by human beings (1988). For Gambetta (1998), trust is one’s belief in the others that they will intend not to manipulate us, and they have the knowledge and ability to put in outstanding effort for realising that intention (1998).

According to the trust typology developed by Uslaner (2004), there are three different types of trust. Those are: “strategic/partial trust”; “moralistic/generalized trust” and “trust in institutions” (2004). The type of trust, which will be discussed in our study, is the trust in institutions. Trust in institutions can be defined as the trust of individuals in the abstract systems of social institutional bodies (Korczynski, 2003). In this type of trust that is towards the symbolic images and systems of profession, trust is based on the belief in the accuracy of the principles, which the trusters do not know much about.

For Luhmann (1988), trust in little social groups forms the basis of their connection and the sense of trust to complex structures of modern life (as cited in Lewis & Weigert, 1985). Trust to the system means the people’s trust in the State, institutions and laws. On the other hand, trust between individuals develops one to one relationships. Like Luhmann, Hardin (2002) denotes that trust to the State is narrower than trust between individuals and also calls this situation “confidence” or “semi-trust” (2002). Thus, the situation of institutional trust is provided by trust between individuals. Also Putnam (1993) advocates the trust between individuals helps to produce the social cooperation which is needed to provide trust to the State and the functionality of the system (Putnam, 1993; Uslaner, 2002).

It is stated that, the governments’ effort to gain the trust and to win the consent of the citizens is just before the new and especially the controversial public policies. Because the citizens trust level is the basis of democratic legality (Perrucci & Perrucci, 2009).

Regular and also institutionalized establishments like armed forces takes place at the top of the most trusted institutions. But it can be seen that, at most of the countries, the citizens with low levels of trust in the institutions of the political system, parties, parliaments and the judgement system. These low levels of trust brings up some questions like; “why the trust level is low?” and “how can trust be strengthened?”. So, it can be underlined that there is a necessity of a new perspective in repairing or rebuilding the trust (Cheema, 2010)

Trust in judiciary, as one of the three pillars of democracy is a feedback mechanism about process of the judgement, the effectiveness of the judgement system for the judiciary and the policy makers. The citizens attitudes and perceptions on the judgement system is very important for solving the problems of judiciary (Bilgic, Akyurek & Koydemir, 2015).

In democratic countries, seeing the level of citizens’ trust in judiciary, understanding the factors to affect that trust, judiciary’s having a respected position, the belief in justice about being organized in a neutral, independent and fast manner are of essential importance. In this regard, the rule of law principle is a *sine qua non* for democratic countries. In 2<sup>nd</sup> provision of the Constitution of Turkish Republic, “*the principle of democratic, secular and social state ruled by law*” is adopted.

The thoughts of the individuals about any issue might be formed through three elements: personal experiences; the things heard and learned from others (secondary experiences); and the expectations. In this respect, it is possible to suggest that the thoughts about the processing of judicial system are formed through the individuals' experiences of themselves, their hearings about the experiences of others and their expectations from the courts (Jahic & Kalem, 2009). Then, the trust of citizens in the judiciary is partly affected by daily events and personal experiences. However, it should not be ignored that, the citizens' trust in judiciary/judicial system is multi-dimensional. In other words, general attitude of the citizens towards judiciary is the combination of various factors. The people might or not trust the justice system due to different reasons (Van de Walle, 2009).

The issue of the position of judicial system in citizens' lives and their perception towards it is away from being a point of interest in Turkey. In addition one can notice the lack of studies conducted by official bodies for determining the views of citizens about the judicial system and their expectations about it, or for changing those view positively and also lack of commissions established for dealing with those issues. Not only are the efforts by the official bodies but also the studies by the researchers not many as well (Kalem, Jahic & Elveriş, 2008).

### **3. Aim and Methodology of the Study**

A field study was conducted to see the society's level of trust in judiciary and the factors building that trust, and the questions, for which some answers were looked for by the study, were tried to be replied using the data and findings derived through that study. Due to the aim to measure the trust of citizens in the judiciary through the perception of citizens, questionnaire method has been preferred in this study, as well.

The questionnaire study was conducted by "*Arima Research Consultation and Education Services Limited Company*". The field work part was done in 26 cities from February, 23 to March 23 in 2015 in accordance with the sample plan determined before. After the field work was finished, the data of the questionnaire forms involving consistent replies were coded in the SPSS 16.0 software, for the analysis. The Cronbach's Alpha ( $\alpha$ ) value of the scale, which was used in the study, was found to be ,885.

Geographically, the field study involves the whole settlement areas within the borders of Turkish Republic. The universe of the study consists of the citizens of Turkish Republic, who are at and over the age of 18, living within the borders of Turkey. The cities were taken as the base for selecting the sample. The cities were determined according to "*Nomenclature of Units for Territorial Statistics (NUTS)*", in order to form a database compatible with the European Union Nomenclature Statistics System of State Planning Organization. The field study was conducted through face to face interviews with 2000 participants in 26 cities, 83 districts and 382 neighbourhoods.

### **4. Findings of the Study**

#### *4.1. Analysis of the Socio-Demographical Characteristics of the Participants*

The first question addressed to the participants for determining their socio-demographical characteristics is the one for determining the gender groups. 50.2% of the participants are male, and 49.2% of them are female. When the gender groups of the participants is considered, it is seen to be reflecting the Turkey universe, according to the gender data of the Address Based Population Registration System in 2014.

When the participants are analyzed according to age groups it is seen that: 27.1% of the participants are between the ages of 18 and 24; 28.3 of them are between 25 and 34; 21.4% of them

are 35-44; 12.5% of them are between 45-54; and 10.7% of them are older than 55. In this regard, it might be stated that the sample has a younger profile. According to the data, the age groups of the participants involved in the sample reflect the Turkey universe, with a small difference.

In another question about the demographical characteristics of the participants, they were asked to mark their marital status. Accordingly, while 52.1% of them are married, 43.9% of them are single and only 3.6% of them are separated from their wives/husbands. Regarding their marital status, most of the participants are observed to be married.

When the groups of educational level is observed: 3.7% of the participants are seen to be literate, while 20.9% of them had been graduated from primary school, 14.7% of them from secondary school, 35.8% of them from high school, 23.5% of them from university. Additionally 1.3% of them have master's degree and 0.1% of them have doctoral degree. Considering the groups according to education, the relatively higher rate is the one of the participants having graduated from secondary school.

For determining the social status of the participants, first they were asked to mark the income level, which is the most compatible with their income. When the data derived about that issue is observed: 48.4% of the participants are seen to have an income level at and under 2000 Turkish Liras (TL), while 33.9% of them have an income between 2001 and 4000 TL, 12.9% of them earn between 4001 and 6000 TL, and 5% of them have an income over 6001 TL. It can be stated that the grater group of the participants have an income of 2000 TL or less.

Another question related to the social status is the one about the jobs/professions of the participants. According to the data derived, 17.8% of the participants are housewives, 16.1% students, 16.0% are workers, 13.4% are small retailers or handicraftsmen, 11.9% private sector employees, 7.3% retired persons, 4.2% jobless persons or seeking work, 4.2% government officers, 2.9% middle or top level managers at private sector, 2.1% self-employed persons such as doctor, engineer etc., 1.3% teachers or academic staff, 1.3% tradesmen, businessmen or industrialist, 0.4% farmers, 0.4% middle or top level managers at public sector, 0.2% judicial members. It can be suggested that none of the job/profession groups is very common for the participants, and the distribution is mostly equilibrium.

#### 4.2. Citizens' Trust in Judiciary in Turkey

To clarify what does the concept of justice mean and how is it perceived by the citizens, the question of "what does the justice mean to you?" asked to the participants and some phrases are given below which has two options like "I agree" or "I don't agree". The answers are given at the Table 1.

Table 1.The Meaning of Justice

The Meaning of Justice	Number	%
The State and laws	1568	78,3
Equality before the law	1549	77,4
Compliance with the law	1529	76,4
Distinguishing Fair and Unfair	1526	76,2
Protection of the weak/oppressed	1413	70,6

**Note:** The values given at the Table show the number of the phrase of "I agree".

According to the findings, 78.3% of the participants said the concept of justice means "the State and Laws", 77.4% of them mentioned "equality before the law", 76.4% of them mentioned "compliance with the law", 76.2% expressed "distinguishing fair and unfair" and 70.6% said "protection of the weak/oppressed". When an analyze is made if there is a meaningful difference between the responses and the demographic characteristics, it can be said that there is no significant difference. In this

context, the demographic characteristics of the participants do not affect the perception of justice directly.

In the field study, in order to determine the citizens' level of trust in the judicial institutions, the participants were asked to reply that question: "Can you mark the level of trust you have in the institutions and officers below?". The replies given to the question can be seen at the Table 2.

According to the findings derived, the most trusted institutions is "The Constitutional Court" with a mean rate of 5.35. The Supreme Court, The State Council and The Supreme Board of Judges and Prosecutors are the other trusted institutions among the judicial institutions. Even though the mentioned institutions can be evaluated as trusted, they have low marks on the trust scale (5.03-5.35/10). In addition, the bars (4.89) and courts (4.80) are seen as distrusted institutions. Again, members of supreme courts, judges, prosecutors and the lawyers are distrusted by the participants. Lawyers are the least trusted (or most distrusted) professionals in the judicial system, with a mean trust level of 4.61.

Table 2. Trust in Judiciary

Institutions/Positions	Mean	Std. Dev.
The Constitutional Court	5,35	2,906
The Supreme Court	5,16	2,882
The State Council	5,12	2,815
The Supreme Board of Judges and Prosecutors	5,03	2,839
Members of the Supreme Courts	5,02	2,794
Bars	4,89	2,809
Judges	4,83	2,815
Courts	4,80	2,894
Prosecutors	4,72	2,815
Lawyers	4,61	2,856

**Note:** In the scale, "0" means "I do not trust" while "10" means "I trust".

It is obvious that The Constitutional Court, The Supreme Court, The State Council, and The Supreme Board of Judges and Prosecutors -although they can also be seen as trusted institutions with a small difference from being distrusted- have considerably low mean trustworthiness values. In this context, it can be stated that the Turkish society, who are very distrustful towards others and have low levels of trust in their government, have also some problems about trusting the judicial institutions.

The Constitutional Court's being evaluated as the most trusted judicial institution is an important result for our study. In their study about the trust in courts, Benesh and Howell (2001) had found the result that the trust in The United States Supreme Court was higher than the trust in trial courts. They suggest that this difference might arise from the authority tension, which The Supreme Court creates, and its standing away from the peoples' lives. Additionally, they state that The Supreme Court's decisions being about more abstract and not directly affecting the peoples' lives, and also that the public knowledge about The Supreme Court being too little contributes to the high trust levels towards it (Jahic & Kalem, 2009).

In the study it is examined whether the socio-demographic characteristics of the participants are effective on their perceptions about justice. Firstly, how gender affects the level of trust is examined. According to the findings, there is no meaningful difference between the level of trust to lawyers and members of the supreme courts in terms of gender. On the other hand, females trust in courts, judges, prosecutors, The Supreme Board of Judges and Prosecutors, The Constitutional Court, Bars, The Supreme Court and The State Council more than males. This finding is an interesting point for this study. Because the females have less tendencies to apply to courts and have less experience on the judgment system. Thus, where these differences stem from, should be realized.

There is not any notable difference between the participants according to the education level, except the trust in lawyers. Conversely, the education level becomes higher, the level of trust in courts, judges, prosecutors, The Supreme Board of Judges and Prosecutors, The Constitutional Court, Bars, The Supreme Court and The State Council decreases. A variance analysis is applied to examine if there is a notable difference in the level of trust of the participants' related to their age, jobs and education level; and a meaningful difference could not be found.

After determining the participants' levels of trust in the judiciary, they were asked to state the factors, which affect the trust in judiciary/judicial members in Turkey. Taking the fact that the levels of trust in judiciary are very low into consideration, those questions arise: what are the factors underlying that result and especially which factors affect the trust level? The factors, which the participants think to affect the trust in judiciary, are listed in the Table 3.

According to the participants the factor, which mostly affects the level of trust in the courts/members of judiciary, is the lack of judicial independence. Judiciary being independent is simply an obligation in the countries, which are democratic and adopt rule of law principle. In our study it is observed to be the most effective factor on trust in judiciary, as well. 19.5% of the participants see long periods of trial and detention as the factor to affect the trust in judiciary, giving the factor the second position. Stated differently; the citizens' belief in the justice being done late is another factor which decreases their trust in judiciary. The third factor determined according to the participants opinion is shortcomings or deficiencies of laws. Respectively, the other factors to decrease the trust in judiciary are citizens' lack of information about the court processes (9.5%), arbitrary treatments in the courts and to ignorance of neutrality (9.5%), high fees to access the justice system (9.1%), poor communication of the judicial members with the citizens (6.8%), unethical practices in judicial institutions (6.0%), and appointment of the judges according to improper criteria rather than the ones required by the profession (5.2%).

Table 3. The Factors Affecting the Trust in Courts / Judiciary Members

Replies	N	Among the Replies%	Among the Participants%
Lack of judicial independence	854	22,2	42,7
Long periods of trial and detention	750	19,5	37,5
Shortcomings / deficiencies of laws	426	11,1	21,3
Citizens' lack of information about the court processes	367	9,5	18,3
Arbitrary treatments in the courts and to ignorance of neutrality	364	9,5	18,2
High fees to access the justice system	349	9,1	17,4
Poor communication of the judicial members with the citizens	261	6,8	13,0
Unethical practices in judicial institutions	230	6,0	11,5
Appointment of the judges according to improper criteria rather than the ones required by the profession	200	5,2	10,0
No idea	50	1,3	2,5
Total	3851	100,0	192,4

Note: Participants were given the chance to mark more than one factor.

After determining the importance of factors, which affect the level of trust in courts and judiciary members, the participants were asked to mark the most important measures to be taken for increasing the level of trust in them. In accordance with that aim the question of "In your opinion, what can be done for increasing the trust in courts/judiciary members in our country?" was addressed to them. The replies of the participants are given in the Table 4. below.

Table 4. The Factors to Increase the Level of Trust in Courts / Judiciary Members in Turkey

Replies	N	Among the Replies%	Among the Participants%
Changing and developing the current laws	704	18,8	35,2
Making the judicial members get a better education	663	17,7	33,1
Establishment of effective control mechanisms	641	17,1	32,0
Simplification of court procedures for the citizens not need to hire a lawyer	629	16,8	31,4
More effective use of information technologies	420	11,2	21,0
Increasing the number of courts	313	8,4	15,6
Increasing the number of members of the judiciary	215	5,7	10,7
Making the judiciary members more fair/egalitarian/neutral	65	1,7	3,2
Making the courts more independent/Politicians should not interfere	30	,8	1,5
Making court processes faster	11	,3	,5
No idea	55	1,4	2,7
Total	3746	100,0	187,1

**Note:** Participants were given the chance to mark more than one factor.

According to the findings derived, 18.8 of the participants stated that the current laws should be changed and developed, in order to increase the level of trust in courts and members of judiciary. This indicates that existing legal regulations are seen to be inadequate, by the participants. 17.7% of the participants think that the judicial members should get a better education, while 17.1% of them believe that establishment of effective control mechanisms can rebuild the trust. According to the perception of the participants, the other factors to increase trust are simplification of court procedures for the citizens not need to hire a lawyer (16.8%); more effective use of information technologies (11.2%); increasing the number of courts (8.4%); increasing the number of members of the judiciary (5.7%); making the judiciary members more fair, egalitarian, and neutral (1.7%); making the courts more independent and getting politicians not to interfere (0.8%); and making court processes faster (0.3%), respectively.

## 5. Conclusion

To become a modern society, for taking quick, fair and healthy decisions and for the democratization of judicial system, the failing and functioning aspects of the judiciary should be discussed. The trustworthiness and legality of the judiciary is related to the citizens' beliefs about the performance of the judiciary system. The Turkish citizens' trust in judiciary and their attitudes and perceptions is tried to be determined and analyzed in the study.

In recent years in many countries and in Turkey, the trust in judiciary declines and this kind of a trust erosion between the citizens and the State, has a negative impact on the trust of the citizens in the State. The results of this study underline the low level of trust in judiciary of the Turkish citizens.

The participants' perception of justice means "*the State and laws*". The phrases like "*equality before the law*", "*compliance with the law*", "*distinguishing fair and unfair*" and "*protection of the weak/oppressed*" is expressed by most of the participants.

On the other hand, when we look for the most trusted institutions, The Constitutional Court (5.35/10) is the most trusted judicial institution in Turkey. Among the judicial institutions, The Supreme Court, The State Council and The Supreme Board of Judges and Prosecutors are other



institutions, which are seen to be trusted. On the other hand, although -due to having marks just over 5.0- those institutions can be evaluated as trusted, they have low marks on the trust scale.

The lack of judicial independence is the most important factor which affects the trust in judiciary. The judicial independence is an obligation for the democratic countries that are adopted the rule of law. Prolonged judgments and imprisonments, perception about the justice will be delayed, inadequacies and deficiencies in laws, the lack of information of the citizens about the judgment processes, the individual applications in courts and ignoring the objectiveness, the high costs while accessing the judicial system, the lack of communication between the citizens and members of the judiciary, the unethical behaviors of judges are the other factors influencing trust in judiciary.

For increasing the trust in judiciary, almost one quarter of the participants think that the current laws in Turkey must be changed or renovated. In other words, the perception of the inadequacy in current laws is common.

The importance of judicial power (and also the rule of law) in democratic countries is an undeniable fact. In this context, this study tries to determine the perceptions, attitudes and evaluations of Turkish citizens that are very important for increasing the trust in judiciary. Because the first step for being a democratic State and society is to take into account of the citizens' expectations, requests and sentiments.

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