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# What excludes women from landownership in Turkey?

## Implications for feminist strategies

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### Abstract

This article investigates the reasons for women's exclusion from landownership in Turkey. Landownership is a crucial element in enabling greater gender equality in developing countries. I argue that the Turkish civil code (1926-2001) discriminated against women in inheriting small-scale agrarian land, and the lack of alignment between separate feminist agendas weakened their capacity to challenge the gender-discriminatory legal framework. Historical analysis of the Ottoman and the Republican periods identifies the diverse implications for women's property rights of transition from the Islamic-premodern to the modern legal framework. The selected period reveals that rural and urban women were divided by changing forms of patriarchal domination, gendered landownership and paid employment. This division of women, alongside attacks and manipulation by the state, prevented the first-wave feminist movement from acting collectively. Consequently, the civil code granted education, employment, and inheritance rights to urban women but discriminated against rural women inheriting small-scale land under cultivation.

**Key words:** the Turkish civil code 1926; landownership; property; Ottoman Empire; feminism; Islam

## **I. Introduction**

This article investigates the reasons for women's exclusion from landownership in Turkey. Women's access to landownership is significant for achieving greater gender equality. In her work analysing the correlation between gendered landownership and the gendered path of agrarian transition in South Asia, Bina Agarwal finds that women's limited access to ownership and control of property contributes to the gender gap in economic well being, social status and empowerment (Agarwal, 2003, 1994). She further demonstrates that women's ownership of land serves as a prevention against domestic violence (Agarwal and Panda, 2007, Panda and Agarwal, 2005). Studies in other regions also reveal that women's exclusion from landownership puts women at greater risk of health, poverty and violence (Deere et al., 2013, Mishra et al., 2016, Muchomba et al., 2014, Fonjong et al., 2012). Acknowledging the significance of women's landownership, the Food and Agriculture Organisation (FAO) has started to provide sex-disaggregated data on ownership and control over agrarian land (since the 2000s). However, the evidence provided by the FAO does not include Turkey (GLRD, 2010). This article contributes to the initiatives assessing gender gaps in landownership by investigating gender discriminatory land inheritance law in Turkey.

Development scholarship investigates the role of agriculture in financing the early stages of industrialization (Rosenstein-Rodan, 1961, 1943, Rostow, 1960, 1956, Kalecki, 1955, Lewis, 1954). According to this scholarship, capitalist transformation leads to land dispossession amongst peasants, large-scale farms, and agrarian wage labour. Therefore, while agriculture played a necessary role at the initial stages of development, it is predominantly non-agricultural sectors that shape trajectories of development. Engaging with these theories, existing analyses on capitalist transformation in Turkey focus on industry and finance rather than agriculture (Boratav, 2011, Kepenek and

Yentürk, 2010, Köse and Yeldan, 2006, Kazgan, 2002). Furthermore, empirical analyses tend to obscure the significance of agriculture for social transformation.<sup>1</sup>

In the third volume of *Capital*, Karl Marx argues that differences arise in capitalist transformation and emphasises the possibility of small producers obtaining the means to exploit the labour of others (1976: 931). Land is a special kind of property as it enables production of surplus by producers thus functioning as the means of production. The demands of landownership by dominant sections of society allow for the establishment of the division of labour and appropriation of agrarian surplus. Gendered landownership gives rise to a gender-based division of labour and patriarchal exploitation of women's labour within small medium size farms. Women's exclusion from landownership has significant implications for varieties of patriarchy and capitalism, state formation, civil society, and the cultural and religious conditions.

The case of Turkey appears to be consistent with the above analysis on gendered landownership. The pattern of small landownership in Turkey has remained largely unchanged over the last century; only six per cent of agricultural holdings have been large scale farms (fifty acres or larger) since the 1950s (TURKSTAT, 2011a, 2011b). This pattern correlates with a large gender gap in unpaid family workers in agriculture. Despite the country's economic growth, the majority of female employment was in agriculture until 2006 (WDI, 2017). As qualitative research shows, small landownership

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<sup>1</sup> For example, the Turkish Statistical Institute previously perceived areas with a population higher than twenty thousand as urban areas and the rest as rural areas regardless of the main economic activity (from 1982 until 2014). Since 2014 the Institute has differentiated urban and rural areas based on the kind of governmental organisation meaning: areas with city councils (belediye) are classified as urban areas. With law 5393, areas in which the population is higher than five thousand became eligible to have city council. The following laws (6360 and 6447) have transformed many areas previously classified as rural to urban by legitimising new city councils. This change has had a substantial impact on the results: In 2012 seventy seven per cent of population lived in urban areas, but in 2014 the same figure jumped to ninety two per cent (TURKSTAT, 2012).

is also associated with a sharp gender-based division of labour and men's strong control over women's labour in agriculture (Karkiner, 2009, 2006, Hoşgör-Gündüz and Smits, 2007, GDSW, 2000, Onaran-İncirlioğlu, 1999, Morvaridi, 1993, 1992). This paper identifies the reasons for women's exclusion from landownership, hitherto neglected, and explores the implications for feminist strategies.

The Turkish civil code is perceived as one of the pillars of gender equality. The code was introduced in 1926 and remained in place until the end of 2001. Existing analyses assume that the 1926 civil code granted *all women* inheritance rights equal to those of men (Toktaş and O'Neil, 2015, Dedeoğlu, 2013, Arat, 2010b). The continued male dominance of landownership is associated with village culture (Glidewell-Nadolski, 1977, Magnarella, 1973, Stirling, 1957). In this article, however, I investigate that the Turkish civil code discriminated against women inheriting small-scale agrarian land and other forms of rural property more than the previous legal framework.

This paper further analyses the respective roles of the divisions amongst women for the prolonged nature of the gender discrimination in land inheritance. Theories on varieties of patriarchy provide a detailed account of changes in the forms of patriarchal domination and differentiate gender-based segregationist strategies from gender-based exclusionary strategies (Walby, 2011, 2009, 1990, Hartmann, 1979a, 1981). Engaging with these arguments, I examine that two forms of gender-based exclusionary strategies, male dominance in landownership and paid employment, divided rural and urban women by diversifying their demands and strategies, and as such, this weakened women's overall capacity to challenge the gender discriminatory legal framework.

I use the concept of feminist strategies to refer to gender equality policies promoted by national and international policy makers, trade unions and non-governmental organisations together with the demands and strategies of women's grassroots

mobilisations. This article contributes to feminist strategies by (1) investigating whether women's exclusion from landownership is significant for gender equality in the context of a high level of industrialisation, (2) assessing the extent to which women have utilised the Islamic legal framework to defend their property and land ownership rights, and (3) examining how far changes in the forms of patriarchal domination divide rural and urban women, and whether this division crosscuts class and race-ethnicity differences.

A historical sociology based case study method is used to identify the reasons for women's exclusion from landownership. Avi Rubin (2012a) emphasises that the perceived opposition of the secular versus the religious courts obscures the integrated nature of the nineteenth-century Ottoman legal system. Engaging with his argument, I propose that thinking through the similar opposition of the secular versus the religious civil code limits assessment of continuities and discontinuities within the patriarchal character of the legal systems. In this article I compare women's inheritance rights in the Islamic-premodern legal framework with the modern legal framework. The period considered is from the sixteenth century Ottoman Empire until the Republican period (1923-2014) which encompasses the transition in legal frameworks and allows examination of their diverse implications for women's property rights. Considering this period also enables analysis of how far changing forms of patriarchal domination divided rural and urban women, and reveals the possible reasons for the lack of alignment between separate feminist agendas.

The following sections revise existing accounts of the Turkish civil code and the first wave of the feminist movement, and describe the methodology (Sections 2, 3 and 4). My analysis starts with an assessment of the extent to which Ottoman women had access to landownership and how far women utilised the Islamic legal framework to defend their

rights. Later I investigate that the 1926 civil code excluded rural women from property and land ownership to a greater extent than the previous legal framework (Section 5). I then consider if changing forms of patriarchal domination have divided rural and urban women. This is followed by an investigation of the reasons for the failure of the first wave of the feminist movement to align separate feminist agendas (Section 6). Finally, I conclude by summarising the key findings and contributions of this research (Section 7).

## **II. The Turkish civil code**

The Turkish Civil Code and the Obligations Law (1926-2001) is perceived as one of the pillars of gender equality and Turkish secular modernisation. During the early decades of the Republic, law experts glorified the 1926 civil code by assuming it granted all women inheritance rights equal to those of men (Velidedeoğlu, 1938, 1944b, 1944a, Belgesay, 1944). The civil code thus became “a taboo that was not criticized effectively by women for long years” (Arat, 2010b: 238). One of the first feminist critiques of the code was the 1975 Women’s Congress, but even this assumed that the Turkish civil code of 1926 granted equal inheritance rights to all women. However, its demands were limited to the following aspects of gender inequality, predominantly in urban areas: “[t]he status of family head should not be confined solely to the husband”, and “[t]he prerogative of a husband to forbid his wife the practice of a profession or employment should be abolished” (Abadan-Unat, 1981: 15).

During the late 1990s, the civil code was heavily criticised by feminist grassroots organisations. The critique addressed several elements: the codified role of the husband as the head of household who was responsible for providing for the family; the discrepancy in the minimum age for marriage (seventeen for boys and fifteen for girls); the lack of inheritance rights for children born outside wedlock; and the property

regime of the 1926 civil code which did not recognise women's unpaid domestic labour (i.e. if the property was acquired during marriage and registered in a husband's name, a wife could not claim her share in the case of divorce) (Arat, 2010b). The feminist grassroots organisations achieved considerable success in challenging the patriarchal character of the early civil code (Aldikacti Marshall, 2009). However, their critique neglected the gender-based discriminatory character of the code regarding land inheritance, and as such, contributed to the assumption that the modern civil code "allowed women... to be liberated from the restrictions that traditional Islamist interpretations had imposed on them" (Arat, 2010a: 870).

Existing analyses of the implications of the civil code emphasise differences amongst women. For example, Deniz Kandiyoti suggests that gender equality reforms during the early Republican period benefited women of the urban bourgeoisie (1989: 126). Engaging with her argument, Saniye Dedeoğlu claims that the civil code granted rights to upper and middle class women or "urban bourgeois women" and the impact of the code on women from lower classes was limited (2013: 10). Şule Toktaş and Mary Lou O'Neil also argue that the code supported "urban elite women" in accessing the public sphere, yet class and rural-urban based differences meant other women continued to be excluded (Toktaş and O'Neil, 2015: 30). These scholars contribute to debate regarding the implications of the 1926 civil code for gender equality but some issues remain unclear or undeveloped that I explore further:

Firstly, Kandiyoti and Dedeoğlu do not clarify who is included in the category of "women of the urban bourgeoisie" (Kandiyoti, 1989: 126), upper and middle class women and "women in the lower societal segments" (Dedeoğlu, 2013: 7). Consequently, they do not provide a detailed analysis of the ways in which the 1926 civil code impacted on lower class women differently to upper-middle class or urban bourgeois

women. The diverse implications of the code are assumed rather than explained. Under conditions of increasing wage dependency, women's exclusion from paid employment was a significant factor affecting particularly female wagedworkers. Therefore I argue that irrespective of their class-based differences female wagedworkers, small-producers and manufacturers all supported an increase in women's access to paid employment. Secondly, the category of elite women requires careful consideration in differentiating the implications of the civil code for women's rights. This category seems to include two major groups: (1) women in the elite households, for example, including wives, daughters and sisters of elite men (e.g. bourgeoisie, large-scale landowners, central and local state members, and small-business owners), and (2) female manufactures. The former group's access to assets was more dependent on the patriarchal family structure and marriage contract than it was for the latter group. This article explores the relative importance of education and employment rights for women in the elite households, female manufacturers, female wagedworkers, and small-producers. It further analyses that category of urban women comprises of women in the elite rural and urban households.

Thirdly, although Toktaş and O'Neil (2015) mention the diverse implications of the 1926 civil code for rural and urban women, their account of the public sphere seems to be limited to urban areas. This, in turn, prevents assessment of the influence of the code on rural women's access to the public sphere. Contrary to the widespread assumption that the public sphere matters only to urban women, I argue that the rural public sphere contains agrarian technologies, trade, and financial relations and that, as such, rural women's access to this public space is significant for gender equality.

### **III. The first wave of the feminist movement in Turkey**

This paper argues that women's weakened capacity to challenge the gender discriminatory legal framework, in addition to the legal discrimination itself, was significant in sustaining male dominance in landownership. Existing analyses of varieties of patriarchy differentiate gender-based segregationist strategies from gender-based exclusionary strategies by examining degrees and forms of women's engagement in the labour market (Hartmann, 1983, 1979a, 1979b), public arenas (Walby, 1990), or institutional domains of economy, polity and civil society (Walby, 2009). In brief: economy includes both the market and household production; polity contains the states, nations, organised religions, empires, hegemons and the global political institutions; civil society comprises the social movements, sexuality and knowledge-institutions. Sylvia Walby (2011, 2009) argues that gender-based exclusionary strategies rely on women's exclusion from political parties, the parliament, trade unions, the institutions of organised religion and paid employment. Here the sphere of household production becomes the primary place whereby women's labour is organised. Under gender-based segregationist strategies, women have access to paid employment, polity and civil society and the state tends to criminalise violence against women. However, the segregationist strategies of patriarchal domination disadvantage women through division and subordination in specific sectors and roles.

Theories on varieties of patriarchal domination provide a detailed account of gender-based exclusionary and segregationist strategies. Nevertheless, proponents tend to focus on forms of gender-based segregation to the neglect of changes in gender-based exclusionary strategies (Walby, 2009, 2015). In this paper, I compare the impact of two forms of gender based exclusionary strategies (gendered landownership and paid

employment) on rural and urban women respectively, including the implications for their demands and strategies in challenging male dominance.

This article also investigates the possible reasons for the failure of first wave feminism to align women's separate agendas. The first wave achieved greater organisational strength in the late Ottoman and early Republican periods. Organisations explicitly committed to women's rights followed the initial forms of women's religious charity organisations (Os, 2000). Serpil Çakır (1994) estimates there were over forty women's organisations between the mid-nineteenth century and 1923, while Nicole Van Os (2000) suggests approximately one hundred. Women's organisations were also consulted by various journals including *Şükufezar* (1886), *Hanımlara Mahsus Gazete* (1895), *Demet* (1908), *Mehasin* (1908- 1909), *Kadın* (Selanik, 1908- 1909), *Kadın* (Istanbul, 1911- 1912), *Kadınlar Dünyası* (1913- 1914 and 1918- 1921) and *Kadınlık* (1914). The first wave in Turkey further established strong connections with the feminist movement in Western Europe. The Turkish Women's Federation organised the twelfth Congress of the International Federation of Women (1935) with the participation of British, American and French women.

The first wave feminist movement developed strategies confronting women's exclusion from paid employment. The organisational strength of the movement brought considerable achievements regarding the demands of education and employment. For example, the first teacher training school for girls was opened (1863), the American college for girls was established (1875), and the first university opened their doors to women in 1914. A lack of male wageworkers during the First World War extended women's access to paid employment, but women's struggle was also a significant force. The first wave had a considerable role in founding the Women's Islamic Working Union (*Kadınların Çalışma Cemiyet-i İslamiyesi*) (1916) and pressurising the Istanbul

municipality to provide training to support women's employment as housekeepers (Altınbaş, 2014). The movement also demanded a change in the Islamic dress code (Kandiyoti, 1989), protested police surveillance, and refused to wear the veil in public (Altınbaş, 2014). The Ottoman state later prohibited the wearing of *niqab* that covers the entire face (1881). The first wave feminist movement further pressured the state and gained some rights to initiate divorce under certain conditions (1917). These achievements suggest the first wave feminist movement in Turkey was a significant political force between the mid-nineteenth and early twentieth centuries.

Existing theories on the first wave develop two main approaches: The first approach tends to neglect the significance of the feminist movement and claims that women's rights functioned in a way which supported the Republican regime in achieving its strategic goals, such as: modernisation, nation building, and detaching from the Ottoman Islamic past (Kandiyoti, 1989, 1991, 1995, 1997, Tekeli, 1981, 1982). Engaging with this approach, Kandiyoti compares the women's movement in the early Republican period with Western suffragist movements and concludes that women's rights in Turkey were not obtained through the women's movement but granted by male modernist reformists (1989) and "male feminism" (1997: 121). The second approach, however, suggests that during the late Ottoman and early Republican periods the first wave was an important political actor that put pressure on the state (Durakbaşa and Ilyasoğlu, 2001, Durakbaşa, 1988, 1998, Os, 2000, Demirdirek, 1999, Cakır, 1994, Tekeli, 1990a, 1998a).<sup>2</sup>

The relatively unique character of the first wave feminist movement seems to prevent acknowledgement of its significance. For example, the Ottoman Empire did not

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<sup>2</sup> Tekeli admits she (not only other scholars) was "unfair and wrong" in refusing the significance of the first wave in Turkey (Tekeli, 1998a).

have a strong tradition of the parliamentary system and the Turkish Republic had a single party regime until 1950. Women therefore strategically prioritised education and employment rights while demands for full suffrage came later with the Women's Federation plans and attempts to organise a rally (1930) (Demirdirek, 1999). The first wave of the feminist movement in Turkey also discussed their demands within an Islamic framework until political modernisation at the end of the nineteenth and beginning of the twentieth century (Demirdirek, 1999). Historical research shows that the movement achieved significant organisational strength and constructed a robust, cohesive and dynamic social movement during the late Ottoman and early Republican periods (Durakbaşı and Ilyasoğlu, 2001, Durakbaşı, 1988, 1998, Os, 2000, Demirdirek, 1999, Cakır, 1994, Tekeli, 1990a, 1998a). Yet, the first wave feminist movement did not respond to women's exclusion from landownership.

Şirin Tekeli states that achievements of the first wave feminist movement created an "illusion" that gender equality was reached in the West as well as in Turkey (1998b: 338). The Republican regime, she argues, strengthened the illusion to recruit women to the regime (Tekeli, 1998b). Establishing this illusion required a multifaceted strategy; construing Ottoman women as passive victims of Islamic patriarchal society (Os, 2000, Tekeli, 1998b), thereby dismissing the achievements of Ottoman women's struggle, as well as portraying female peasants as ignorant people who did not know what was best for themselves (Arat, 1999, Onaran-İncirlioğlu, 1999). I use the terminology of 'equality manipulation' rather than 'illusion' to emphasise the active role of the state in creating this context. In this article I investigate that equality manipulation, the division of rural and urban women, and state attacks prevented the first wave feminist movement from aligning women's demands and strategies.

#### **IV. Methodology**

A historical sociology based case study method is used to investigate the reasons for women's exclusion from landownership in Turkey. Historical analysis is necessary to compare women's property and land ownership rights in the Islamic-premodern legal framework with the modern legal framework. Considering the significance of feminist strategies for women's access to ownership and control of land, I also examine the ways in which women's demands and strategies are diversified within historical context. The period considered is from the sixteenth century Ottoman Empire until the Republican period (1923-2014). The Ottoman historical context reveals how far women had property and land ownership rights in the Empire. This period also allows an assessment of whether capitalist development (Aytekin, 2009), or the decline in the male population (Imber, 2010), granted some rights to women concerning land inheritance, or whether women defended their rights by utilizing the Islamic legal framework. It further allows exploration of whether the initial attempts to modernise the Islamic framework limited women's access to legal powers of property relations and supported men to increase their control over women's land.

Analysis of the Republican period (1923-2014) compares the implications of the 1926 civil code with those of the previous Islamic legal framework for women's property and land ownership rights. It further provides for examination of how different forms of patriarchal domination have diversified women's demands and strategies and divided rural and urban women. Considering this period also enables analysis of the dynamics that prevented the first wave of the feminist movement from aligning women's separate agendas. Evidence comprises work which has drawn on archival materials such as the Imperial code and decree, the sharia court records, land

and endowment registers, tax registers, and the Republican regime's laws and regulations.

## **V. Transformation of the legal framework**

This section compares the gender discriminatory land inheritance law during (1) the pre-Nizamiye, (2) Nizamiye, and (3) the Republican periods using historical analysis.

The comparison serves to assess the extent to which Ottoman women had landownership rights before the 1926 civil code and utilised the Hanefi School of Islamic Law and local sharia courts to defend their property rights.

### **1. Pre-Nizamiye period**

Landownership in the Ottoman Empire was composed of overlapping demands comprising four major forms of control over the land. The first form, relatively uncommon, was the private ownership of land through inheritance rights (e.g. homesteads, small gardens, private groves and arable land granted by the state to individuals). Institutions called *awqaf* established the second form of control over the land. The *waqf* (singular of *awqaf*) referred to the donation of income-producing property to benefit religious or pious causes. The third form was tax farmers' control of the land. The Sultan symbolised the owner of the entire land in the Empire – except the private and *awqaf* lands – called the *miri* land. The Ottoman state distributed this land as service fees to cavalryman, court members and other fief holders in provinces. Between the seventeenth and the nineteenth centuries a significant proportion of fief holders became tax farmers (Imber, 2012) who were allowed to keep a certain proportion of tax revenue with the state allocating the rest. Tax farmers held control of the *miri* land on behalf of the Sultan and had a lifetime contract *without* hereditary rights (Imber, 2010). Ottoman peasants' control over the *miri* land comprised the last

form of control over the land. Peasants had the right to inherit land; upon the death of a peasant, the *miri* land automatically passed to the son(s). Other than a son, anyone who wished to cultivate the land had to pay an entrance fee, called *tapu-tax*, to tax farmers (Imber, 2010).

Women had access to private ownership of the land from the early centuries of Islamic societies (Zarinebaf, 2001, Fay, 1998, Jennings, 1975). As the family *awqaf* allowed the donor to receive endowment income during his/her lifetime and his/her heirs', the *waqf* system also supported women in defending their land against men's abuses (Fay, 2010, 1998). However, the *miri* land comprised the majority of land in the Empire. Female peasant control over the *miri* land was therefore of most significance to gender equality in landownership.

As explained above, the *miri* land automatically passed to sons whilst other 'outsider' family members had to pay *tapu-tax* to inherit this land. The struggle between male and female peasants was whether daughters, sisters and mothers constituted outsiders. During the late sixteenth and the early seventeenth centuries the Ottoman legislation recognised, to a certain degree, women's inheritance rights over the *miri* land. In 1568, for the first time, daughters were accepted as outsiders with mothers and sisters also perceived as outsiders in the early seventeenth century (Imber, 2012, 2010). Analysis of the local sharia courts' archives demonstrates that in many cases courts postponed the deadline of the *tapu-tax* payment in favour of women and, as such, supported female peasants (Imber, 2010, Gerber, 1980).

Haim Gerber argues that the condition in which daughters had to pay the *tapu-tax* while sons did not constituted a "major legal discrimination" (1980: 235). Gender equality in the legal framework, however, requires assessment according to the historical context. Almost every European feudal kingdom completely denied women's

property and inheritance rights until the second half of the nineteenth century. Ottoman women had property ownership and inheritance rights over private land much earlier, and during the late sixteenth and the early seventeenth centuries women's inheritance right was expanded to the *miri* land. The legitimisation of women's inheritance rights over the *miri* land was therefore a significant achievement regarding gender equality in property ownership.

According to existing accounts, Ottoman women's landownership rights were attributable either to the decline in the male population due to wars and rebellion (Imber, 2010, 2012) or to the development of capitalism (Aytekin, 2009). These accounts, however, neglect the significance of Ottoman women's struggle. For example, women's property rights in the European kingdoms – where capitalist development was certainly initiated before the Ottoman Empire – were denied until the mid-nineteenth century. In addition, as Colin Imber (2010) himself acknowledges, the same wars and revolts decreased the population in non-Muslim territories of the Empire yet population decline in those territories did not bring the legitimisation of women's land inheritance. Moreover, the fourteenth century witnessed a significant demographic decline throughout Europe, and the population did not grow until the sixteenth century (Brenner, 1976). This population decline, however, did not lead the European feudal states to acknowledge women's property and landownership rights.

In her work analysing women's access to property ownership in eighteenth-century Cairo, Mary A. Fay (2010, 1998) finds that, to a certain extent, Muslim women softened the patriarchal bias of Islamic law and gained some autonomy within the patriarchal family structure through the Hanefi doctrine. In order to assess the impact of transformation in legal frameworks, I investigate the extent to which the Hanefi School

of Islamic law and local sharia courts were key instruments for Ottoman women to defend their rights.

### **Women's rights under the Hanefi School of Islamic law**

The Hanefi School of Islamic Law made women legally autonomous from their husbands, fathers, and brothers meaning an adult Muslim woman did not lose the right to own or manage her property after marriage (Fay, 2010, 1998). In addition, the Quran had a significant role in securing women's property rights<sup>3</sup> and legal personhood. The Hanefi School also relied on an absolute separation of husband and wife's properties. A married woman was not responsible for her husband's debts, payments or other financial obligations (Doxiadis, 2010, 2011).

In addition women were granted a certain amount of wealth in marriage, bride-wealth (*Ṣadāḳ*), which is distinct from bride-price (*mahr*) in that the former is an integral element of Muslim marriage whereas the latter is not (Tucker, 1998, Pearl and Menski, 1998). During the pre-Islamic period, amongst the pagan Arabs, bride-price was an essential condition for marriage and was paid by the groom to the father of the bride. In the period shortly before the introduction of Islam, bride-price, or at least some part of it, had already begun to be given directly to the bride (Spies, 1991). During the Islamic period, women's right to receive bride-wealth was secured in the Quran<sup>4</sup> and bride-wealth was announced as the obligatory payment by the groom to the bride (Motzki, 2001). Bride-wealth also appears in deeds and words of the Prophet Muhammad (*hadith*) (El Alami, 1995) which are often used in the absence of the Quran.

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<sup>3</sup> From what is left by parents, and those nearest related, there is a share for men and a share for women, whether the property be small or large – a determinate share (Quran Karim, 2011: Sura 4, aya 7)

<sup>4</sup> And give the women (on marriage) their dower as a free gift (Quran Karim, 2011: Sura 4, aya 4)

Moreover, the Hanefi School appointed the judges of local sharia courts (*kadi*) as the protectors of women against the abuses of male kin, and prohibited a woman from getting married against her will. Legal guardians could marry girls not of age without a girl's consent but evidence from seventeenth-century court cases suggests that women asked for the cancellation of such marriages when they came of age (Jennings, 1975). Furthermore, the Hanefi and Maliki Schools defined certain limitations regarding male violence against women (e.g., a husband must not strike his wife's head or face or beat his wife in rage). Such restrictions sound archaic but need perceiving within the historical context. Court cases supported women who had been beaten contrary to the sharia and were seeking separation or divorce (Jennings, 1975). Women also went to court in rape and sexual assault cases thereby indicating the extent to which women trusted the local sharia courts (Ergene, 2010, Peirce, 2003).

Ottoman women, Muslim as well as Christian, also benefited from the local sharia courts in defending their property and inheritance rights (Doxiadis, 2011, 2010). In his work analysing the early seventeenth century court records from Kayseri, Trabzon, Amasya and Karaman, Ronald C. Jennings (1975) shows that women went to court predominantly for property related issues such as sale or usage without consent and in many cases the transfer of property was cancelled. Ottoman women also sought justice concerning matters such as male violence, bride-wealth, forced marriage, humiliation, allowance in the case of husbands' disappearance and loans (as money, gold). Notably, women represented themselves in those court cases and made accusations. Local sharia courts handled women's and men's court cases in the same way; women were eligible to make a complaint and to defend themselves if sued. Court records show that approximately eighty per cent of women who were involved in a court case represented themselves (Jennings, 1975). Women's testimony was only half the value of that of

men's in Islamic law so two female witnesses were required to establish certitude equal to the testimony of one man. Nevertheless, this did not discourage women from making complaints or defending themselves against charges; rather they insisted on going to the local courts to defend their rights (Jennings, 1975).

Women have engaged in active struggle to defend their property rights since the early centuries of Islamic societies. Property ownership and inheritance rights were significant and relevant to the lives of female peasants, artisans and women of the elite households in the Empire, thus uniting women's agendas and strategies. Whilst female peasants fought for the ownership and inheritance of the land and forms of property on the land (Gerber, 1980, Jennings, 1975), women of the elite households defended their access to money, jewellery, urban commercial and residential properties, agrarian land and other forms of rural property (Fay, 2010, Zarinebaf, 2010). Inheritance rights were also significant for female artisans and small producers who were generally excluded from the guilds and thereby prohibited from working. Those women, however, did have the right to pursue these occupations through inheritance (*hisse*) (Gerber, 1980).

Female peasants, artisans and women of the elite households shared similar demands and strategies regardless of differences in class and race-ethnicity. The Hanefi School of Islamic law and the local sharia courts were accessible to women and relevant to their lives. As a result, despite the limits of the patriarchal legal framework, Ottoman women were relatively successful in utilizing the Hanefi School of Islamic Law and the local sharia courts to gain property and landownership rights. The Nizamiye court system, however, gradually limited women's access to legal powers of property relations from the 1860s to the 1920s.

## 2. Nizamiye court system

The nineteenth century witnessed immense social transformation in the Ottoman Empire including the establishment of the Nizamiye court system (1860-1879). The system's main aim was to regulate the international and commercial matters traditionally left out of the jurisdiction of the local sharia courts. Nizamiye courts were responsible for civil, criminal and commercial cases while cases of *awqaf*, inheritance, marriage, divorce and children remained the responsibility of local sharia courts (Rubin, 2012b).

In her work investigating the nineteenth-century Jaffa and Haifa court records, Iris Agmon (2006, 2003) finds that the Nizamiye system gave rise to a new legal culture in the local sharia courts. Firstly, since Ottoman women were not allowed to be professional attorneys (Rubin, 2012b), replacing self-representation with professional attorneys increased women's dependency on male attorneys. Secondly, the Hanefi School's appointment of *kadis* as protectors of women against men's abuses was undermined and autonomy restricted by the imposition of increased obligations to local and central authorities (Agmon, 2006, 2003). Thirdly, as Rubin (2007) finds, the legal costs associated with Nizamiye courts required significant financial resources. Increased legal terminology and replacing witnesses' verbal statements with documented evidence also required professional support which in turn increased the legal costs. Given their limited access to financial assets, the high legal costs had a negative impact on women's access to the legal system. This does not mean that women in rural areas stopped bringing their cases to the Nizamiye courts; rather that the Nizamiye court system (from the 1860s until 1923) gradually limited female peasants' access to legal powers which served to increase men's control over women's land. It

was not until the 1926 civil code that female peasants almost entirely lost their control over landownership.

### 3. The 1926 Turkish civil code

The 1926 civil code regulated the inheritance of small-scale land differently to large-scale land and other forms of property and passed land under a certain scale<sup>5</sup> directly to the son:

Article 598: On his death, *only if none of his sons want* to take the responsibility of the [agrarian] holding, under the condition in which his daughters or the husbands of his daughters are eligible, his daughters or the husbands of his daughters can demand the transfer of the holding to themselves (Velidedeoğlu, 1970: 324, my emphasis).

The contemporary law expert, Ferit H. Saymen (1944), explains that the above article meant a woman could inherit her father's land *only if* none of her brothers wanted it *and* if she *or* her husband were eligible to cultivate the land, manage the agrarian holding *and* demanded to do so. Otherwise, female descendants could not inherit the land.

The modern civil code also limited women's control over other forms of property on the land. The previous Ottoman law separated land from other forms of property over which women retained significant control (e.g. machinery, tools, animals, mills, and/or water wheels). In contrast, the 1926 civil code perceived an agricultural holding

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<sup>5</sup> Neither the 1926 civil code nor the 2001 civil code includes a clear definition regarding the scale of indivisible land. This figure is calculated depending on the regional conditions, crops, and productivity, initially, by the Organization of the General Directorate of Land Registry, later, by the Ministry of Agriculture (since 2014). According to 2017 regulation of the Ministry (regulation no: 2768754), approximately 35 per cent of total agricultural holdings are under the category of indivisible unity (smaller than 1.24 acres).

as an indivisible unity (articles from 597 to 602) (Velidedeoğlu, 1970) thereby discriminating against female peasants in inheriting the other forms of rural property.

The civil code further outlawed bride-price and bride-wealth. As argued, bride-price passed from the woman's side to the man's side whereas bride-wealth was paid directly to the bride. The 1926 code abolished bride-wealth payments that women were granted in their marriage (Velidedeoğlu, 1970). In the Islamic framework, a married woman was not legally responsible for her husband's debt. With the 1926 civil code, however, a wife became obligated to pay her husband's debt (article 187) (Velidedeoğlu, 1970). Given female peasants' exclusion from market and finance relations, this change served to increase men's control over women's property.

Moreover, 1924 saw the abolition of the Hanefi School of Islamic Law and local sharia courts of which women had a certain level of knowledge and experience. The 1928 reform further changed the entire alphabet providing men the opportunity to increase their control over women in rural areas by limiting access to education. Although women in urban areas benefited from the law that brought mandatory education for girls, historical research shows a considerable gender gap in education, particularly in rural areas (Akşit, 2008). These changes therefore undermined female peasants' capacity to defend their property and landownership rights against men's abuses.

To summarise, the Ottoman Empire witnessed a legalisation of women's property and landownership rights with the Islamic legal framework which, to a certain extent, granted rights to women concerning the inheritance of the *miri* land during the late sixteenth and the early seventeenth centuries. However, the Nizamiye court system (1860s-1923) supported men in increasing their control over women's land by limiting women's access to legal powers of property relations. The 1926 civil code initiated the

process of transforming the *miri* land to private land (Demir and Çoruhlu, 2009, Velidedeoğlu, 1957) yet, at the same time, the civil code discriminated against female peasants inheriting agrarian land. The Turkish civil code therefore limited women's access to rural forms of property more than the previous legal framework by (i) discriminating against women in inheriting small-scale agrarian land, and (ii) other forms of property on the land (e.g., machinery, tools, animals, mills, water wheels), (iii) outlawing bride-wealth, (iv) making women legally responsible for their husbands' debts, and (v) abolishing the Hanefi School of Islamic Law and local sharia courts which in turn limited female peasants' access to legal powers of property relations.

As argued, the civil code regulated large-scale land differently to small-scale land meaning that women in the elite households (e.g. daughters or sisters of large-scale landowners) did not experience legal discrimination. Considering that only six per cent of agricultural holdings have been large scale farms since the 1950s (TURKSTAT, 2011b), the modern civil code had a significant impact on the lives of women in rural areas and was certainly an important factor limiting women's access to landownership.

The 1926 civil code remained in place until 2001 when a new civil code removed the previous discriminatory article but introduced an ambiguous criterion of eligibility:

Article 661: The descendant who wants to manage the [agricultural] holding and who is eligible to manage it will have priority amongst other descendants.

In assessing ***the eligibility of the descendant***, qualifications of his/her spouse will also be considered (The Grand National Assembly of Turkey, 2002: 219, my emphasis).

The judge was appointed as the only authority deciding whether a daughter or a son is eligible to manage the agricultural holding. As the judges were predominantly men – 66 per cent in 2012 (HCJP, 2012) – it is possible that female peasants continued to be

excluded from landownership. In 2014, with regulation 6537, the state appointed the Ministry of Agriculture as the main institution defining the criteria of eligibility (The Official Paper, 2014b), and in December 2014, the eligibility formula below was announced (The Official Paper, 2014a):

- Twenty points for the descendant, who does not have any other occupation,
- Ten points for the descendant, who does not have any other income,
- Ten points for the descendant whose spouse is also busy with agrarian production,
- Ten points for the one, who has necessary qualifications and knowledge for agrarian production,
- Five points for the one who has lived in the town where the land is for up to six years. Ten points for the one who has lived in the same town for six years or longer,
- Ten points for the descendant, who does not have any social security,
- Five points for the descendant, who has agrarian insurance from the institution of social security,
- Five points for the descendant, who has been registered in the Ministry's system for the last six years,
- Ten points for the descendant, who has been registered in the Ministry's system for six years or longer,
- Two points for the descendant, who has been member of any agrarian organisation for the last six years,
- Five points for the descendant, who has been member of any agrarian organisation for six years or longer,
- Five points for the descendant who own agrarian tools and machinery
- Five points for female descendant.

Following the above calculation, small-scale land and other properties on the land are transferred to the eligible descendant who receives the highest score. Although this formula of eligibility remains problematic, it nevertheless represents the least gender unequal law that female peasants have witnessed for centuries.

Saymen (1944) argues that since agriculture was the most important source of national wealth, the 1926 civil code protected agrarian productivity by preventing land from dispersing through the generations. It is not uncommon that legal frameworks regulate the inheritance of small-scale land under cultivation differently to large-scale land and other forms of property to maintain productivity. Legal discrimination against women in land inheritance allowed the Republican state to obtain initial accumulation necessary for industrialisation. However, this argument does not explain why the state chose to exclude women and waited almost a century to introduce gender equitable eligibility criteria in selecting an heir (in 2014). The patriarchal character of the Turkish state appears to be derived from the gender-based exclusionary strategies which, in turn, maintain legal discrimination against women. The next section analyses the possible reasons for women's relatively weaker capacity to challenge the patriarchal character of the state and legal framework.

## **VI. Divided and dominated: rural and urban women**

As previously argued, property ownership and inheritance rights were relevant to female peasants, artisans and women of the elite households in the Ottoman Empire, thus uniting women's agendas and strategies. However, during the late nineteenth and the early twentieth centuries, male dominance in paid employment had significant implications for urban women.

Under the conditions of increasing wage dependency, having access to a wage and/or any kind of income generating activity was significant to the lives of urban

women. The Ottoman Empire largely excluded female artisans and small-producers from the guilds, thereby prohibiting women from working. Female artisans attempted to establish their own guilds but petitions and complaints from male artisans led the Ottoman state to ban women's guilds (Zarinebaf, 2001, Gerber, 1980). Their exclusion from paid employment and income-generating activities also forced women to accept lower payment and harder working conditions. Despite the official complaints of male artisans and small-producers, merchants and manufacturers found a way of benefiting from cheaper female labour: they delivered raw materials to female producers to decrease production costs which allowed women to work in the home. During the second half of the nineteenth century the Ottoman textile industry was able to compete with their European and Asian counterparts by using this cheaper female labour (Zarinebaf, 2001).

During the early Republican period, the demands of access to education and paid employment were therefore crucial for all women in urban areas despite their class and race-ethnicity differences. One third of wagedworkers within industry were women (in 1913–15) and around a quarter of manufacturers were non-Muslim women (in 1927) (Makal, 2010). As previously argued, the first wave of the feminist movement was relatively successful in addressing demands of urban women. On the other hand, female peasants in rural areas were still living under conditions of male dominance in landownership and focusing on their rights regarding property and land ownership.

Given the gender discriminatory legal framework which limited rural women's access to land and other forms of rural property, female peasants did not have many alternatives to defend their rights other than insisting on the Islamic legal framework. Existing research shows that in response to the 1926 civil code, people in Turkey developed a new hybrid system by combining the Islamic-premodern and modern laws

which, in turn, allowed them to manipulate both legal frameworks (Yılmaz, 2003). In his research analysing Turkish villages between 1949 and 1952, Paul Stirling also finds that villagers developed a set of *ad hoc* arrangements to resolve civil disputes (Stirling, 1965, 1957). I argue that not only men but also women participated into the development of this hybrid legal system by using the practice of unofficial marriage in rural areas.

Although the 1926 civil code outlawed Islamic marriages and introduced obligatory official marriages, the number of official marriages during the 1950s was approximately less than half of the total marriages (Timur, 1957). Unofficial Islamic marriages, predominantly in rural areas (Velidedeoğlu, 1944a), comprised the majority until the 1970s, despite the penalty of up to six months imprisonment (Ozsu, 2010). In 1997, the state was still campaigning to reduce the proportion of unofficial marriages in Turkey (The Ministry of Women and Family, 1997). Hıfzı Timur (1957) and Stirling (1957) argue that peasants' avoidance of official marriages was due to several factors. Male peasants using polygamy to access women as unpaid family workers wanted to retain the opportunity to divorce a childless wife easily, and if they officially got married, governmental clerks' daughters lost their fathers' retirement pension. These commentators also hold that religious marriage was more appealing to Muslim peasants. It avoided the 1926 civil code age limitation and supported males in postponing compulsory military service and avoiding certain taxes. The obligatory health check constituted another barrier to official marriage due to the lack of doctors and hospitals. Furthermore, most individuals did not have the required birth certificates.

The above arguments are either inaccurate or dismiss female peasants' role in sustaining unofficial marriages thereby perceiving female peasants as passive victims of patriarchal rural society. Many practical barriers to official marriage could have been

resolved in the years following the (religious) marriage and, if religion was significant, Muslim peasants could have had both a religious ceremony and an official marriage as many people still do. Governmental clerks' daughters lived in urban areas and their avoidance of official marriage does not explain peasants' preference for unofficial Islamic marriage in villages. There is some truth in the idea that divorce in Islamic marriage was easier than it was in official marriages. Hıfzı V. Velidedeoğlu (1944b, 1944a) argues that the 1926 civil code created extra barriers to divorce by (i) asking couples to join a moderated peace negotiation (*Sulh mahkemesi*) before applying to the court, (ii) appointing judges as the single decision makers regarding the divorce case, and (iii) assigning the divorce case to the court that was in the residence of husband since the law perceived a wife's residence to be the same as her husband's. However, neither polygamy, nor the opportunity to divorce a childless wife easily explains the prolonged nature of unofficial marriages in rural areas. Polygamy was in fact limited to a few elite households in Istanbul rather than being prevalent in rural areas (Duben and Behar, 2002), and irrespective of the number (or gender) of their children marriages of the majority of rural women remained unofficial.

I argue that the role of female peasants in developing a new hybrid system of the Islamic and modern laws through the practice of unofficial marriage was important; discrimination against female peasants in the 1926 civil code meant the legitimatisation of marriage brought loss of their land, bride-wealth and other properties on the land. It may be that female peasants attempted to defend their rights through unofficial Islamic marriage and thereby sustained Islamic property law in rural areas. Historical research demonstrates that female peasants claimed some rights by manipulating unofficial Islamic law. Although the modern civil code discriminated against women in inheriting land and other forms of property on the land, Stirling (1965) finds that villagers

followed the Islamic inheritance law and accepted that a daughter's share is half of a son's (see Quran Karim, 2011: Sura 4, aya 7). This "universal recognition of [women's] inheritance rights in the village" (Stirling, 1965: 131) did not bring an equal distribution of land, but provided the opportunity for women to negotiate their share. There were cases where brothers had a large outstanding debt to their sisters for their share of the land, exchanged animals and tools on the land with their sisters, or female peasants received their bride-wealth (Belgesay, 1944, Stirling, 1965, 1957, Morvaridi, 1993).

... the abolition of any formal sanctions which might fill the gaps in the existing Islamic informal marriage system, has opened the door to a relaxing of the rules, and even to malpractices. For example, though the villagers know that a Muslim woman who has lost her husband through death or divorce should wait for the *iddet*, a period of some three months, women are frequently remarried to widowers within this period... even more striking, women are sometimes remarried when their husbands have not divorced them at all... the new law has left the village informal system totally unsupported, with no means of plugging the gaps at its weak points. Hence the system which the new laws were intended to abolish continues, but in a less orderly form (Stirling, 1957: 31).

As well as men, women were also part of the development of a new hybrid legal system. Rural women lived under the conditions of male dominance of landownership rather than increasing wage dependency. The demands of ownership of land and other forms of rural property (e.g., bride-wealth, and machinery, tools, animals, mills, water wheels on the land) were significant to their lives; with the utilisation of Islamic law, women defended their access to rural forms of property. O'Neil and Toktaş demonstrate that legal pluralism is still one of the ways in which women in Turkey defend their rights. Their research provides a contemporary account of how far women negotiate

their property rights by using this complex and intertwined combination of different legal sources (O'Neil and Toktaş, 2014, Toktaş and O'Neil, 2015).

Rural women benefited from the legal pluralism regarding their access to rural forms of property. But at the same time, unofficial marriages restricted women's access to education and eliminated their legal personhood (Ertürk, 1995, Hoşgör-Gündüz and Smits, 2007, Akşit, 2008), and as such, these negative implications of unofficial marriages increased the division between rural and urban women. In order to assess how far this division crosscut ethnicity and religious differences, it is necessary to analyse whether Kurdish and Alevi women's experience of the 1926 civil code differed.

### **Experience of ethnic and religious minority women**

Whilst Kurdish people are the largest ethnic minority in Turkey, the biggest religious minority consists of Alevi people. Alevi are comprised of Turkish and Kurdish people and they follow a fundamentally different practice and interpretation of Islam (called Alevism) than the Sunni Muslim majority. The Turkish civil code (1926-2001) discriminated against women in land inheritance in the entire country, including rural areas where Alevi villages are populated (e.g. Sivas, Dersim, Tokat, Çorum, Maraş, Bingöl, Erzincan, Amasya, Erzurum, and Malatya). As well as the legal discrimination against women, Alevi men seem to utilise culture and religion to exclude women from the inheritance of agrarian land (Okan, 2018). Alevi female peasants' experience of landownership therefore does not seem to be different from other women in Turkey. On the other hand, David Shankland (1993) finds that Alevi villagers have migrated to urban areas more than Sunni villagers (1980s-1990s). Evidence on contemporary Alevi villages seems to support his early findings: in 2015 approximately 27 per cent of villages in Turkey are Alevi villages (Alevi News, 2015, TURKSTAT, 2018). This means that the majority of Alevi women fall within the category of urban women, but at the

same time, rural Alevi women share the similar experience of landownership to other rural women.

In his work investigating the ways in which state-led policies have maintained the underdeveloped condition of the Kurdish-populated provinces, Veli Yadırgı (2017) argues that the Turkish state distributed land to recruit Kurdish elites to the regime (1950s-1970s), thus the land is concentrated in the hands of a few Kurdish landlords. However, the evidence shows that the Kurdish-populated provinces share the similar small landownership pattern (Agricultural holdings by size, percentage of total) and the gendered patterns of unpaid family workers in agriculture to the other regions of Turkey (TURKSTAT, 2011b, WDI, 2017). Therefore Kurdish women's role in agriculture does not seem to be different from other women. This means that for Kurdish women in rural areas, access to landownership is significant in shaping their lives. As the Turkish civil code (1926-2001) regulated land inheritance in the entire country, including Kurdish-populated provinces, the code discriminated against Kurdish women in inheriting small-scale agrarian land and other forms of property on the land.

The availability of data constrains my assessment of whether Kurdish and Alevi female peasants developed strategies different to those of other female peasants.<sup>6</sup> Existing studies do nevertheless show that the proportion of unofficial marriages in Kurdish-populated provinces has remained relatively high in comparison to other regions (Yıldırak, 1992, Hoşgör-Gündüz and Smits, 2007). Kurdish female peasants experiencing legal discrimination thus appeared to utilise unofficial Islamic marriages and Islamic legal framework in a similar way to other female peasants.

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<sup>6</sup> For example, the early decades of the Republic witnessed two significant revolts in Kurdish Sunni and Alevi provinces: the Seikh Said rebellion (1925) and the Dersim revolt (1930- 1939). Yet, women's role within those revolts is neglected within historical research (Orhan, 2012).

Nevertheless, not all Kurdish women fall within the category of rural women. The armed conflict between the Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê- PKK*) and the Turkish state (from the mid-1980s onwards) has initiated a migration from conflict-affected rural areas to urban areas. Thus, the role of armed conflict in increasing the proportion of Kurdish women within the category of urban women needs to be examined. Considering that Kurdish women from rural areas join the Kurdistan Workers' Party in greater numbers than Kurdish women from urban areas (Tezcür, 2017), it would be fruitful to pursue further research to assess how far the Party is one of the key instruments for Kurdish female peasants to defend their rights. This article argues that, like women from different ethnic backgrounds, Kurdish women were also divided on grounds of patriarchal domination.

This division between rural and urban women crosscut class and ethnicity differences. Female wagedworkers, small-producers, manufacturers and women in the elite households increasingly focused on their education and employment rights given their exclusion from paid employment *despite* differences in class and ethnicity. Meanwhile rural women across different ethnic and religious backgrounds insisted on their property and land inheritance rights under the conditions of male dominance in landownership. Urban and rural women were not directly opposed but their separate agendas and strategies did not help each other and their overall capacity to challenge the gender discriminatory legal framework was weakened. The implications of the modern civil code (1926-2001) were therefore diverse: under conditions of male dominance in landownership the code discriminated against rural women inheriting land, yet, at the same time, it granted rights to urban women living under conditions of male dominance in paid employment.

The first wave feminist movement did not respond to women's exclusion from landownership during the early decades of the Republic (1923-1940s). I identify three possible factors that prevented the first wave from aligning women's separate agendas. Firstly, as the movement comprised predominantly urban women, it failed to acknowledge the different conditions and demands of rural women. Secondly, the Republican state had closed key first wave organisations, suppressed the movement's leaders and banned women's demonstrations by the mid-1940s (Tekeli, 1998b). For example, the attempt to establish a women's party upon formation of the Turkish Republic (1923) failed since the state refused to authorise it (Arat, 1997). The Turkish Women's Federation (1924) was established as an alternative but the federation was depoliticised through enforced change of its board members (1928) (Zihnioğlu, 2003). Although the federation continued to push for further rights and attempted to organise a rally for women's full suffrage (1930), the leadership of the ruling Republican People's Party stopped the rally (Tekeli, 1990b). The state later closed the Federation just after the Congress of the International Federation of Women (1935) (Os, 2000). These attacks by the Republican state to the first wave were certainly a barrier to addressing women's separate agendas.

Thirdly, equality manipulation led by the state tended to increase the division between urban and rural women. Ottoman women were construed as passive victims of Islamic patriarchal society (Os, 2000, Tekeli, 1998b), thereby dismissing women's achievements gained through their utilisation of the Islamic legal framework. At the same time, female peasants were portrayed as passive victims of rural patriarchal society (Arat, 1999, Onaran-İncirlioğlu, 1999). This was, in turn, relatively successful in depicting the Republican state as the guardian of gender equality within society. The suppression of the key organisations and thinkers of the movement probably laid the

groundwork for manipulating the actual conditions of gender equality. During the following decades, the Republican state was therefore successful in increasing its influence over urban women and portraying itself as the protector of gender equality.

Division of women, state attacks and equality manipulation were the factors that prevented the feminist movement from aligning the separate demands and strategies of rural and urban women. The lack of alignment between separate feminist agendas, in turn, weakened women's overall capacity to influence the state and challenge the gender discriminatory legal framework.

## **VII. Conclusion**

This article has investigated the reasons for women's exclusion from landownership in Turkey by using historical analysis. It has argued that the Turkish civil code (1926-2001) excluded rural women from landownership whereas the lack of alignment between separate feminist agendas weakened women's overall capacity to challenge the gender discriminatory legal framework. Changes in the forms of patriarchal domination divided rural and urban women by diversifying their experiences, demands and strategies. Urban women focused on rights relating to the conditions of male dominance in paid employment whereas rural women were concerned with their land inheritance rights given their exclusion from landownership. Urban and rural women did not fight against each other but the separate agendas and strategies did not help their cause.

Division of women, state attacks and equality manipulation prevented the first wave of the feminist movement from aligning the separate demands and strategies and as such weakened women's overall capacity to influence the state. The Turkish civil code (1926-2001) therefore had diverse implications: the code discriminated against rural women inheriting land under cultivation, yet at the same time, it granted education,

employment and inheritance rights to urban women living under conditions of male dominance in paid employment.

My analysis contributes to feminist strategies, *firstly*, by arguing that women's exclusion from landownership needs to be addressed to achieve greater gender equality. Existing analyses on the dynamics of gender inequality in Turkey focus on the respective roles of the economy (Ilkcaracan, 2012, Toksöz, 2011), the ruling regime of the Justice and Development Party (Buğra and Yakut-Çakar, 2010), the Party's neoliberal-conservative version of patriarchy (Coşar and Yeğenoğlu, 2011), conservatism (Göksel, 2013), the society-specific convergence of culture and economy (Buğra, 2014), and the intertwining of Islam and politics (Arat, 2010a). However, these scholars tend to neglect the significance of gendered landownership for the overall conditions of patriarchal transformation.

*Secondly*, it is necessary to acknowledge the rights that women have achieved by utilising the Islamic legal framework. In her work comparing female peasants' strategies in dealing with various forms of patriarchy, Kandiyoti suggests a "stark contrast" between women's "autonomy and protest" in sub-Saharan Africa and "subservience and manipulation" of women in the Muslim Middle East (including Turkey), and South and East Asia (1988: 275, 278). Women's demands and strategies vary depending on the forms of patriarchal domination therefore different feminist strategies simultaneously occur. This does not mean that strategies based on the Islamic legal framework are at an individual level rather than being collective, or are less significant than other feminist strategies. Qualitative research shows that under the contemporary conditions of Turkey, the Islamic religious framework is one of the instruments for women to defend their rights (Marshall and Sabhlok, 2009, Toktaş and O'Neil, 2015). This study sheds light on women's experiences of utilising the Islamic legal framework within different

historical contexts. It demonstrates that Ottoman women engaged in active struggle and defended their property rights by utilising the Hanefi School of Islamic law and local sharia courts. During the Republican period, under the conditions of gendered landownership, rural women insisted on the Islamic legal framework by sustaining unofficial marriages.

*Thirdly*, feminist strategies need to address the similarities and differences amongst women on the grounds of patriarchal domination. The argument that class, race-ethnicity, and cultural differences amongst women fragment gender relations to a degree, which prevents any systematic characters, has initiated a theoretical shift (Barrett, 1980, Acker, 1989, Charles, 1993, Pollert, 1996, Oyewumi, 1997). As Joan Acker (1989) describes, this shift is from analysing how the subordination of women is established, maintained and transformed towards investigating how gender is involved in various processes and institutions (e.g. science, technology, military, labour market). Engaging with this theoretical shift, feminist analyses tend to focus on discontinuities within gender relations to the neglect of continuities on the grounds of patriarchal domination. In this study, I demonstrate that gendered landownership and paid employment divided women on the grounds of patriarchal domination and, as such, this crosscut class and ethnicity based differences amongst women.

Rural and urban women were divided on the grounds of patriarchal domination, yet the first wave of the feminist movement failed to align their separate agendas and strategies which, in turn, weakened women's overall capacity to influence the state and legal framework. I suggest that theories on varieties of patriarchy allow assessment of continuities and discontinuities within the context of gender inequality (Walby, 2011, 2009, 1990, Hartmann, 1979a, 1981). Engaging with their analyses on changes in the forms of patriarchal domination, I identify the diverse demands and strategies of rural

and urban women. The findings suggest two key factors need to be considered to align separate feminist agendas: (1) women's existing achievements gained through the Islamic legal framework, and (2) the ways in which different forms of patriarchal domination diversify women's experiences, demands and strategies. Such consideration creates the possibility of concerted action.

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