



Justice Barometer

Justice Barometer Public Opinion On Courts in Turkey

Justice Watch is a project of Istanbul Bilgi University Human Rights Law Research Center. www.adaletgozet.org



justice watch

ACKNOWLEDGEMENTS

Without doubt, this research is the product of an extensive team work although only three authors have been indicated herein. We would therefore like to thank all institutions and persons who took part in this process with their valuable ideas.

We would like to thank Istanbul Bilgi University and Open Society Institute Assistance Foundation (OSIAF) for their generous financial support of the project.

Our gratitude also goes to Istanbul Bilgi University for the technical and administrative support provided throughout our work.

Further, we would also like to thank Istanbul Bilgi University Human Rights Law Research Center Director Prof. Dr. Turgut Tarhanlı for his strong support and personal contribution at all stages of the project.

Director of Open Society Institute Assistance Foundation (OSIAF) Hakan Altınay and Program Manager Nafiz Güder shared their opinions with us and made recommendations during the project. We would like to express our thanks to them for their contributions.

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BACKGROUND: LAW AND SOCIETY RESEARCH

The law and society field is broadly defined as “the study of law in context” with intellectual origins in a variety of disciplines such as law, sociology, anthropology, political science or philosophy.¹ Originally, the work of the field was categorized under four main areas: 1) studies ranging from access to justice to dispute processing, 2) the legal profession, 3) legal institutions and 4) the development of general theory.²

Ever since its foundation, the field has gone through significant transformations. Two main currents have been identified as characterizing the theoretical debates in the field: the “criticism of the role played by liberal legal ideology” and the “shift in the emphasis from structural theory to interpretive theory”.³ Liberal legalism was attacked for its negligence of the everyday faces of law as well as its instrumentalism. Despite the criticisms directed at liberal legalism, the early influence of this tradition upon the study of law and society is considered to have led to a redefinition of the role of social sciences in shaping policy. Taking liberal legalism not as a theory but rather as a “description of ideal practices on which law as we know it is said to depend”, the research conducted by social scientists on the practical faces of law has been influential in helping policy makers achieve law’s ideals of fairness and equality.⁴

The criticisms directed at liberal legalism were also coupled with the 1970s turn towards anti-structuralism. As grand theorizing started to lose its appeal in social sciences in general and also in law and society research, emphasis has shifted to understanding law in action. It has been argued that studies on law and society have moved from “structural models to theories of law as an ideology and most recently to law as an element of consciousness and experience”.⁵ In parallel, an increasing interest in looking at law from the social actors’ perspective and understanding the actors’ experiences with the law can be noted observed among scholars and researchers. Opinions and experiences of the public with regard to law have come to be perceived as crucial elements while studying

law, its processes and legal institutions. This shift in emphasis of law and society research did not necessarily make the study of formal institutions of law- especially courts- obsolete, but rather advocated an understanding of these institutions from the perspectives of the social actors using them.⁶

In the case of Turkey, the role of law in people’s lives and how it is perceived by the people has been a rather neglected subject matter. Not only are the public authorities distant when it comes to this topic, but also the interest of researchers, academic or otherwise, towards the field has been very limited. The insufficient number of studies focusing on this issue as well as the small number of commissions and/or working groups established by public agencies in order to address the public’s attitudes towards the legal system, their experiences with and expectations from the legal system, can be seen as indicators of this lack of interest. Therefore, determining the factors shaping the relation between law and the people in Turkey and how these factors affect this relation is a particularly significant attempt of filling in this existing gap.

¹ Munger, F. 1998. “Mapping Law and Society”. In *Crossing Boundaries: Traditions and Transformations in Law and Society Research*, ed. A. Sarat, Northwestern University Press.

² Ibid. p.10.

³ Ibid. p.12.

⁴ Seron, C., Munger, F. 1996. “Law and Inequality: Race, Gender...and, of Course, Class”. *Annual Review of Sociology*. 22:187-212.

⁵ Ibid. p. 190.

⁶ Munger, F. 1998.

JUSTICE WATCH PROJECT

Objective of the Project

The objective of the Justice Watch Project is to understand law from the perspectives of the people in Turkey. The idea behind this approach is that social actors play a critical role in the legal system and the sustenance of the courts as “justice providers” partially depends on the willingness of the people to play their roles in this system. It is possible to argue that how, under which circumstances and/or why the courts will enter the lives of the people is also related to the demand of the people themselves. It may be expected that those who have confidence in the legal system, who believe that they can solve their problems, fast, fairly and efficiently through the legal system, who are not doubtful about the enforceability of court decisions, who feel that they are valued in their relation with the legal system will be less hesitant to resort to courts.

This project focuses on courts. The main reason behind this focus is the idea that the rule of law is indispensable in democratic societies. This belief holds that official dispute resolution mechanisms offered by law have a rather privileged position in modern societies. Therefore, learning about people’s attitudes towards courts, about their court experiences and how these experiences affect their confidence in courts is crucial to understanding how law is seen in the eyes of the public.⁷ Within this framework, the Justice Watch Project has a short-term objective of untangling the relationship between the people and law in Turkey. In the long term, it aspires to present the problems in this liaison in light of scientific data and contribute to the development of policies and mechanisms that can improve this relationship.

⁷ It is important to note here that Justice Barometer is not designed to account for people’s expectations from law and particularly from courts. It does not offer an account of what people expect from law when they approach courts, how their expectations have been formed etc. Yet, it does acknowledge the significance of expectations in two main ways: the significance of creating realistic expectations from law and the significance of meeting these expectations for the maintenance of the legal system. It is the contention of this study that the creation of realistic expectations- guaranteeing that people do not expect courts to fulfill tasks that they are not designed to fulfill- and the fulfilling of these expectations is the responsibility of the legal system.

⁸ The results of this activity have also been published as a separate handbook. Kalem S., Jahic G., Elveriş İ. 2008. *Adliye Gözlemleri, İstanbul Mahkemeleri: Fiziksel Şartlar, Duruşmalar ve Gecikmeler*. İstanbul Bilgi Üniversitesi Yayınları.

⁹ In fact, this assumption was later verified by the results of the Justice Barometer Survey which showed that a great majority of people in Turkey receive their information on judicial matters and courts from the media. 50.7 % of participants reported getting information from the news, 15.1 % reported getting their information from other types of TV programs while 14.1 % of the participants mentioned newspapers and magazines as the source of their information on the judiciary and the courts.

With these objectives in mind, the following complementary data collection methods were used in this project in order to look at law through the eyes of the people:

■ **Court Watch Activity**

What do the people experience when they go to courts, in what kind of a setting do such experiences take place?

Data on the physical conditions of courthouses, on their accessibility and the security measures taken in the courthouses, as well as information on the delays in hearing scheduling were collected during systematic visits to randomly selected courts from ten courthouses in Istanbul. These data were compiled and analyzed.⁸

■ **Media Archive**

How do the media, as the most notable source of information, portray news concerning judicial issues? What kind of information on judicial matters can the people receive from the media?

The particular importance attributed to media in understanding the people’s perspectives on law is built on the assumption that media constitute the number one source of information for the public.⁹ In light of this assumption, a media archive was created by chronologically compiling news concerning lawsuits that were on the public agenda since 2005, resulting in a news database. The archive can be used to explore how the notable media and press organs follow and cover judicial news and how they portray the information to the people.

■ **Justice Barometer Survey**

In light of their experiences and the information they have acquired about the legal system, what are the people’s opinions on the judicial process and the functioning of the courts?

Using data and information from the media archive and through the assessment of the conditions of the courthouses, it has been possible to develop some ideas on what kind of information and experiences the people’s attitudes towards courts are based on. In order to find out what these attitudes are, the Justice Barometer Survey was carried out to gather data on the extent of court experiences among general population and their trust in courts in Turkey. This handbook presents the results of this Justice Barometer survey.

Objective of the Survey

The Justice Barometer is a survey that aims to uncover what kinds of opinions people from various backgrounds in Turkey hold about the functioning of courts and the judicial process as a whole, as well as what kind of experiences they have with the courts. Results of the collection and the analysis of such data can be seen as a measuring tool, a “barometer”, of how law in general and courts in particular are perceived and evaluated by the people in Turkey.

In the long run through the sharing of the collected information and the results of the research, we aim to create an impact on the drafting of the policies and laws which shape the future of the society.

Survey Topics

Five main topics addressing the relationship between the people and courts were covered by the Justice Barometer survey:

- Court Experience
 - When and under which circumstances do people resort to courts?
 - What percentage of people have experience with the courts?
- Court Experience and Satisfaction
 - How satisfied are the people with their court experiences?
 - What sort of problems do people face when they go to courts?
- General Attitudes Towards Courts
 - How do the people rate courts and their services in terms of impartiality, reliability and independence?
 - To what extent do the people trust the courts (especially when compared to other institutions)?
 - What are the factors affecting people’s trust in courts and the legal system? (opinions on the fairness of courts’ decisions, on the treatment of the people by court staff, on the extent to which courts defend people’s rights, on the functioning and speed of the courts etc.)
- Using the Services of an Attorney and Evaluations of Their Service by the Public
 - How many people benefit from an attorney’s service? What are the reasons for hiring and not hiring an attorney?
 - How satisfied are the people with the service they get?
- Knowledge of the Courts
 - How knowledgeable are the people about law and their rights?
 - How informed are the people about judicial cases that are on the public agenda?
 - How informed are the people about the functioning of the courts?

JUSTICE BAROMETER SURVEY: METHOD

Method Used in the Survey

The Justice Barometer survey was conducted over three waves of data collection. There are a couple of reasons for this. First, conducting the survey in more than one wave helped us change and improve the questions which failed to be answered or were not understood properly by the participants in the first wave of data collection. In addition, the final two waves included some questions which were not included in the first. This allowed us to obtain more detailed information on interesting issues that were identified in the analysis of the data obtained during the first wave. This also enabled us to correct possible mistakes in the questionnaire without compromising all the data. It also helped us assess the accuracy and the reliability of the information collected about the same issues at three different points in time.

Respondents' experiences with the courts were determined first by asking them if they had ever been a party in a civil or criminal case. If they had been a party in a case, respondents were then asked to state the type(s) of their experience(s) – i.e. defendant in a criminal case, plaintiff, defendant in a civil case, witness, etc. Some of the questions used in the surveys were adaptations of questions from the questionnaire used in *Trust and Confidence in the California Courts* research, conducted by the National Center for State Courts, USA and the *Paths to Justice* research carried out by Professor Hazel Genn and the National Centre for Social Research in the UK in 1999. Other questions were developed by the project team specifically for this research.

Participants: Approach to Sampling

The Justice Barometer survey was conducted among the Turkish voting-age population, aged 18 and older, with a sample that represents the urban population of Turkey. Survey dates and the number of participants participating in each wave are as follows:

	Start	End	Number of participants
● 1 st wave	3 August 2006	15 August 2006	1056
● 2 nd wave	8 January 2007	3 March 2007	1055
● 3 rd wave	15 June 2007	3 July 2007	1061

There were a total of 3,172 participants in all three surveys. Another 260 participants have been included into the sample from Istanbul in order to provide a sufficient number of participants to give us the ability to derive results specific to Istanbul. This in turn allowed us to compare these results with the rest of Turkey. In total, 791 face-to-face interviews were conducted in Istanbul, including those from the general sample, as well as those 260 participants included through mentioned sampling.

Sample Distribution

The sample was based on TUIK's (Turkish Statistical Institute) statistical regional units, taking the urban population rate of the 2000 census of regions in NUT1 (Nomenclature of Territorial Units for Statistics) . One province was selected from each region representing each of the 12 regions in NUT1 and interviews were conducted in these 12 provinces.

Province	Number of participants	% of sample	Province	Number of participants	% of sample
Adana	349	11.00	Istanbul	791	24.94
Ankara	347	10.94	Izmir	371	11.70
Balikesir	113	3.56	Kayseri	162	5.11
Bursa	278	8.76	Samsun	157	4.95
Diyarbakir	271	8.54	Trabzon	103	3.25
Erzurum	88	2.77	Van	142	4.48

SUMMARY OF THE RESULTS

Court Experience

- 29.5% of the participants reported having direct court experiences.
- Participants were most likely to appear in courts as witnesses.
- Compared to women, men have more court experiences.

Satisfaction with Court Experience

- About half of the participants evaluated their court experience as negative.
- Victims were the least satisfied group with courts as well as the case outcomes. The parties in civil courts reported the highest satisfaction levels with courts and with the case outcomes.
- Almost 30% of the participants stated that they have been satisfied with the treatment that they received from the judges during the judicial process. Witnesses were the least satisfied group in regards to the way they have been treated in courts. The defendants in criminal cases reported the lowest satisfaction levels with the court staff.
- Plaintiffs at civil courts have the most positive evaluations of the treatment they received from the judges and court staff.

Trust in Courts

- 45% of the participants reported that their experience with the courts did not affect their trust in the courts.
- Compared to other groups, defendants in criminal courts were the group most likely to report that their trust increased after their court experience. The trust level of the victims, who were the least satisfied with the courts, were most likely to decrease after their experience, compared to other groups.
- Women's reported trust in courts was higher than men's.
- Reported trust in courts was lower than reported trust in the Turkish Armed Forces, in the Constitutional Court and in the Police. Overall, the percentage of participants who reported that they trust courts is below 50%.

Attitudes Toward Courts

- The percentage of participants who responded positively to the questions concerning reliability, independence, fairness and general performance of the courts does not exceed 50%.
- The most negative evaluation by the participants were in regard to the speed of case processing by the courts. The most positive evaluations by the participants were on impartiality of the courts.
- Attitudes towards courts were more negative among participants with higher education levels.
- In general, evaluations of courts by the participants with court experience are more negative than the evaluations of those without any court experience.

Using the Services of an Attorney and Evaluations of the Service.

- 18.5% of the participants answered the question "Have you ever had an attorney in your life?" as "yes".
- Almost half of the participants who have been defendants in criminal cases reported that they have not used to services of an attorney. Less than half of the participants who have been victims in criminal cases reported that they have used the services of an attorney. Although the use of attorney services is relatively higher among those with civil court experience, the percentage of participants with such experience who reported not using this service was still about 30%.
- The most common reason that the participants gave for not using the services of an attorney is the belief that their rights would still be protected in courts even if they do not have an attorney.
- The group least satisfied with an attorney's service are the respondents who have filed a claim in a court (plaintiffs in civil cases and victims in some criminal cases).
- 76.2% of the participants stated that the costs of hiring an attorney are high.

Knowledge of the Legal System

- The most frequently reported source for information on the legal system were printed and visual media. The most common source of information was reportedly the news.
- Self-reported familiarity with the legal system is low in Turkey. 41.4% of the participants report that they were totally uninformed about the legal system and about judicial matters.
- 56% of the participants were not aware that court hearings are open to public. 30% of the participants believed that in some courts in Turkey a jury system is used.

COURT EXPERIENCE

Extent of Court Experience Among People in Turkey

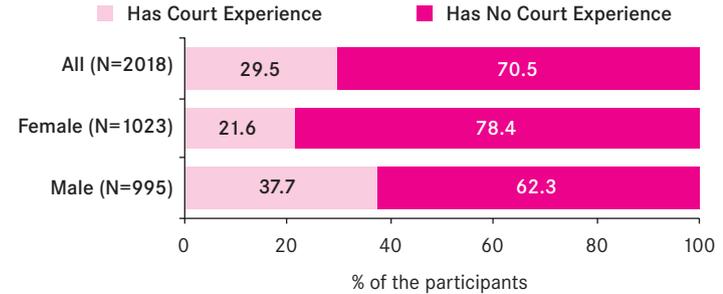
- People may not know what it means to be a “victim”, “plaintiff” and/or “defendant” in a trial.
- About 30% of the participants reported having at least one court experience. These are only direct experiences which involve cases that are directly related to the person in question.
- Compared to men, women were less likely to report having court experience.

In order to derive a precise understanding on whether a participant had a court experience or not, a number of questions, formulated in an explanatory and gradual manner were asked. Responses were used to determine the percentage of participants with court experience and the types of these experiences (whether the participant had experience as a defendant, victim, plaintiff, witness, etc.). In the first round of the survey, participants were directly asked questions such as “Have you ever been a defendant in a court?” or “Have you ever been a plaintiff in a court?” However, during the assessment of the results, it was found out that participants failed to distinguish between these categories. For instance, some of those who said “I have been to the court as a victim” later on made statements like “I was wrongfully accused and tried, I was victimized”. There were also participants who answered the question as if it were their own experience when in reality it was a family member who had been tried. For instance, there were participants who answered the question “Have you ever been a plaintiff?” as “yes, my brother sued his tenant”. Here, it was observed that participants perceive being a victim as a general state of injustice that they feel they have been subject to, rather than as a legal term. In order to overcome this confusion, in the second and third rounds of the survey, questions were asked in a gradual manner.

- First, participants were asked if they have ever been a defendant or a plaintiff,
- If the answer was yes, then they were asked if the case was related to him/herself or to a relative/friend,
- Then, it was asked whether the case was in a criminal or civil court.

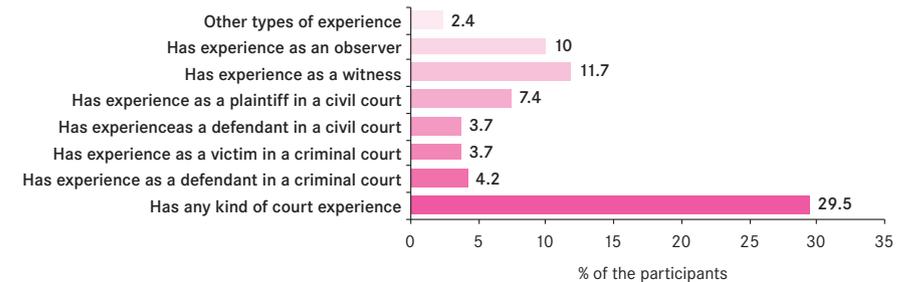
As a result, it was possible to identify types of experience of the participants. Also, categories from the responses were further confirmed with the additional open ended question on the subject matter of the case. Only the data collected through the second and the last rounds are used in the analysis because of the doubts over the reliability of the results obtained from the first questionnaire.

Court experiences of the participants



The total of the below rates is higher than that of “has court experience” because there may be participants who have had more than one type of experience.

Types of court experiences of the participants

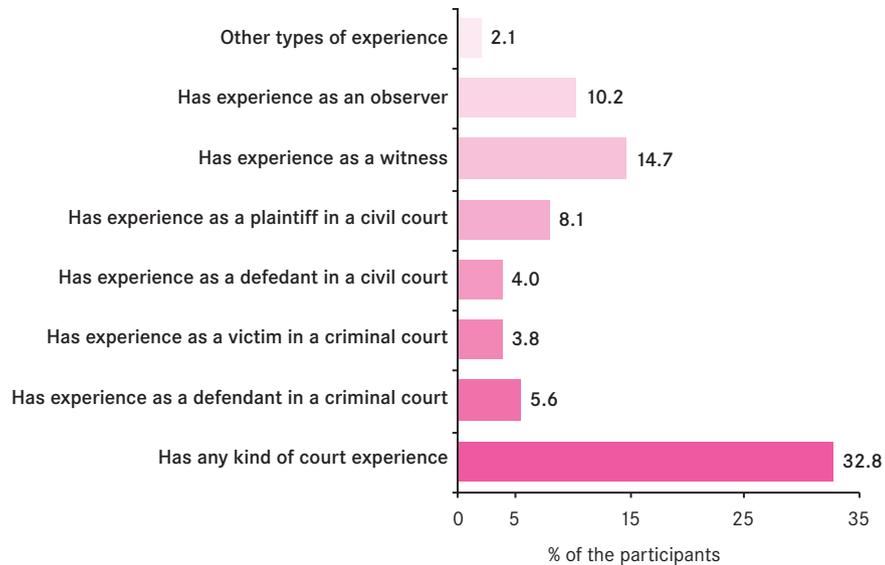


Is Istanbul Different from Turkey in Terms of Court Experience?

- There is no difference between Istanbul and other big cities in Turkey in terms of the use of courts.
- Therefore, it is possible to argue that Istanbul is no different than other big cities in terms of court experiences.

When only the results from Istanbul sample are evaluated, although the sample is much smaller than the general one, it can be observed that the ratios are quite similar to those from the sample for the whole of Turkey.

Court experiences of Istanbul participants



How Reliable Are These Data? If the Survey Were Conducted Again, Would the Results be Different?

The rates of experience in different roles are very close across the waves of data collection. This testifies to the reliability of data collection method.

Although there were problems in the first questionnaire with answers to the questions about court experience, it was possible to identify the experience of the participants by evaluating the responses to other questions. For instance, the question regarding the subject matter of the case gave important clues about the type of experience. In this respect, it was possible to categorize a participant as “defendant” in a criminal court who said “I stole something, I was tried but I was innocent, I was victimized”.

Despite these efforts, the data of the first questionnaire were not used in the analyses due to concerns about the reliability of the results.

The rates found in the second and third waves are also very close to each other.

In parallel, the results of the first wave, even though the reliability of findings in this regard is questionable, were found to be very close to those of the second and third waves.

To conclude, similar rates in each wave point to strong reliability of the instrument and a good sample selection procedure.

SATISFACTION WITH COURT EXPERIENCE

How Satisfied are the People with Their Court Experiences?

- Almost half of the participants evaluated their court experience as positive.
- The group with highest satisfaction levels with court experience were those who brought a lawsuit to civil courts (plaintiffs in civil courts).
- The group with the lowest satisfaction levels with their court experience were the victims of crime.
- The group most indecisive about their experience were the observers.

In this section, participants were asked questions about their court experience and their satisfaction rates were evaluated by type of experience.

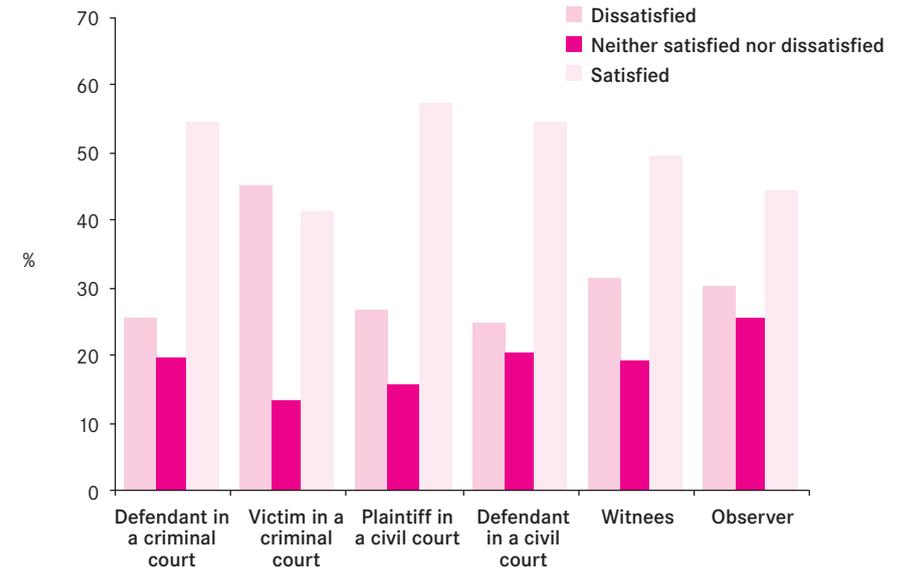
Results show that almost 50% of the participants with court experience regard this experience as positive. This rate may not be considered as a particularly problematic result, but when courts are seen as “distributors of justice”, the fact that half of the participants evaluated their court experience as negative can also be perceived as a very distressing finding.

Participants who have been victims in criminal courts are the ones who are least satisfied with their experiences, while the plaintiffs in civil courts are reportedly the most satisfied.

The most indecisive group about satisfaction were the observers. Compared to other groups, participants who had an experience as an observer were the ones that have given the answer “neither satisfied nor dissatisfied” most frequently.

Other studies also show that victims of crime are particularly dissatisfied with the judicial process. High levels of dissatisfaction have been attributed to the fact that the judicial process limits the role of the victims. Victims are only marginally active in the judicial process and there is little room for them to explain and share their stories and trauma in the process. In addition, they do not have the opportunity to explain how the offense they were exposed to affected them. At the end of the judicial process, a decision that is rendered is about the offender, yet usually no decisions addressing victims directly are made. Victims have to cope with the fact that the judicial system does not deal directly with them or their losses, but with the offender and her/his future. Also, due to presumption of innocence, suspects benefit from ambiguity in the evidence. The judicial system cannot accept victim’s claims at face value; it has to approach these claims with skepticism, demand other evidence and proof of guilt. Indeed, research consistently shows that victims of crime are not satisfied with the judicial process. The findings of this research also support this.

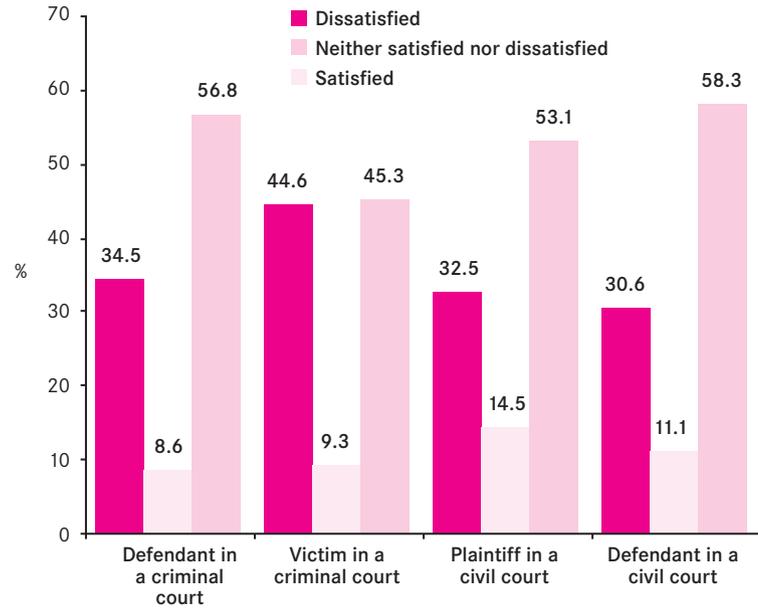
Percentages of participants who reported different satisfaction levels with court experience



Is Satisfaction With the Outcome of the Case Still Possible Despite Dissatisfaction With the Judicial Process?

- Almost half of the participants who have been parties in a case were satisfied with the outcome.
- The group least satisfied with the outcome were the victims of crime.
- The group most satisfied with the outcome were the defendants at civil courts.

Percentages of participants who reported different satisfaction levels with outcome by different court experiences



The participants who have been parties to a case were asked how satisfied they were with the case outcome.

Undoubtedly, satisfaction of the parties with the outcome is directly associated with their expectations. For instance, low expectations might result with higher levels of satisfaction. Similarly, the chances for those people with high expectations from courts to be dissatisfied in the end will be higher. Therefore, while evaluating the results presented in the previous chart, it is necessary to bear in mind that these evaluations have been based completely on personal expectations of the participants, rather than on objective criteria.

Another point to consider when examining the relationship between the case outcome and satisfaction is the question whether satisfaction with court experience is strongly influenced by “winning” the case or not. Within this research, there are no data as to whether the participant expressing his/her satisfaction with the outcome in fact won the case or not. Therefore, there may be participants who reported that they were dissatisfied with the outcome even though they won the case, or those who were satisfied with the outcome although they did not win the case. Does winning a case necessarily imply satisfaction with the outcome of the case? Could someone be satisfied with the outcome, despite losing the case?

Within the framework of these questions, it would be possible to think of satisfaction with the case outcome together with satisfaction with the judicial process. It is possible that a participant who is satisfied with the process in general is also satisfied with the outcome, despite having lost the case. More in-depth and detailed research is required to tell to what extent satisfaction with the judicial process can be considered independent of satisfaction with the case outcome and to what extent and how they affect each other. Therefore, it would be useful to carry out in-depth interviews addressing the issue of satisfaction with the process and the outcomes among individuals with court experiences.

What are the Levels of Satisfaction with the Attitudes of the Judges and Court Staff?

Considering that people’s opinions do not only depend on the outcomes, but the process also influences the opinions and that the court environment might also have an impact on their opinions as well, participants were asked how satisfied they were with the behaviors and attitudes of the judges and court staff towards them during the judicial process.

- Almost 30% of the participants reported that they were not satisfied with the attitudes of the judges.
- The group least satisfied with the attitudes of the judges were witnesses (when both “low satisfaction” and “high dissatisfaction” rates are considered).
- The group least satisfied with the attitudes of the court staff were the defendants in a criminal case.

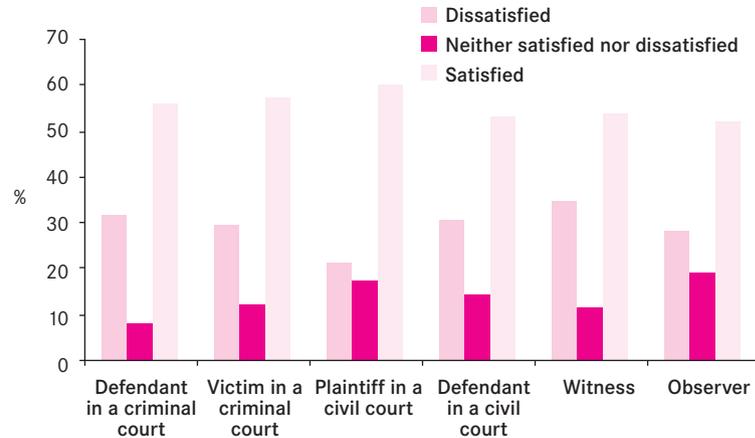
Satisfaction with the Attitudes of the Judges

Participants were asked questions about the behaviors and attitudes of the judges towards them during the judicial process. As judges can be perceived as justice “providers”, it was assumed that their attitudes may improve or deteriorate the overall confidence of the public in the legal system.

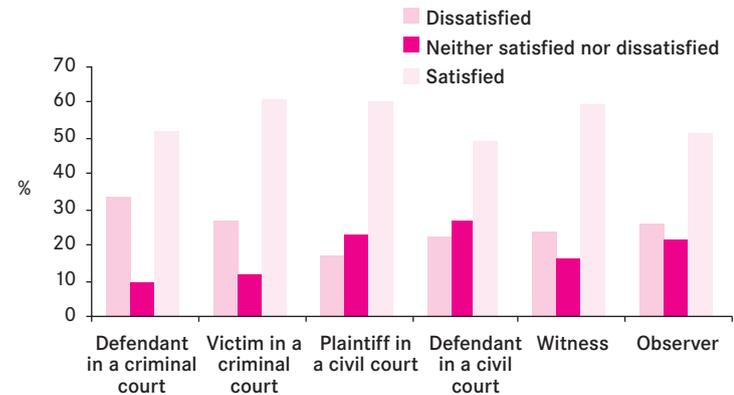
Satisfaction with the Attitudes of the Court Staff

Court staff, especially the court clerks and bailiffs, are the first people with whom the public interacts at courts. A person who has a complaint or brings a lawsuit, first contacts the court staff before meeting the judge. Although court staff do not seem to be directly involved in the judicial process, their attitudes can be indicators of what the people may experience at later stages of the judicial process. In other words, the opinions of the people about the courts may be affected by the attitudes of the court staff, therefore it is very crucial to look at how they evaluate the attitudes of this group.

Percentages of participants who reported different satisfaction levels with the attitudes of the judges by different court experiences



Percentages of participants who reported different satisfaction levels with the attitudes of the court staff by different court experiences



How do the People Rate Their Trust in Courts?

- Trust in courts is relatively low.
- Women trust courts more than men.
- Participants with lower income reported higher trust in courts than those with higher income.

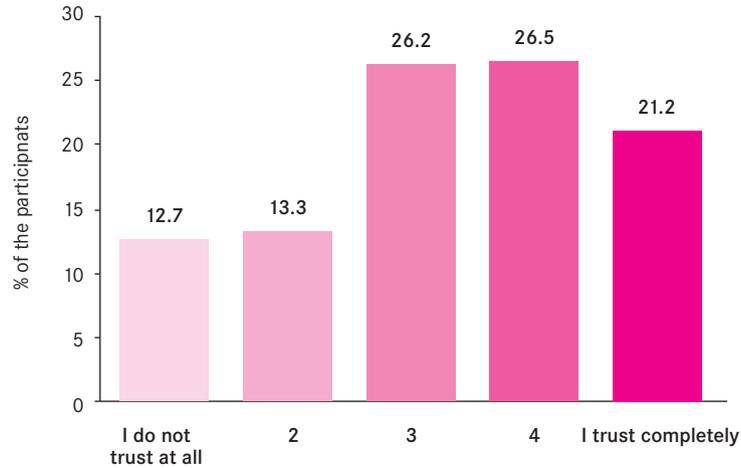
All participants were asked how they would rate their trust in courts. They were asked to report their trust on a scale of 1-5 (1: I do not trust at all, 5: I trust completely.)

The average score was 3.30 (3 is moderate). It was found that men trust courts less than women.

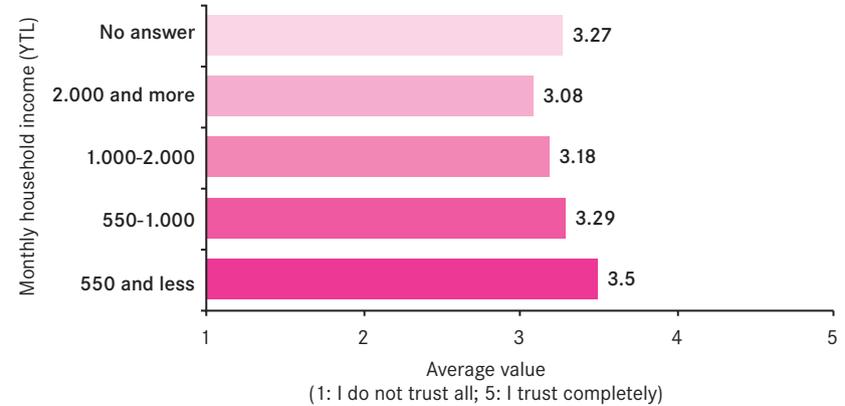
- Average score for women was 3.43.
- Average score for men was 3.17.

It was also found that participants with a higher-income levels trust courts less than those with lower incomes.

Answers to the questions on trust in courts



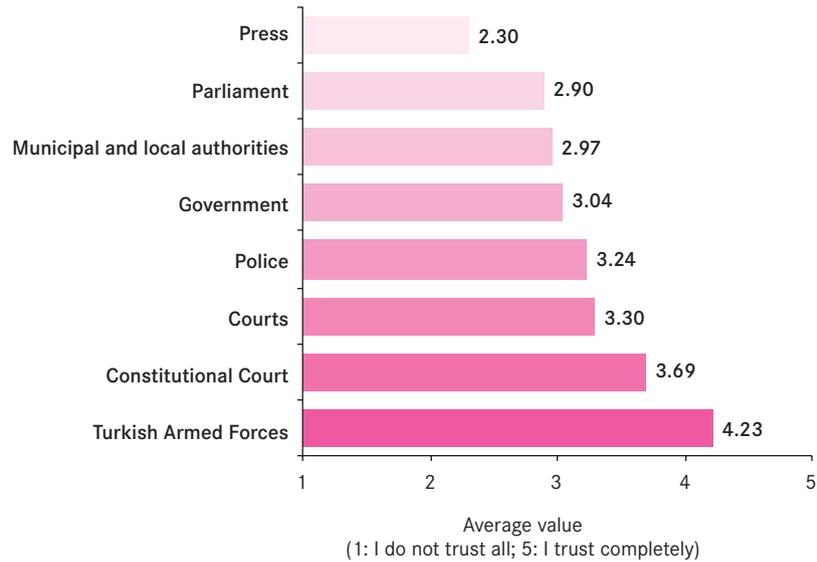
Average trust scores of participants by income level



How do People Rate Their Trust in Other Institutions?

- Turkish Armed Forces was the most trusted institution.
- The least trusted institution was the press.

Average scores on trust in other institutions



There is a strong correlation of the trust levels among various institutions. In other words, a person who trusts one institution trusts other institutions as well and one who does not trust one institution, does not trust the rest. For instance, a person who trusts the press also trusts all the other institutions and another person who does not trust the press does not trust the rest.

However, the Turkish Armed Forces seems to have a different pattern, when compared to the other institutions in terms of trust. The correlation between trust in the Turkish Armed Forces and trust in other institutions is weaker. This indicates that the Turkish Armed Forces is the most trusted institution both for those who trust all the institutions and those who distrust them.

Is There a Relationship Between Court Experience and Trust in Courts?

- Participants with court experience reported less trust in courts than those without any experience.
- Victims in criminal cases were the ones who have the least trust in courts.

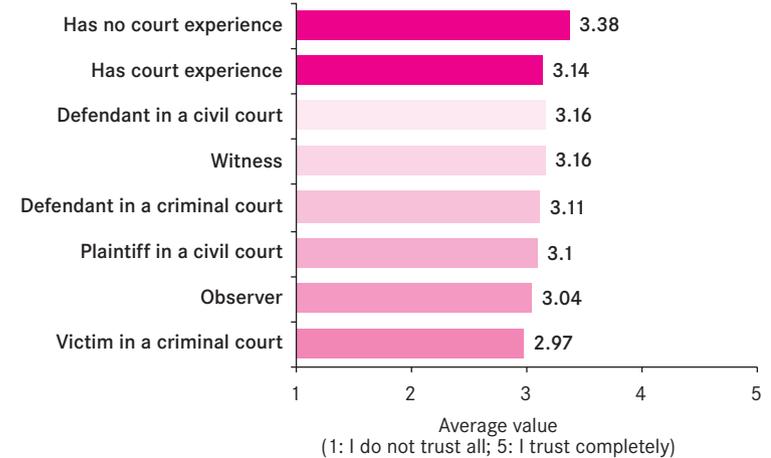
When scores of trust in courts are compared by court experience, it becomes apparent that participants with no court experience trust courts more than those with such experience.

Victims in criminal courts were the group with the lowest levels of reported trust in courts. Considering that victims were the group also least satisfied with the courts in general, the association between satisfaction and trust becomes clear. Similarly, participants who have been defendants at civil courts, being the most satisfied group with the courts, also reported the highest trust in courts.

However, it was observed that even the trust level of the group with the highest satisfaction from courts (defendants at civil courts) is still lower than that of inexperienced participants.

At any rate, participants with no experience have higher trust in courts. Thus, experience is negatively associated with trust in courts.

Averages trust scores of individuals with different court experience

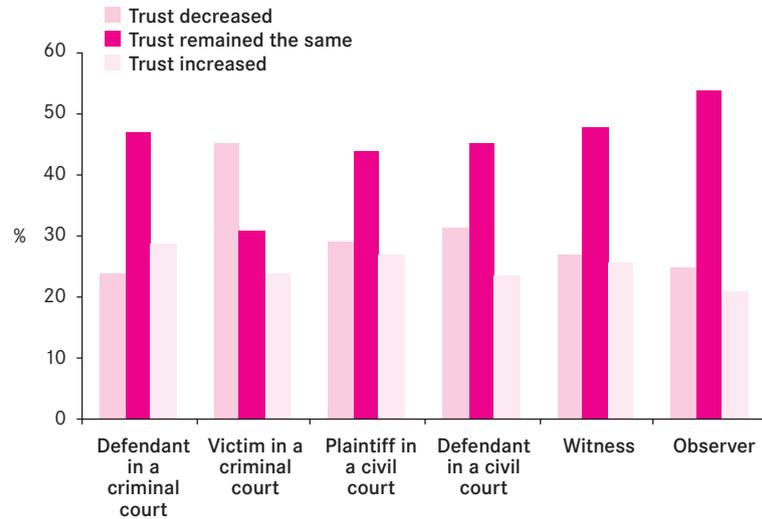


Does Court Experience Affect Trust in Courts?

- Victims of crime were most likely to report reduction in their trust in courts following their experience with the courts; defendants were the least likely to report such a decrease in trust.
- Only one fourth of the participants reported that their trust in courts increased as a result of their experience with courts.

Participants with court experience were asked how their experience affected their trust in courts.

Reported change in trust in courts following a court experience
by type of court experience



The results show that victims, who tend to evaluate their experience as more negative, were the group that most frequently reported a decrease in their trust following a court experience. This is consistent with other findings regarding this group, yet very problematic for the legal system. This result suggests that victims largely fail to get what they expect from the legal system; and consequently, their trust in courts decreases after their experience. It is possible to expect that a person whose trust in courts has decreased as a result of such an experience in the future may not bring his/her conflicts to court.

Although dealing with the state institutions is in general an unpleasant experience, it could still be argued that trust in public institutions and in the judicial system in particular should not decrease as a result of people's interactions with them. Otherwise, this could be an indicator that the courts and the judicial system function far below the expectations of the people they are supposed to be serving.

ATTITUDES TOWARDS COURTS

What are People's Attitudes Towards Courts?

- Only 40% of the participants evaluated court decisions as fair.
- Only half of the participants reported believing that the courts are impartial.
- Less than 40% reported believing that the courts protect the rights of the people.
- Less than 40% reported believing that their rights will be protected in court even if they do not have an attorney.
- 40% reported that courts perform well in general.

Attitudes Towards Courts

Another aspect studied within the framework of this research is how the impartiality, reliability, independence and general performance of the courts are assessed by the public. Legitimacy of the courts in the eyes of the people depends not only on whether they act fair, but if they are perceived as fair as well. This research aims to gain insight into these perceptions.

Questions used in other international studies were adapted, but also some new questions were added to the questionnaire in an attempt to examine this issue. In this way, it was possible to identify how participants evaluated certain qualities that are expected of the courts (such as equal protection for everyone, well-functioning, acting fair, etc.).

Answers obtained in this way are not to be interpreted as objective evaluations of the fairness or impartiality of courts. Rather, these data show us how courts and legal system are perceived.

The figure on the right shows the rate of those agreeing with the given statements (answers "I completely agree" and "I agree" were added up).

Percentage of participants who agree with statements about attitudes towards courts



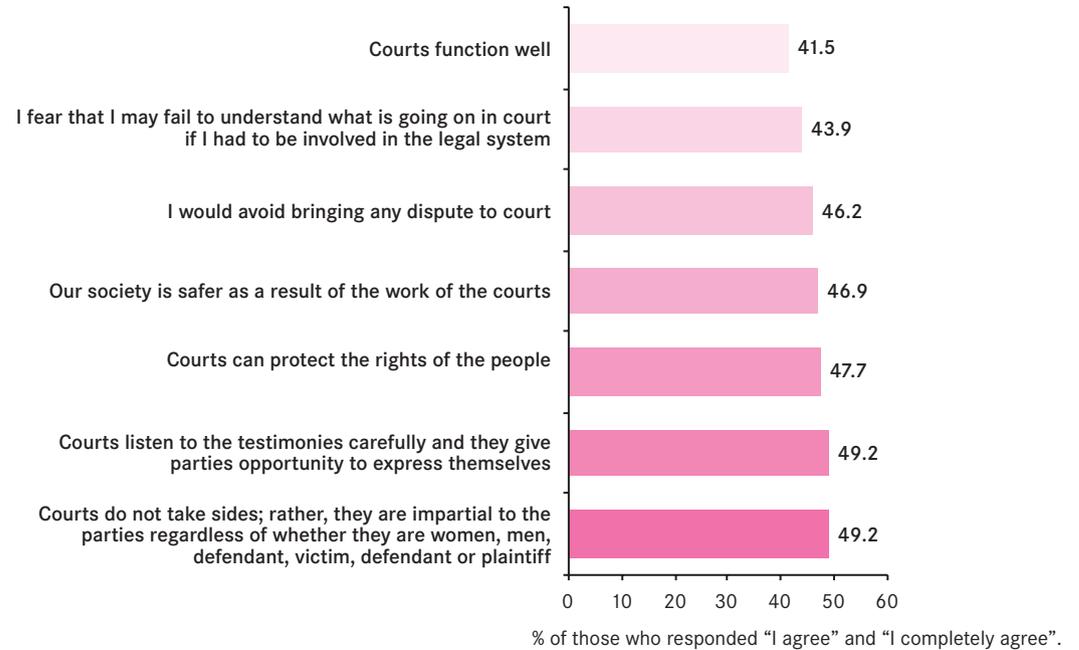
In general, evaluations on courts were not very positive; the rate of participants with positive opinions in most of the questions was half or less than half of the total number of participants.

The question with the most negative evaluations was that on the speed of the courts. Only 20% of the participants thought that the courts finalize the cases at good pace. It is a fact that cases take a long time in Turkey and these results show that people, regardless of their court experience, are aware of this situation. Participants with no court experience also have negative opinions on this issue which shows the importance of perceptions. Courts are perceived by the public as slow-functioning institutions.

More than half of the participants have negative opinions about the fairness, independence and impartiality of the courts, which are important features of the legitimacy of courts.

In light of these results, the fact that more than half of the participants expressed that they would not avoid bringing their disputes to courts should be given extra consideration. This result can be seen as an indication that although the participants do not have positive considerations about courts, they would still not give up using them.

Percentage of participants who agree with statements about attitudes towards courts (continued)



Are the Attitudes of Those with Court Experience Different Than Those Without Any Experience?

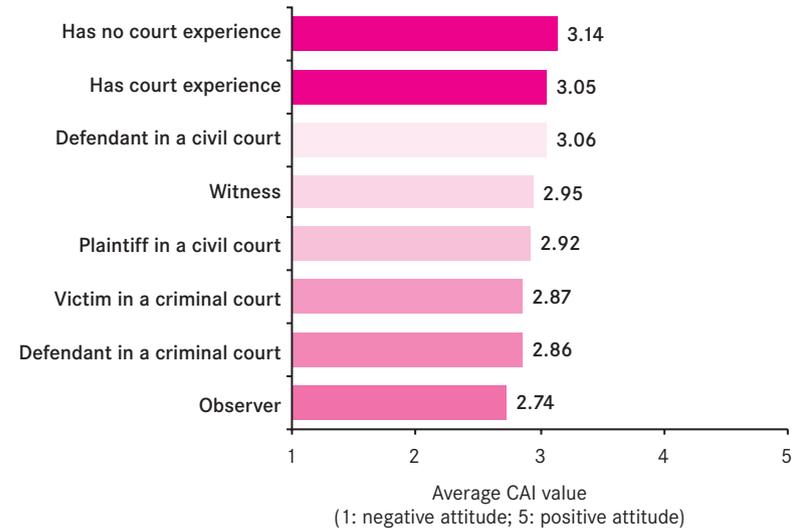
- The attitudes of participants with court experience were more negative than those without any experience.
- The group having the most negative attitude towards court were observers.
- Among those with court experience, the group with the most positive attitude were defendants in civil courts. Yet, even the attitudes of this group were more negative than those without any court experience.

In order to compare the attitudes of the participants with court experience to those without experience, a single Courts Attitudes Index (CAI) was calculated including all questions, instead of assessing them one by one.¹⁰

The Index was calculated by taking an average of the answers provided for each of the above statements. This average can be considered a summary of the opinions of each participant about the courts.

The lowest value of the Index is 1 and the highest 5. A higher value indicates that the participant has a more positive attitude towards courts.

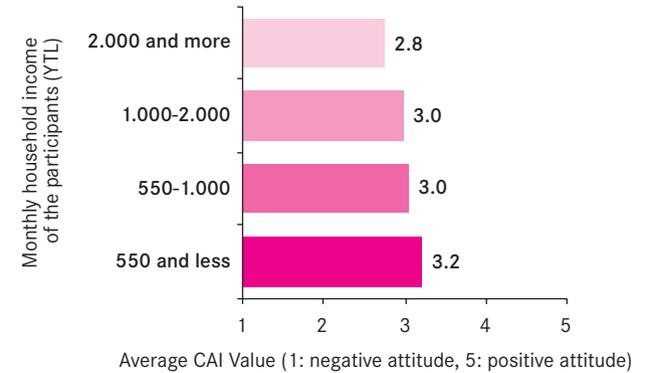
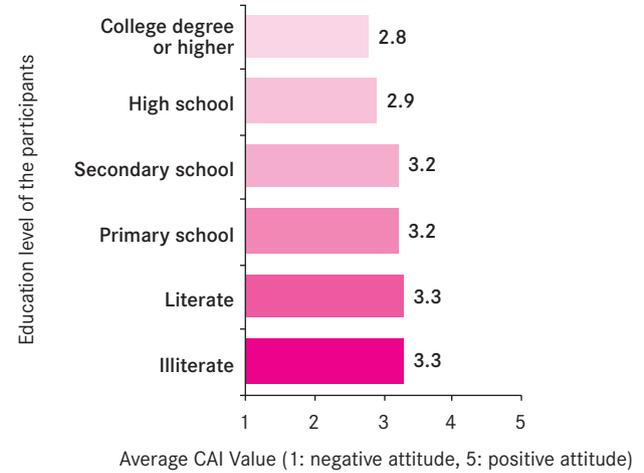
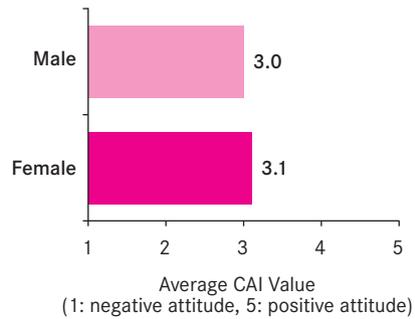
Courts Attitude Index values for participants by different types of court experience



¹⁰ To develop this index, factor analysis was applied to the data, including all the attitude items. It was found that two items were not in the same factor with as the rest of the items (items "I fear that I may fail to understand what is going on in court" and "I would avoid bringing disputes to courts"). These two items were not included into the calculation of the Index. The reliability value of the Index calculated in this way (Cronbach α) was 0.92.

Are Gender, Education Level and Income Associated with Attitudes Towards Courts?

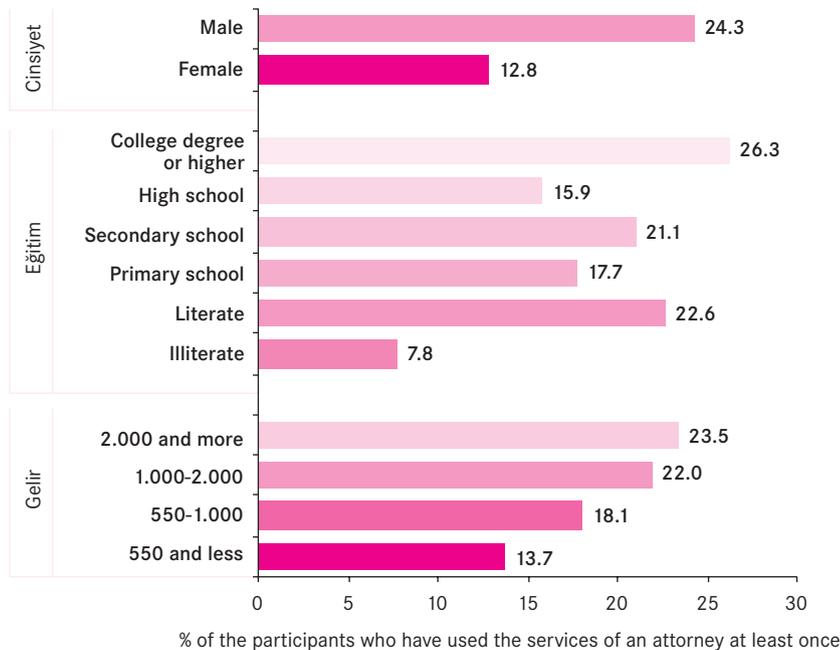
- Attitudes of male and female participants towards courts were very similar.
- The higher the education level, the more negative attitude towards courts were found to be.
- Attitudes of those with lower income were more positive than those with higher income.



Do the People Benefit From Services of an Attorney?

- 18.5% of the participants reported that they have had an attorney at least once in their lives.
- Percentage of those who have benefited from an attorney’s service was higher among men, among those with a higher income and among those with a high education level.
- Almost three fourths of the participants thought that it is expensive to use the services of an attorney.

Rates of using the services of an attorney by gender, education level and monthly household income of the participant



This section focuses on the participants’ use of attorney and seeks to display how they evaluate the service they receive. Attorneys play a significant role in the judicial process, facilitating the communication between the people and the courts. As seen before, a large number of participants stated that they fear they may not understand what is going on in courts or that their rights would not be protected without an attorney.

The percentage of participants who believe that their rights will be protected in courts even if they do not have an attorney was 38.3%. This finding shows that more often than not people think they will need an attorney if they have to be involved with courts.

Considering the role of the attorney in the judicial process, finding out how many participants actually have used the services of an attorney at least once in their lives is an important statistic. Results show that only 18.5% of participants responded “yes” when asked “Have you ever had an attorney”.

It has been stated that men were more likely to have benefited from the services of an attorney than women. However, men also have more court experience than women; therefore it may be possible that this difference stems from the difference between court experiences.

It has also been found that participants with higher income have higher rates of using the services of an attorney. Participants were also asked “Do you think the service of an attorney is expensive?”

- 76.2% considered it expensive;
- 14.3% were not sure;
- 9.6% did not consider it expensive.

When it comes to education level, although the tendency is not that clear, it is observed the groups with a low education level have quite low rates of attorney assistance, while those with a high education level have somewhat higher rates. However, this relationship is not clear cut.

Do the Parties in Courts Benefit From Services of an Attorney During the Judicial Process?

- Plaintiffs in civil courts had the highest rate of using attorney services.
- Defendants in criminal cases had the lowest rate of attorney assistance.
- The rate of those who benefit from free legal representation did not exceed 10% in any experience group.

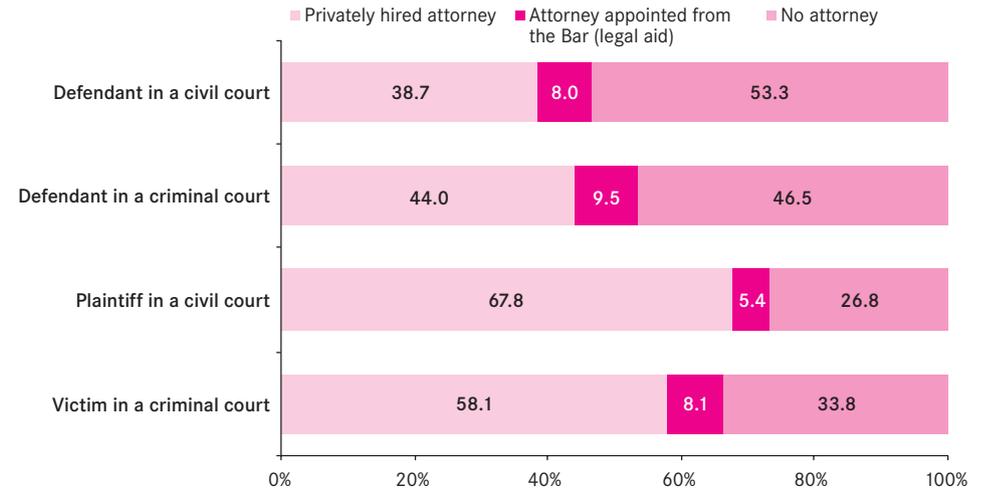
When rates of the participants who used services of an attorney while they were a party in the court were examined, it was found out that almost half of the defendants in criminal courts did not have assistance from an attorney.¹¹ Less than half of the participants who have been in courts as victims in criminal cases reported using the services of an attorney.

The majority of participants (86.9%) were found to pay for the service themselves. The rate of those who benefited from free legal representation provided by Bar Associations did not exceed 10% in any of the groups.

Only 18.5% of the participants reported that they have had an attorney at least once in their lives, which seems quite interesting if we consider that the court experience rate was 30%. This means that people who got involved in courts needed the service of an attorney but they could not benefit from such assistance in all cases.

This shows that majority of individuals who find themselves in court as a victim, defendant or plaintiff, they proceed pro se. When it is also considered that only 38.3% of the participants believe that their rights will be protected in the courts even if they do not have an attorney, it is clear that the majority of people who are present in courts as a party think that their rights are not guaranteed.

Benefiting from attorney assistance by type of court experience



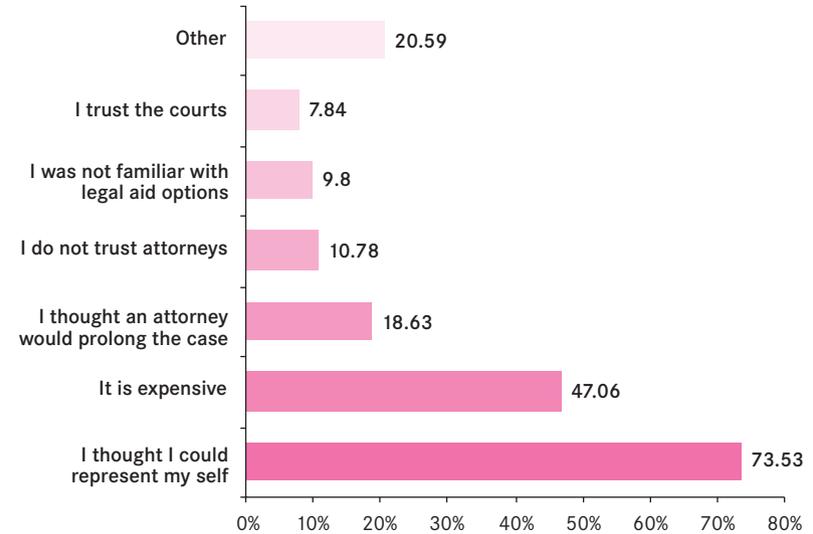
¹¹ Here, participants were asked "Have you benefited from the assistance of an attorney during the case?". It is not clear how participants perceived "attorney assistance": they may have considered it as being represented by an attorney or as having an attorney's assistance outside the court as well. The results should be considered within this framework.

What are the Reasons Behind Not Benefiting From the Services of an Attorney?

- 73% of participants did not hire an attorney because they thought they can represent themselves.
- 47% of participants thought that such service is expensive.
- 19% of participants thought that an attorney will prolong the case.

Here, participants were asked why they did not have an attorney although they felt insufficient without one. The interesting point is that despite the low percentage of participants who believe that their rights will be protected without an attorney in courts, the most frequent answer to the question of why they did not have an attorney was that they believed they could represent themselves. The second most frequently cited reason is the belief that such service is too expensive.

Reasons for not using attorney assistance
(Each participant could choose more than one answer, therefore the total adds up to over 100)



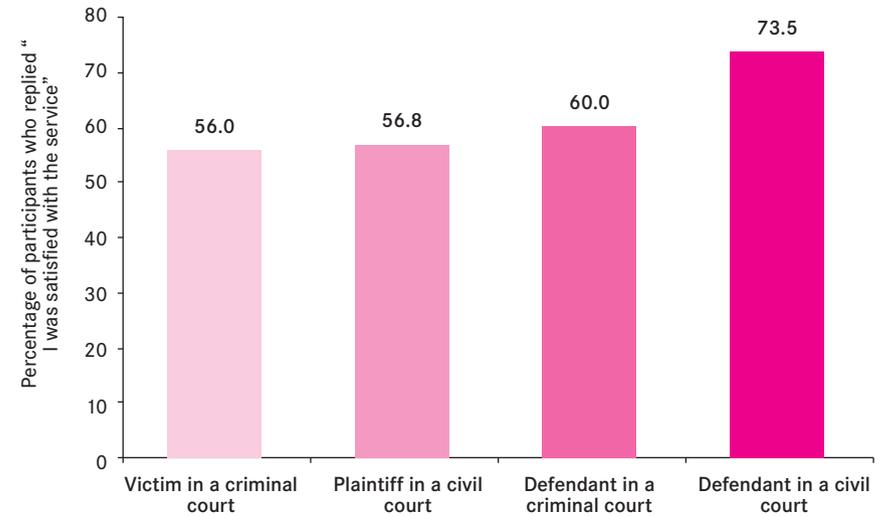
To What Extent were Participants Who Benefited from the Services of an Attorney Satisfied with the Service They Received?

- Almost 45% of the participants, who have been in courts as victims and plaintiffs and who have benefited from the services of an attorney, reported not being satisfied with this service.

Participants who had an attorney were asked how satisfied they were with the attorney assistance. Participants who have been in courts as plaintiffs and victims have the lowest satisfaction rate with the service of an attorney. One reason for this dissatisfaction may be that people do not have realistic information about the judicial process and that they have higher expectations than what the courts can offer them. Anecdotal evidence from Turkey suggests that clients often believe that their attorneys are not aggressive enough “as those on television”. Hence, one reason for this dissatisfaction with the service may be the unrealistic expectations of the clients which stem from people’s lack of information about legal proceedings in Turkey.

On the other hand, it is also possible that people fail to correctly understand the strategies followed by their attorneys during the case. Therefore, it might be necessary for the attorneys to properly inform their clients about the process and operation and hence help their clients shape their expectations in a more realistic manner. When it is considered that attorneys are providing a professional service to the clients, it is possible to argue that it is the responsibility of the attorney to make sure that the service provided satisfies the receiver of this service.

Satisfaction with the attorney assistance by type of experience



To What Extent Are People Informed about the Functioning of the Courts and the Legal System In General?

- 30% of the participants reported that they believe there is a jury system in Turkey.
- 56% of the participants did not know that court hearings are open to public.
- 54% of the participants were not aware that they can file a lawsuit without hiring an attorney.

In this part, the participants’ knowledge of the legal system in Turkey is assessed. Participants were asked questions in order to evaluate how informed and interested they are in matters pertaining to the legal system and the ways in which it is functioning.

It can be expected that people who are not informed about the courts and the legal system will be less likely to use courts, since “unknown” brings along “uncertainty” and can be perceived as a threat. Also, those who are misinformed about the system are more likely to be dissatisfied with any experience in court, since they may have unrealistic expectations from the system which simply cannot be satisfied.

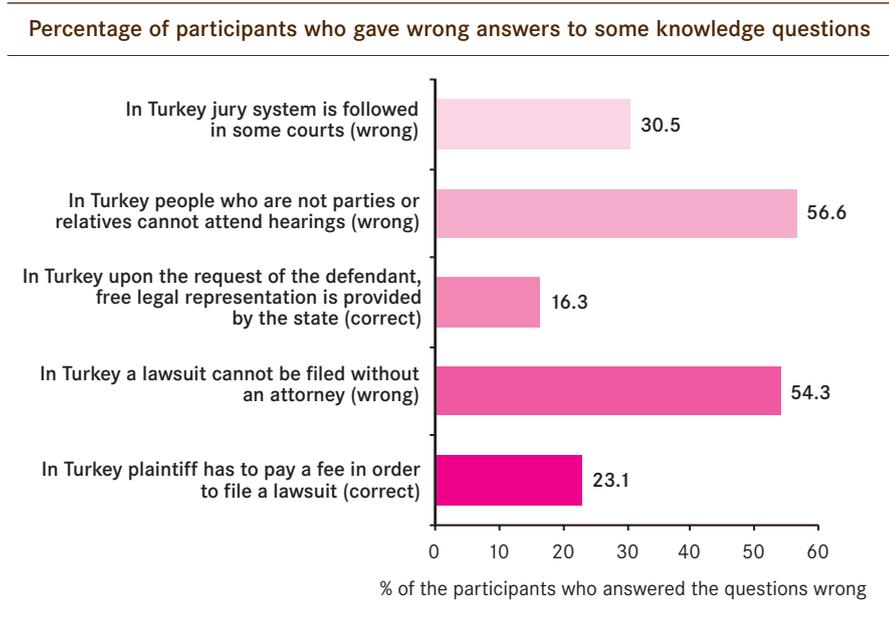
Participants were asked to make a self-assessment on their knowledge level of the legal system.

- 41.4% of the participants said they were totally uninformed about these issues.
- 45.4% said they were somewhat informed.
- Only 13.2% assessed themselves as informed or very informed (‘very informed’: 1.7%).

When such questions are ask, people often make more positive self-assessments in order not to portray themselves as ignorant. However, despite this tendency, in this research only 13% of the participants identified themselves as “informed”.

Undoubtedly, the participant’s own assessment of her level of knowledge does not show us the real level of knowledge of the participants. A critical individual might say she is uninformed although it not the case or vice versa.

Therefore, some questions were asked to the participants to reveal the actual knowledge level. The answers to such questions show that a notable portion of the participants are uninformed or misinformed about some basic issues regarding the functioning of the courts.



What Do Those Who Say “I Know” Actually Know?

The Right to Access to Information

The Law on the Right to Access to Information, introduced in 2003, empowers the people before the state institutions. It presupposes the transparency of the state mechanisms and ensures a person’s access to his/her personal information at the disposal of the State or to information on the general functioning of the State. In this survey, the participants’ knowledge of the Right to Access to Information was assessed.

The participants were asked if they knew about the Right to Access to Information.

- 23.5% said they knew about it
- 76.5% replied they did not know about it

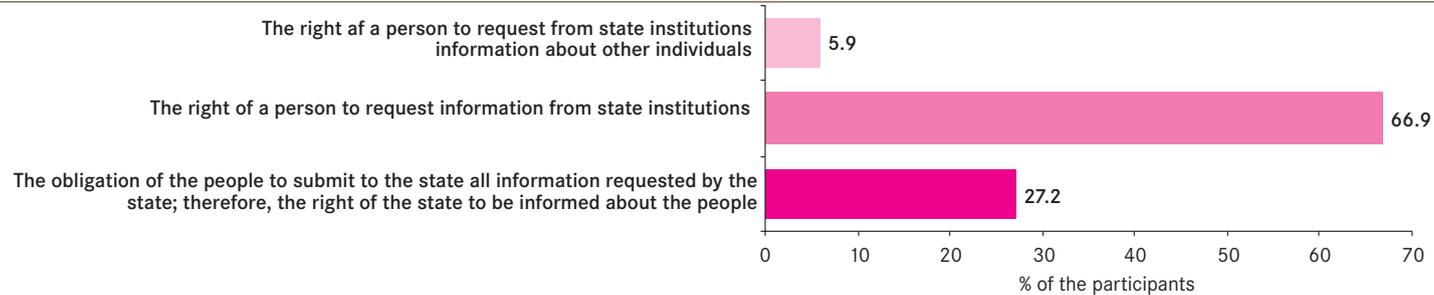
Following this initial question, those who said they knew about it were given 3 definitions and asked to select the one that properly defines the Right to Access to Information.

- The right of the people to request from state institutions information about other individuals.
- The right of the people to request information from state institutions.
- The obligation of the people to submit to the state all information requested by the state; therefore, the right of the state to be informed about the people

66.9% chose the right definition (the second one).

27.2 % of the participants who said they knew about the Right to Access to Information chose the third definition, which is totally contradictory to the idea behind the Law on the Right to Access to Information.

“Which one of the following describes the Right to Access to information?”
Definitions chosen by the participants who claim they knew about the Right to Access to Information (474 participants)



These results illustrate how low the level of knowledge is. As the sample of this research only covers urban population, the participants have a somewhat higher level of education than the overall population. Hence, it is possible that the level of knowledge is in fact even lower in the rural areas. This picture is even more alarming when the actual rates for the use of this right are considered. Only 63 participants among 2,020 (this question was not asked in the first round) reported that they used their Right to Access to Information, which corresponds to 3.1%. This implies that the majority of people in Turkey are generally not aware of this right and that some of them totally misunderstand what it means. When it is also considered that the rate of using this right is also rather low, the importance of the relationship between lack of knowledge and the use of the legal system becomes manifest.

What Do Those Who Say “I Know” Actually Know?

Victim Offender Mediation

For some offenses, victim-offender mediation allows the parties in dispute to agree on a compensation or similar, without going to trial. Victim-offender mediation has been introduced by the new Turkish Criminal Procedure Code in 2005, yet it has been used sparingly. Although the trial process is lengthy and puts the victim in a difficult position, mediation is still not preferred by parties mainly due to lack of knowledge regarding this option. Similarly, victims’ psychological state may be another reason why mediation is not the preferred procedure for many.

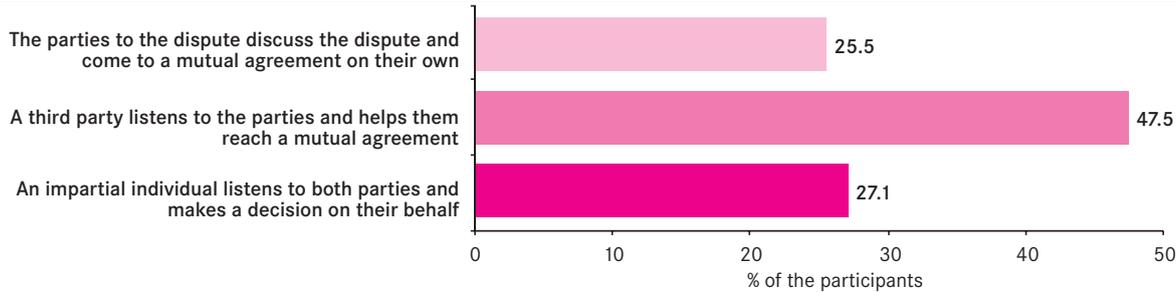
The accuracy of these arguments was examined with some questions. The participants were asked if they knew about the victim-offender mediation recently introduced in new Turkish Criminal Procedure Code.

- 43.1% said they knew about it
- 56.9% said they did not

Following these preliminary questions, those who said they knew about it were given three different definitions (which are given below) and they were asked to choose which one was the correct definition of victim-offender mediation (the second is the correct definition).

Results showed that more than half of the participants who said they knew about it (52.5%) did not have proper information about the issue. This shows that only 20.5% of all participants in fact know what victim-offender mediation is.

Which of the following is the correct definition of victim-offender mediation?
Definitions of victim-offender mediation chosen by the participants who said they knew what it was (871 participants)



Following these questions, all participants were given the real meaning of victim-offender mediation, and then asked if they would opt for it were they a victim in a criminal case. Consequently:

- 40.3% of those who earlier reported not knowing what victim-offender mediation is and 56.2% of those who chose the right definition said they would use victim-offender mediation.

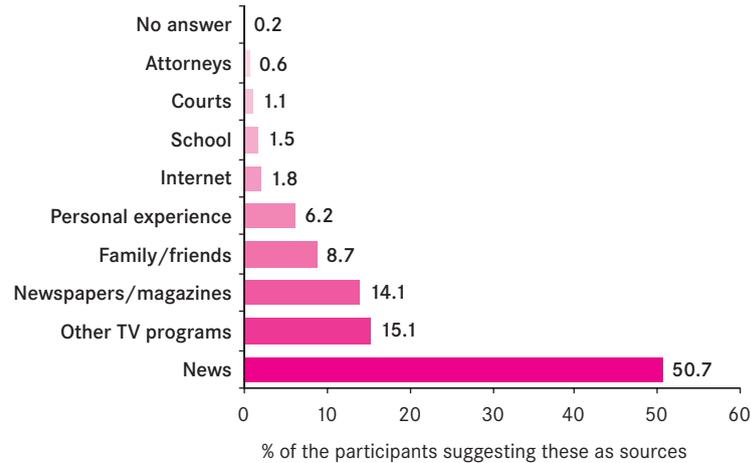
These findings suggest that when victim-offender mediation is explained to the participants correctly and in a detailed fashion, almost half of the participants state that they would consider using this mechanism. This rate is higher among those who already knew about this option. It is possible to argue that people would consider using victim-offender mediation once they are given a comprehensive description of the process. It is also evident that people need to be informed about the legal system so as to make use of all the advantages and options available to them. The more informed people are the more probable the new practice will be used by them. Of course results herein cannot be an indication of the people’s real life decisions (if they would actually use victim-offender mediation or not); however it can be an indication of their tendencies.

What are the Sources of Information of the Legal System and the Courts?

- Participants reported TV news to be the most significant source of information about the functioning of the courts and the legal system in general.

TV news/programs, newspapers/magazines and family/friends were reportedly the most significant sources of information.

Sources of information of the legal system and the courts

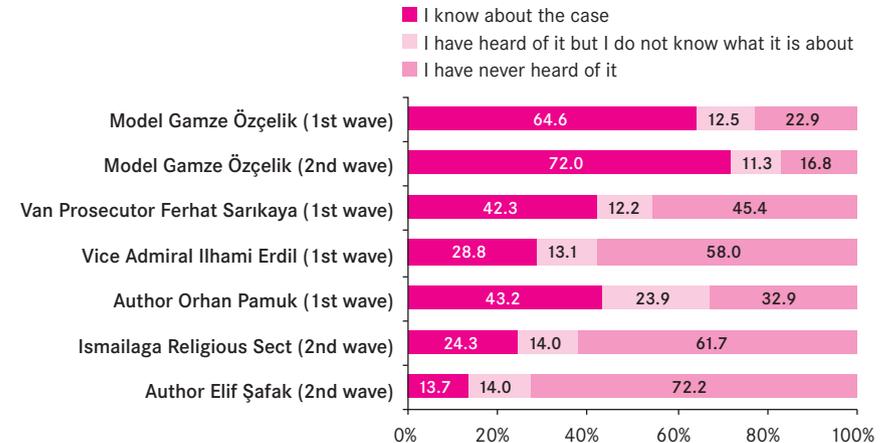


Which Lawsuits Do the People Follow Through the Media?

It can be argued that level of knowledge regarding the legal system can be improved when people follow the popular legal cases through the media. Yet another interpretation could be that the cases that are followed up by media are mostly atypical ones rather than typical cases (such as cases involving celebrities, cases associated with very serious and heinous crimes, etc.). For this reason, the knowledge acquired by a person from such cases might in fact not be an accurate indicator of the ways in which the legal system works. In order to determine what kind of attention different cases attract, participants were asked questions in the first and second rounds regarding cases which were on the media’s agenda during those periods. While doing this, the questions were asked about the individuals (parties) who had been primarily emphasized by the media rather than the content of the case.

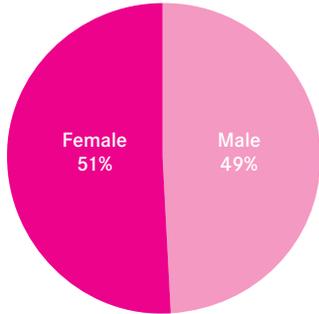
There were no particular cases eminent in the media in the final wave of the survey. At that time, the election of Mr. Abdullah Gul as the President of the Republic of Turkey was the main agenda and other issues did not attract much attention in the media. That’s why participants could not be asked questions on any new cases in that last wave of data collection. Therefore, this question was not used in the final wave.

Familiarity with cases that were on media’s agenda at the time the survey was conducted

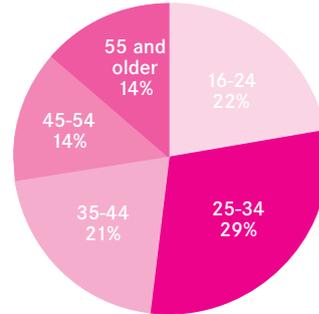


PARTICIPANTS

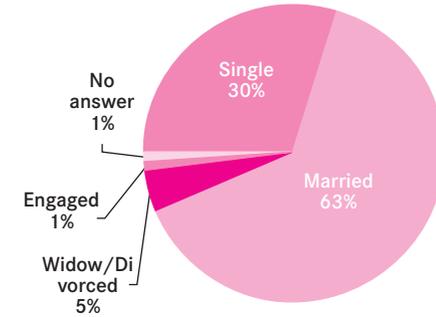
Gender of the participants



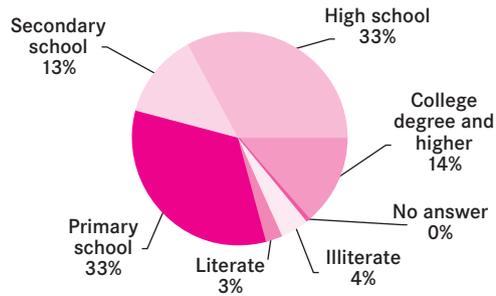
Age structure of the sample



Marital status of the participants



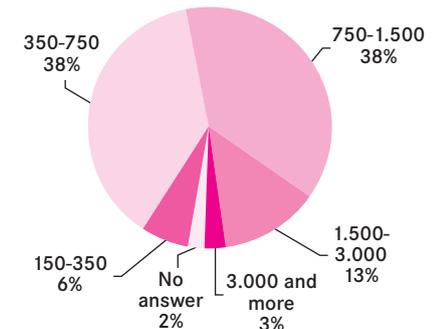
Education level of the participants



Employment status of the participants

Employed	
Salary full-time	21.90
Salary/part-time	3.04
Self-employed	9.15
Unpaid family worker	0.40
Not working	
Retired	12.16
Housewife (only for female participants)	34.06
Student	10.70
Looking for a job/unemployed	7.90
Living on rent/interest	0.69

Monthly household income of the participants (YTL)



ASSESSMENT

Results of the Justice Barometer highlight a gap between public and law in Turkey. The bridging of this gap should be seen as a policy priority. In light of the information obtained from this research, the following considerations should be taken into account when a comprehensive policy is developed for improving the accessibility and the quality of the service provided by the legal system to the public.

Public's trust in courts is low. In general, people in Turkey have negative evaluations about courts. The ones with the most negative evaluations are also those who are most likely to report a decrease in their trust following an experience with the legal system.

Research results show that the number of the participants who have positive evaluations about courts in many questions, is equal to or less than half the total.

The results of the survey show that participants with court experience have more negative evaluations about courts than those who have no experience with courts. Also, participants who have been in courts as victims in criminal cases and who assess their experiences more negatively compared to other groups are the ones most likely to report a decrease in trust in courts as a result of their experiences with the system.

Despite the low level of satisfaction, functioning of the courts may be improved by identifying performance criteria.

The issue of performance assessment for public institutions has recently gained visible importance in Turkey. The work undertaken by the Republic of Turkey Prime Ministry Strategy Development Presidency¹² or the Patient Rights Units¹³ established in health institutions can be regarded as signs of such a shift.

When it comes to assessing the performance of the courts, the generally recognized pattern usually takes the accessibility, the speed, the fairness, the independence of courts and public trust in courts as the main measures of performance. When the outcome of a case is seen as the only factor that the people take into consideration while they are assessing the legal system, then we must admit to having a very defeatist approach since one party will evidently always be dissatisfied with the case result; hence the system will not be able to guarantee the satisfaction of everyone. However, procedural factors can also be of influence, meaning that the people may not only be considering the outcomes of their cases but also taking into account their experiences throughout the process when evaluating the performance of the courts and their satisfaction with it. Consequently, while thinking about the public's satisfaction with the service provided by the courts, a "process + outcome" equation should be given consideration. Identifying performance criteria and the systematic assessment of such criteria will facilitate

improvement of court services and monitoring of public's trust in courts.

Satisfaction with the legal system should be evaluated in light of perceptions as well as experiences. Improving the perceptions of the public about the system depends on both improving the system's performance and ensuring that the people are informed about the system.

In this survey, participants were asked questions regarding their experiences with courts. 29.5% of the participants reported having a court experience, which indicates that for the majority the opinions are largely formed on the basis of perceptions rather than direct experiences.

For this reason, comprehensive studies should be carried out on how the public perceives the judicial process, the courts, the judges and the court staff and action should be taken so as to positively improve these perceptions in light of the information obtained through these studies. The findings of this research suggest that the perceptions of the public are based on both personal and vicarious experiences with the courts as well as on the media portrayals of legal issues. Results also show a significant lack of information regarding the judicial system, which can possibly be seen as another constitutive factor of perceptions. Hence, any effort to influence the perceptions of the public in a positive direction should include awareness raising initiatives and efforts to improve the public's knowledge of the legal system and the courts in particular.

¹² The Strategy Development Presidency is a division of the Prime Ministry. Its mission can be summarized as developing performance and quality assessment criteria concerning matters under the responsibility of public administration and collecting, analyzing and interpreting data on the management of public administration and the improvement of the provided services. In line with these objectives, the Presidency launches annual reports which are submitted to the Prime Ministry for policy development.

¹³ In order to prevent violation of patient rights, to monitor, improve and coordinate current practices in the health sector, the Ministry of Health Branch Directorate of Patient Rights and Patient Rights Units and Patient Right Committees have been established. These bodies aim at preventing problems due to violation of patient rights, improving the quality of health services, ensuring the protection of the people from rights violations and allowing them to seek legal remedies when necessary. A patient-oriented, participatory health service is the underlining mentality of these bodies.

The gap between the people and law should be regarded as an extension of a system which, in general, is not public-oriented.

Future work should from the outset take as its base the position that justice is a service provided to the public. The main idea here is that the people play a significant role in the legal system and the sustenance of the work of the courts which are seen as “distributors of justice” depends to an extent on the willingness of the people to continue to play these roles and participate in the system.

When considering this relationship between the public and the courts, it could be assumed that people may be less willing to play their roles in the legal system if and when they have concerns about the functioning of the courts and/or when they question the legitimacy, impartiality and fairness of their decisions. On the other hand, a person who has a positive opinion as a result of his/her experience with the courts might be expected to abide by the requirements of law, to use law in the settlement of disputes and to take court decisions seriously. Therefore, it might be expected that as the trust of the people in the legal system improves, as they believe that disputes can be settled fast, fairly and efficiently through the courts and as their doubts regarding the enforceability of the courts decisions disappear, their hesitations to resort to law will diminish.

For the continuation of the legitimacy of modern state established on the basis of rule of law, it is necessary to ensure that people’s decisions not to resort to law when faced with a dispute do not stem from a lack of trust in the judicial system.¹⁴

¹⁴ In regards to the relationship between legitimacy and the decision to use courts, Sally Engle Merry argues that by resorting to law, people have expressed some sort of a belief in the legitimacy of that law. Merry, Sally Engle. 1990. “Law as Fair, Law as Help: The Texture of Legitimacy in American Society”. *New Directions in the Study of Justice, Law and Social Control*. Prepared by the School of Justice Studies Arizona State University, Arizona Plenum Press.

The ultimate objective is not necessarily to bring people to the courts, but assuring that their reasons for not taking their disputes to the courts do not stem from the deficiencies of the legal system.

The fact that people in Turkey still seek to settle to their disputes in courts, despite having negative experiences in general, might be considered as an indicator that law still occupies a significant place in people’s lives and continues to maintain some degree of legitimacy in their eyes. This legitimacy should be taken as a significant starting point for public authorities. It is possible for the law makers and enforcers to strengthen such legitimacy by undertaking the necessary corrections pertaining to perceptions of law and the legal system.

At the same time, initiatives should be taken in order to raise public’s awareness on judicial matters, on the functioning of the legal system and on the use of rights.

This booklet has been prepared under “Justice Watch” a project carried out by Istanbul Bilgi University Human Rights Law Research Center and supported by Istanbul Bilgi University and Open Society Institute Assistance Foundation. The responsibility of the contents of the booklet belongs to the authors alone and can by no means be presented as the opinions of Istanbul Bilgi University Human Rights Law Research Center or Open Society Institute Assistance Foundation.

Justice Barometer: Public Opinion On Courts in Turkey

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Istanbul Bilgi University Publications

ISBN 978-605-399-053-6

Cover Page and Design
Kadir Abbas - Galma Jahic

1st edition, İstanbul, August 2008

© Bilgi İletişim Grubu Yayıncılık Müzik Yapım ve
Haber Ajansı Ltd. Şti.
Address: İnönü Caddesi, No: 28
Kuştepe Şişli 34387 İstanbul / Turkey

www.bilgiyay.com

E-mail yayin@bilgiyay.com

Distribution dagitim@bilgiyay.com

Electronic Page Makeup Maraton Dizgievi

Editing Seda Kalem

Printer and Binder

Sena Ofset Ambalaj ve Matbaacılık San. Tic. Ltd. Şti.
Litros Yolu 2. Matbaacılar Sitesi B Blok Kat 6 No: 4 NB 7-9-11
Topkapı İstanbul/Turkey
Tel: 0212 613 03 21 / Faks 0212 613 38 46

Istanbul Bilgi University Library Cataloging-in-Publication Data
A catalog record for this book is available from the
Istanbul Bilgi University Library

Elveriř, İdil. Justice Barometer: public opinion on courts in Turkey /
İdil Elveriř, Galma Jahic, Seda Kalem.
p. cm.

ISBN 978-605-399-053-6 (pbk.)

1. Courts—Turkey. 2. Law—Turkey. 3. Justice, Administration of—
Turkey. I. Title. II. Jahic, Galma. III. Kalem, Seda.

KKX1580.K35 J87 2008

Supporting Organizations



ISBN 978-605-399-053-6

