

Transforming Gender and Sexuality in-between the Personal and the Professional: The
Promise of Legal Change In (Un)Becoming Advocate (Avukat) In Turkey

Ezgi Şeref

Dissertation submitted to the faculty of the Virginia Polytechnic Institute and State
University in partial fulfillment of the requirements for the degree of

Doctor of Philosophy
In
Social, Political, Ethical, and Cultural Thought

David L. Brunsmma
Katrina M. Powell
Rachel M. Scott
Brett L. Shadle

December 16, 2020
Blacksburg VA

Keywords: Turkey, Legal Change, Legal Profession, Theories of Practice, Theories of
Affect, Queer Theory

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ABSTRACT

Under the hopeful atmosphere of Turkey's accession to full membership to European Union, Turkey became oriented towards realizing extensive legal and constitutional amendments, as well as juridical reforms in restructuring the contemporary body of law and judicial institutions based on the promise of strengthening access to justice mechanisms and improving human rights laws and practices in Turkey that was shaped by the discourses of democratic governance, rule of law, and economic progress. At the beginning of the second decade of 2000, the affective atmosphere in Turkey abruptly changed by a series of national and international crises, leading into an impasse in the ordinary life in Turkey. This dissertation aims to examine the promise of legal change as the history of the present of law and legal practice in Turkey. Focusing on everyday personal and professional practices of *avukats* (attorneys) in addressing the legal issues of gender and sexuality, I explore how the narratives of legal change historically inform the aesthetic formation of the contemporary body of law, as well as the differences between ordinary and professional bodies. Building on theories of affect and queer theories, I argue that the law constitutes both a historical site of socio-cultural belonging and an everyday social space within and through which professional bodies become oriented towards generating the possibilities of socio-legal change, depending how their personal and professional experiences and encounters shape their everyday legal practices and how they reside within judicial and professional positionalities in practicing the law.

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GENERAL AUDIENCE ABSTRACT

Starting from early 2000s, the contemporary body of law and judicial institutions underwent drastic changes, which accelerated by Turkey's accession to full membership to European Union. Under the discourses of democratic governance, rule of law, and economic progress, Turkey realized extensive legal and constitutional amendments, as well as juridical reforms with an emphasis on strengthening access to justice mechanisms and improving human rights laws and practices in Turkey. A series of national and international crises, which broke out at the beginning of the second decade of 2000s, led Turkey to enter into a political and economic deadlock. In this dissertation, I examine the historical meanings attributed to the body and practice of law in discussing how the legal professional bodies are affected from the recent crises. Focusing on everyday personal and professional practices of *avukats* (attorneys) in addressing the legal issues of gender and sexuality, I explore how the historical narratives concerning legal change shaped the conventions of the form and content of the law, as well as the differences between the personal and professional identities. I argue that law constitutes a historical site in which socio-cultural norms and hierarchies are negotiated and a social space within and through which professional bodies negotiate the possibilities of social change, depending on how they shape their everyday personal and professional practices and how they position themselves within judicial and professional relations.

Acknowledgments

I would like to express my deepest gratitude to my advisor, Dr. David Brunnsma, for his excellent guidance, encouragement, as well as for his continued support and patience throughout my dissertation process. I would also like to thank Dr. Brett Shadle, Dr. Rachel Scott, and Dr. Katrina Powell for their invaluable participation to my dissertation through their insightful questions and suggestions, as well as their guidance and support.

I would like to express my most sincere thanks to my friends Nada, Şengül, Robert, and Faith, who inspired and encouraged me to overcome the challenges at every step of my doctoral education and dissertation process. I would like to extend my thanks and appreciation to all friends, colleagues, staff, and faculty members at the ASPECT, the Political Science, and International Studies departments for providing me a supportive educational and professional environment. I am also thankful for the guidance and support provided by the staff at the Graduate School and the Cook Counseling Center.

I would like to acknowledge and thank my colleagues Elizabeth and Aslı, for helping me stay balanced and centered throughout the writing process under the disorienting circumstances of COVID-19. I would also like to thank my respondents, who made this dissertation possible through sparing their time to share their personal and professional experiences.

Last but not least, I would like to thank my family living in Turkey and the U.S for their unconditional love, encouragement and support. It is your loving caring guidance that made it possible for me to come so far in my academic journey.

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Chapter 1:

(Un)Becoming *Avukat* (Advocate) In Turkey

My first encounter with the LGBT movement in Turkey was when my friends brought me to the small office of one of a few LGBT organizations. Sliding through the activists, who were busy creating banners for the upcoming protest, I found myself in a corner to overcome my awkwardness as a stranger in the room. A few minutes later, more activists appeared shaking bundles of greens, including mostly parsley and mint, in their hands. The activists, busy with preparing the protest materials, took a break to celebrate the arrival of the greens, which were about to be used as protest accessories. Encouraged by the elevated environment in the room, I step up asking whether I can be of any use. In a short while, I found myself stapling the banners to sticks, completely detached from the fact that the protest was about to take place at any moment. In my reckoning of the change in the atmosphere of the room from joyful to anxious, I knew it was time. However, in a brief impasse, an activist loudly said, “*Avukat*¹ is not coming.” Following the people who came close together to discuss the concerns for groups’ security during the protest, I found the courage to step up and say, “Well, I am an *avukat*. Could I be of any help?” From that point on, I was referred to as “*avukat arkadaş*”² by the activists. Especially, I could feel that one of them kept an eye on where I stood in the crowd, trying to keep me close to the front line.

By the time we arrived at İstiklal Street in İstanbul, where the protest would take place, I observed that the people lined up on both edges of the street to watch the protest.

¹ The Turkish term *avukat*, which was rooted in the French term *avocat*, corresponds to the term attorney in English. I will refer to the term *avukat* instead of using the terms attorney to evoke the contextually specific everyday practices and performances of the legal profession in Turkey.

² *Arkadaş* means friend in Turkish.

I saw the astonished faces of the crowd as the LGBTQ+s entered into the street, chanting slogans that were accompanied by drums and whistles. Walking in the front line under the surveillance of my activist companion, I remember questioning what brought me there. Thus, this protest took place on as a reaction to the following statements of the Minister of Interior, İdris Naim Şahin in 2011:

Çağın gereği ne kadar sivil toplum kuruluşumuz varsa o kadar demokratik bir ülkeyiz oma oraya da sızmak lazım terör açısından, sızılır, sızarsınız, sızmışlardır. Masum dernektir, bakarsınız kültür derneği, bakarsınız eğitim derneği. Şimdi dağdaki ile belki kırsaldakiyle mücadeleniz kolay bana göre, ama bu arka bahçede ayrık otu ile tereler birbirine karışıyor. Hepsi yeşil renkte görünüyor. Birbirine karışıyor, kimisi zehirli, kimisi faydalı. Hangisinin faydalı, hangisinin zehirli olduğunu ancak yiyince anlıyorsunuz ... Domuz etinden Zerdüştlüğe kadar, bilmem hangi ulustan, kardeşlikten, çok özür dilerim eşcinselliğe kadar, her türlü namussuzluğun, ahlaksızlığın, gayriinsani durumun olduğu bir ortam.³

Şahin's narrative casted suspicion on the members of the civil society as he invoked a discourse of "infiltration" as means to a specific end, "terror," which might have taken shapes in the form of cultural and educational practices. Şahin used various herbal categories to refer to the bodies participating into the civil society practices in distinguishing between harmful, which were represented by couch-grasses, and beneficial, which was associated with peppergrasses. More importantly, in Şahin's narrative, the spaces in which homosexuality was displayed, was listed as one of the

³ "It is a requirement of our times, the more civil society organizations we have, the more democratic are but it is necessary to infiltrate into them, due to terror... it is possible to infiltrate... you can infiltrate. They must have infiltrated. Seems like an innocent organization, maybe a cultural organization, maybe an educational organization. For me, our struggle in the mountains is easy, but in this backyard couch grasses and peppergrasses are mixed together. They all look green. So, they meld into one and other. Some are toxic some are useful. You understand which one is toxic or useful until you eat them ... That is an environment where there are all sorts of immorality, indecency and inhuman situation from pork meat to Zoroastrianism, from X nation and brotherhood to, forgive me, homosexuality." KAOS GL, "LGBT Organizations Demand the Resignation of Interior Minister," accessed November 20, 2020, <https://kaosgl.org/en/single-news/lgbt-organizations-demand-the-resignation-of-interior-minister>.

“immoral, indecent, and inhuman” environments. Reflecting on this memory, I ask what type of green I was at that moment. Was I one of those toxic couch-grasses mixed with the innocent peppergrasses? Or parsley and mint that are always available in fruit stands? I was an (un)becoming couch-grass that is why I was there. Bearing my *avukat* identity card, I was also becoming an “*avukat arkadaş*”, who embodied a sense of security for those who were considered immoral, indecent, inhuman along with a bunch of other couch-grasses. I did not know back then where I was going, yet I somehow knew that I was where I belong.

‘Knowing where I am going’ was my biggest concern back in 1999. I remember as I was trying to (re)orient myself to my new position in İstanbul, as a fresh-law student, everyday life in Turkey was reshaping by the aftershocks of the earthquake of 1999 as well as the political and economic crises into which I was born and with which I grew up. Similar to the vehement demands for reform in laws and legal practices of today, the law was central to realizing the possibilities of socio-political changes in Turkey between late 1990s and early 2000s when popular politics had been turning towards the European Union (“EU”) in the hopes of becoming full member of the EU. Thus, I recall a professor telling us that we were lucky to be the first generation of *avukats* who were trained in the revised canon laws, compared to those who tried to adapt to these changes. The governments in Turkey excessively invest in this process, particularly through passing legal amendments. For legal professionals what was once familiar about the body of law has become unfamiliar in the presence of such imminent change. While these memories mark my belonging to a generation of *avukats* in Turkey, they also illuminate how legal

change as a temporal and spatial context (re-)shapes the everyday conventions, conceptions, practices of law in Turkey.

In this dissertation, I am trying to make sense of the contemporary preoccupation with socio-political change through and within the law in Turkey in order to unpack the impending question of belonging between the crises of the ordinary life and the changes within everyday life. I investigate how a sense of (dis-, re-) orientation informs everyday experiences and practices in opening up the possibilities of socio-political change through and within the law in shaping the ordinary life in Turkey. I attend to the significance and role of law in mediating the contemporary modes of belonging through recognizing those legal issues and cases that exist in-between “the personal” and “the political”. Through this socio-legal inquiry, I intend to discuss to what extent and how the contemporary processes of legal change reflect on the everyday practice of law between opening up the possibilities of socio-political change in Turkey and/or adapting to the border social, cultural, and political transformations. Focusing on the everyday practice of law concerning the issues of gender and sexuality in Turkey, I examine how *avukats* negotiate the distinction between the personal and the professional in shaping their everyday practices. I argue that the law not only constitutes a space, which is shaped by the relationship between its inhabiting bodies and objects, but also constitutes a site in which the terms and conditions of belonging are mediated and negotiated through legal processes, languages, and objects. The promise of law attracts bodies to engage in these spaces and sites in attaining the positionalities to determine how the past and the present crises are negotiated and to address future aspirations in the ongoing now.

Offering a socio-cultural inquiry on *avukats*’ practices realizing legal change in the

everyday practice of law in Turkey, I build on the contemporary ethnographic studies focusing on court practices⁴, as well as the social studies concerning the legal profession⁵, I attempt to fill the gap in the socio-legal literature on cultural practices of law and law as a socio-legal space, as well as extend the discussions about the role of law in mediating the norms and practices of gender and sexuality in Turkey. In doing so, I benefit from the research methods offered by institutional ethnography⁶ and auto-ethnography⁷ in investigating the professional and juridical positionalities and the personal and professional experiences that shape the processes of legal change. I also employ narrative analysis to examine how these positionalities and everyday experiences reflect on the narratives of legal scholars and legal historians, as well as *avukats* as a particular legal professional group. Through using semi-structured interviews, I gather *avukats*' everyday accounts concerning their personal and professional relationships, as well as their juridical strategies and tactics. I also adopt institutional ethnographic methods in tracking the historical development of the body of law and juridical positionalities. Finally, I benefit from auto-ethnographic methods as I refer to my personal and professional insights as an *avukat* and an activist.

In this chapter, I explain theoretical and methodological underpinnings of this dissertation research in unpacking how and why legal change matters for the contemporary history in shaping the norms and hierarchies of socio-cultural belonging in

⁴ See Koğacıoğlu, Dicle. 2008. "Conduct, Meaning and Inequality in an İstanbul Courthouse." *New Perspectives on Turkey*. 39: 97-127; and Özgül, Ceren. 2014. "Legally Armenian: Tolerance, Conversion, and Name Change in Turkish Courts," *Comparative Studies in Society and History* 56: 622-649.

⁵ See Akbaş, Kasım. 2011. *Avukatlık Mesleğinin Ekonomi Politikası Avukatların Sınıfsal Konumlarındaki Değişim*. İstanbul: Nota Bene.

⁶ See Smith, Dorothy.2005. *Institutional Ethnography: A Sociology for People*. Walnut Creek: AltaMira Press.; and Smith, Dorothy.2006. *Institutional Ethnography as Practice*. Lanham: Rowman & Littlefield.

⁷ Jones, Stacy Holman, Tony Adams and Carolyn Ellis. 2013. *Handbook of Autoethnography*. Walnut Creek: Left Coast Press, Inc.

Turkey and what the personal and professional experiences and practices of *avukats* concerning the legal issues of gender and sexuality unfold in going beyond the macro level descriptions of legal change. In addressing these questions, I first focus on the question of socio-cultural belonging through paying specific attention to how the historical informs the questions in the ongoing present and affects how the body of law was formed and how the bodies were formed within and through the historical formation of law

The (Historical) Promise of Legal Change: Situating Law as a Site of Belonging

“Where do we go from here?” I was intrigued by this question as it appeared on my computer screen, advertising Oprah Winfrey’s two-day special program, which brought together African American politicians, journalists, activists, and academics to discuss the current wide-scale protests⁸. This question was no doubt a reference to the title of Martin Luther King Jr.’s book, *Where Do We Go from Here?* (King, 2010). King’s question was directed towards the optimistic atmosphere surrounded the enactment of the Civil Rights Act of 1965. King’s motivation in addressing this question stemmed from the fact that the systematic violence against African American bodies continued after the Civil Rights Act was brought into force. Considering the fact that this question (Where do ‘we’ go from here?) continues to be relevant in the ongoing present of the U.S., it becomes critical to ask what made -being- ‘here’ unbearable now and what

⁸ These protests, which were led by the Black Lives Matter Movement (BLM), started, after the killing of George Floyd by and under the supervision of the police. See the following for more information: <https://blacklivesmatter.com/herstory>.

made -being- 'here' bearable in belonging to the collective 'we' before in-between these temporalities

I suggest that the term 'here' in this question ("Where do we go from here?") constitutes a temporal signifier in demarcating the Civil Rights Act as a historical event which promised to eliminate racial segregation and injustice and carved into collective memory concerning race and justice in the U.S. In fact, the resurfacing of this question underscores the link between the current circumstances introduced by the extraordinary presence of emergent norm(alitie)s and practices of the COVID-19 quarantine and the historical circumstances of racial injustice and violence towards African American bodies. In that sense, this question evokes not only King's skepticism towards the hopeful atmosphere that was shaped by the promise of the Civil Rights Act, but also a reckoning of a sense of disorientation and an appeal to finding a direction in the face of the ongoing crises concerning racial injustice.

There is no doubt that the ongoing crises concerning racial injustice is historically and culturally contingent to the temporal and spatial context of the U.S.; however, mass protest as a contemporary form of a political response to such crises can be discussed as the most recent example of various mass protests that have taken place in different parts of the world since the beginning of 2010⁹. Started to appear at the beginning of the second decade of the new millennium, these protests shared a similar ad-hoc form of

⁹ A series of mass protests took place between 2010 and 2015 in different parts of the world, including but not limited to Greece (known as Anti-Austerity Movement), the U.S. (known as Occupy Wall Street), Tunisia, Egypt, Yemen, Libya, Syria (known as Arab Spring), Turkey (known as Gezi Park Uprising), Bulgaria (known as Government Movement), Ukraine, and Brazil. These protests emerged based on different events; however, they commonly tried to address political corruption and socio-economic precarity based on different issues, organized on social media, escalated by police brutality. Started in 2013, the Black Lives Matter Movement has been working towards drawing attention to the systematic violence against African American people and communities.

gathering through social media and oriented towards addressing an ongoing injustice and violence that was rooted in the histories of race, ethnicity, religion, class, gender, sexuality, and disability, as well as environmental histories, despite the contingent political, social, and cultural circumstances in which they emerged. If a link can be established between these emergent forms of protest, I suggest interrogating the historical significance and role of contemporary law, well as the affective environment shaped by the promise of legal change.

The contemporary form and content of the law historically appeared as both a means and an end in addressing the issues concerning (in-)justice. I intend to unpack to what extent and how the double historical function of law affect bodily dispositions and orientations concerning seeking for justice at certain localities. Through addressing the body of law as a site within and through which the aesthetic norms and hierarchies of belonging were negotiated, I suggest that the affective attachments to legal change generates an impasse in-between the historical and the ongoing crises in the ordinary life, which may direct bodies to adapt to the conditions of the present and impede the potentialities of being oriented towards socio-political change. As the temporal structure of the question (“Where do we go from here?”) unfolds, the past and the present of an event coalesce into an impasse, which is manifested in its yearning for having a sense of direction, as well as in reckoning with a collective disorientation.

In *Belonging: A Culture of Place*, bell hooks discusses her personal memories at the intersection of race, gender, and class in addressing her experience of belonging in-between the rural and urban settings in the U.S. hooks articulates such yearning as ‘knowing where I am going.’ hooks observes that those who cannot know where they are

going, are in want of a sense of direction. In that sense, ‘knowing where oneself is going’ is not only a status of being oriented, but a disposition. Thus, hooks observes that many people have no sense of place but “a sense of crisis of impending doom,” marked by an excess, which amplifies a wanting and which is amplified by wanting to address what is wanting. For hooks, such excess creates “a wilderness of spirit, the everyday anguish that shapes the habits of being for those who are lost, wandering, searching.” (hooks, 2008,1) Here, hooks opens up a space for us to discuss to what extent and how practices of everyday life are mediated by an imagery of exceptional situations concerning an imminent future rather than an apprehension of our relationship with the places and memories in and through which we negotiate our sense of belonging.

Navaro-Yashin (2002) asks ‘where Turkey belongs’ as she interrogates the concept of region as a category of place in relation to belonging. Through discussing the contingent nature of ‘region’ in Turkey, Navaro-Yashin (2002) argues that the concept of region cannot be assumed due to its “socially constructed and historically situated” (p.75) attributes. The ambivalence in Turkey's regional belonging both marks and disrupts how contemporary borders of a geopolitical order or a socio-cultural space were delineated through and within the relationship between the national and international, the global and the local. Thus, Turkey came to be an interest of scholarly discussions revolving around modernization as an example either describing when and how “the project of modernity”¹⁰ goes wrong or introducing what an “alternative modernity”¹¹ might look like. While the recent studies predominantly tackle belonging in/of Turkey in relation to

¹⁰ See Keyder, Çağlar. 1997. “Wither the Project of Modernity: Turkey in the 1990s” In *Rethinking Modernity and National Identity in Turkey*, edited by Bozdoğan, Sibel and Reşat Kasaba. Seattle: University of Washington Press: 37-51.

¹¹ For a critical review of this conceptual framework see Meltem, Ahıska. 2013. “Occidentalism: The Historical Fantasy of the Modern.” *The South Atlantic Quarterly* 102, no. 2: 351-379.

the questions of secularism and citizenship¹², I pay attention to what extent and how gender and sexuality became attached to the question of belonging through the historical development of law in Turkey.

In addressing this question, I first turn to the growing body of literature building on affect theory and theories of practice provides a critical perspective in discussing legal culture and socio-cultural belonging in contemporary Turkey. In her study on the changes brought about by the privatization of everyday life in late 1990s, Esra Özyürek (2006) demonstrates that the memories of Early Republican constitute a ground for political competition over cultural reproduction. Dicle Koğacıoğlu (2004) investigates how tradition constituted a discursive ground in displacing women's voices from the debates on 'honor crimes' in Turkey. Koğacıoğlu (2004) discusses that institutional practices becomes ineffective when 'so-called' tradition is involved in women's murder cases in both Turkey and in Europe, due to the conception of tradition or culture as fixed. Koğacıoğlu (2004) makes an important contribution not only to the apprehension of law as a modality of power in mediating gender but also how women's voices are displaced by the masculine gaze of political elites.

In a latter ethnographic study, Koğacıoğlu (2008) also discusses how urban poor displaced from the socio-cultural space of law and legal practices yet developed everyday strategies and tactics for the urban poor in the process of their trial. Koğacıoğlu (2008) once more sheds a light to the contrast between the gender-blind language and the

¹² See Tambar, Kabir. 2014. *The Reckoning of Pluralism: Political Belonging and The Demands of History in Turkey*. Stanford: Stanford University Press. Also see See Parla, Ayşe. 2019. *Precarious Hope: Migration and The Limits of Belonging in Turkey*. Stanford: Stanford University Press.

gendered nature of court practices¹³. Koğacıoğlu (2008) extends her discussion on how the socio-cultural differences concerning class and gender are negotiated in everyday practices of the law. Koğacıoğlu's (2008) discussions illuminate the law as a contested space through underscoring the present discrepancies within the law and legal practices concerning gender at the local level.

Another ethnographic study by Ceren Özgül's (2014), which focuses on the juridical practices concerning name change cases in Turkish courts, discusses the differences in the practice of law depending on the ethno-religious affiliation of the claimant. Özgül's (2014) study demonstrates how the affective relationship of judges to different framings of the past reflects on the court proceedings and decisions. What I found striking in Özgül's (2014) discussion are how the different articulations of personal memories and remembering/forgetting practices of a collective past were either negated or validated by the juridical authority depending on the emotional attachments to the historical narratives articulated in *avukats'* legal strategies. Through her discussion, Özgül (2014) shows that the court constitutes a place of the affective space of law as it reflects how claimant's personal aspirations and memories are negotiated in giving access to socio-political belonging.

As these studies present, the affective attachments to certain memories in the ordinary and the discourses of everyday life unfolds how differences are (re-)produced in shaping the norms and hierarchies of socio-cultural belonging. A critical point that I intend to highlight in this dissertation is how the historical promise of legal change shapes the ambiguities surrounding the issues concerning identity, gender, sexuality, and

¹³ Koğacıoğlu, Dicle. 2008. "Conduct, Meaning and Inequality in an İstanbul Courthouse. *New Perspectives on Turkey*." 39: 97-127.

contemporary body of law in Turkey. Following that to what extent and how the affective environment introduces an impasse in the temporally and spatially specific context of Turkey. In doing so, I offer opening a discussion on the aesthetic form of the body of contemporary law legal in informing everyday personal and professional practices of law. Before diving into the theoretical and methodological considerations of this dissertation. I provide a brief summary concerning the development of the body of contemporary law in Turkey to highlight the historical events in which extensive constitutional and legal changes were realized. In the next section, I provide a brief overview of the complexities of Turkey's political economy development and socio-cultural transformation in-between World Wars and the post-Cold War politics in highlighting the constitutional and legislative changes through which the body of contemporary law in Turkey has shaped.

Situating the Contemporary Law as a Site of Socio-Cultural Belonging in Turkey

The contemporary body of law in Turkey has started to shape in early 19th century as a response to congregate socio-political and economic issues that became emergent through series of historical events that put the Ottoman Empire's territorial hegemony into question by mid-16th century. The late 18th century Ottoman administration initially tried to make some structural problems in administrative and military infrastructure, taking French institutional practices as a model. These changes paved the way for a movement towards adapting to the technological, political, and economic changes and formation of a group of Ottoman intellectual elites, however, these processes were disrupted by intensifying of socio-political events and ongoing economic crises. The

early 19th century Ottoman administration adopted an intensive approach, extending changes through legal reforms. Initiated by the proclamation of *Gülhane Hatt-ı Hümayun* of 1839 (*Tanzimat* Edict), the legal reforms in the late Ottoman Empire intended to constitute a systematic body of law, which was oriented towards adopting secular legal frameworks, techniques, procedures, and practices while mediating between the Islamic and secular formations of law and legal practice.

The legal changes opened by *Tanzimat* reforms also continued during the legal reforms of the newly established Republic of Turkey. Like the Ottoman successors, the Turkish political elites benefitted from an eclectic set of European Laws. 1926 Civil Code was drafted based on the Swiss Civil Law, under the supervision of Mahmut Esat Bozkurt, who received his doctoral degree from the University Fribourg in Switzerland and later, served as the Ministry of Justice between 1924 and 1930. The transformation and formation of a “fully” secular body of modern law in Turkey has been realized under the single party government under the rule of *Cumhuriyet Halk Partisi* (the Republican People’s Party, RPP) led by Mustafa Kemal Atatürk. In 1950, the RPP’s control over the ordinary is challenged by the electoral victory of Democratic Party as Turkey’s political system transformed from a single party to a multi-party politics. However, the increasing tensions between these parties and their supporters led the ordinary life to be shaped by another political trauma led by the military coup in 1960. Consequently, a new constitution was drafted, which introduced new constitutional mechanisms and extended personal rights and freedoms, but also political mechanisms such as the National Security Council, which would later surveil the extent to which the personal freedoms constitute a

threat to national security. This constitutional change also paved the way for various legal amendments to be made in shaping the body of law in Turkey.

The political atmosphere in the post-1960 coup has again intensified towards late 1970s, as another military action was taken against to establish control over the organized political groups. However, the armed struggles and fights between left- and right-wing groups continued until, yet another political trauma led by the military coup of 1980s. Similarly, a brand-new constitution was put in force in 1982, which retained the fundamental textual body and mechanisms of 1961 conditions, while it brought strict limitations in exercising political rights and freedoms and adopted a more state-centered security approach. Nevertheless, Turkey's economic and political crises were intensified under the rule of short-lived multi-party coalition governments throughout 1990s.

In the late 1990s, the political pressures inflicted by the military interventions came to an impasse on-the-surface when European membership both appeared as a collective hope and introduced new anxieties in attaining economic and political stability. Under such intense political and economic environment, the ordinary life has disrupted once more by yet another intervention in 1997. The Turkish Armed Forces demanded the government to resign, remanding the surveilling influence military over the ordinary politics, not by sending tanks and soldiers on streets but by publishing an online statement this time. While this emergent form of military intervention was referred to as “post-modern military coup,”¹⁴ it highlighted a change in the way the military institutions performed their institutional position before European and American political actors.

¹⁴ See DW News, “Turkey Seeks Life Sentences For 'Postmodern Coup' Generals,” accessed, November 15, 2020. <https://www.dw.com/en/turkey-seeks-life-sentences-for-postmodern-coup-generals/a-41894271>.

Starting from early 2000s, the political and economic agenda of Turkey were fully focused on Turkey's accession the EU under the single party government of *Adalet ve Kalkınma Partisi* (Justice and Development Party). As Turkey fiercely worked towards being included in the EU integration processes, the body of law in Turkey once again became the main site of assessing Turkey's performance, especially concerning the principle of rule of law and human rights, in becoming a constitutional democracy. This process not only brought about extensive legal amendments fundamental codes, one of which is the 2004 Civil Code, and constitutional amendments in 2010, but also transformed the material and technical spaces of law through the construction of new court buildings and the establishment of a cyber system to conduct legal proceedings via internet. However, the affective atmosphere of domestic and international politics in Turkey one more started to change as early 2010s as. Thus, this was also when Turkey has experienced its largest and longest political protest in 2013 and another military coup attempt in 2016, which paving the way for the government to take extreme measures under a martial law regime. Finally, in 2017, Turkey's parliamentary regime has transformed into presidency, which introduced extensive constitutional and legal amendments.

Through this brief overview, I efforted to highlight some of the major events through and the historical circumstances under which the body of the contemporary law in Turkey has shaped. Despite the fact that this overview undoubtedly is very limited in representing the intricacies and controversies surrounding the historical development of contemporary law in Turkey, I attempted to provide an insight to the continuity and intensity of legal change as a (historical) promise that mediates the affective environment

that surrounds the question of belonging in contemporary Turkey. While the historical continuity of political and economic crises reflected on the body of law through the warring genres of constitution-making, which ranged between Ottoman reforms to Republican revolutions and from military interventions to the judicial reformed introduced under the European integration process¹⁵.

I suggest that the historical effects of these crises introduced affective vacillations between, hope, anxiety, and fear, which become manifested in an excessive and continuous attraction to the aesthetics of the body of contrary law in Turkey. I argue that the body of law became a site of contestation between national and international political actors in determining the norms and hierarchies of belonging which were negotiated between the secular and Islamic legal aesthetics, as well as the statist, liberal, and neo-liberal policies. I further contend that the contemporary effects of historical preoccupation of legal aesthetics can be observed more visibly the aesthetic concerns related to the issues concerning gender and sexuality. Thus, these issues were situated at the intersection between public/private distinction around which everyday life were organized. To unpack the historical significance of law in regulating these issues with regard to the question of belonging, I will outline below the central theories of this dissertation research design.

(Un)Becoming *Avukat* Through and Within the Law as A Queer Space

Building on theories of practice, I tackle how the formation and transformation of

¹⁵ See Peterson John. 2001. "European Integration." In *International Encyclopedia of the Social & Behavioral Sciences*. Oxford: Pergamon, p. 4923-4925.

the body of contemporary law in Turkey was represented by legal scholars and legal historians in amplifying and obscuring historical epistemologies and aesthetic concerns on the norms and practices of gender and sexuality in Turkey. Through this investigation, I offer to open a discussion on the excess in the meanings attributed to socio-political change through and within the law in Turkey. Considering the historical significance of law in creating juridical subjects, I suggest that law provides an empirical object for socio-cultural studies that focuses on the link between history and the everyday. Thus, Clifford Geertz (2000) describes law as both “local knowledge” and “a distinct manner of imagining the real.” (p. 189) While the former indicates the contingent temporal and spatial context of law, the latter indicates the disciplinary practices in (re)shaping everyday realities. Michel Foucault (1990) also addresses duplicity in defining the law in terms of the dual function of power. Through discussing legal change in Turkey, I want to shed a light to the ambiguities brought about by the double vision and function of law in shaping contemporary subjectivities in relation to the question of belonging.

In his critique of the positivist and realist paradigms of the law, Geertz (2000) underscore the continuing effects of colonial histories in addressing differences among local legal contexts arguing for adopting a pluralistic approach of the contemporary practices and resources of law in overcoming these issues. Geertz’s approach reflects the paradigmatic changes concerning the historical studies of law and legal change among anthropological community. For instance, June Starr and Jane Collier (1987) presents their observations from a conference on legal change, which brought together prominent anthropologist whose studies focus the historical foundations of the contemporary practices of local law. Starr and Collier present that the participants agreed on

abandoning evolutionary approaches to legal change which considered a linear progression of law and local culture, as well as the structural distinction between macro and micro context in observing legal change. A reflection of such novel theoretical and methodological approach to the historical research on local culture of law and legal change can be found in June Starr's study on legal culture in contemporary Turkey. While Starr's study provides ethnographic insight to gender, education, and law in late 1970s Turkey, her representation of the legal culture in Turkey situated in contrast to the countries ruled by Islamic law and is circumvented by the ideological contestation among political elites.

“How do we find our way?” Sara Ahmed (2006) argues that the task of finding our way in a constantly reshaping world begins with the way we are oriented. In *Queer Phenomenology: Objects, Orientations, and Others*, Ahmed (2006, 1) suggests that we turn to the objects that we recognize to know where we are in finding our way, as she refers to orientation as “how one resides” in a space. In that sense, Ahmed's queer space provides a creative way of thinking about where we belong in an ever-changing world as we move within and through it. In discussing law as such a space, I build on Sarah Ahmed's discussion on *queer phenomenology* of objects and the aesthetics of the body of law. I address legal cases and the body of law as an object towards which the bodies demanding recognition for the political nature of personal experiences are directed.

Ahmed's (2006) conceptual framework enables us to capture a more elaborate snapshot of emotional attachments in shaping bodily dispositions and practices; however, it concentrates on orientation as a bodily disposition, which always operates within the boundaries of “an ongoing now.” In that sense, Ahmed (2006) provides an escape from

the affective remnants of the past as we work towards (re-)orienting ourselves to know where we are, or we are going. Thus, a scholarly attempt (Sciullo 2019) to come up with a queer theory of law, inspired by Ahmed's (2006) work, underscores the significance of such escape as opposed to dwelling on the monumental events of the past in reimagining law ontologically as "embracing fluidity, difference, and indeterminacy" rather than normative. I contend not only that emotional attachments within a 'now' do not negate whether and to what extent affective events shape the present space of law, but also the conditions of bodily inhabitation in a space also depends on the affective relations of those bodies to the past and present objects.

Following Lauren Berlant (2016), I consider that the task of finding our way may become more compelling if and when we are being consumed by a prolonged sense of uncertainty ever-present in a crisis situation. While Berlant refers to Ahmed's work as an innovative approach to investigate how bodies change dispositions and acquire their sense of direction in the ordinary setting of everyday life, she focuses on the circular motions of the bodies under crisis situations. In *Cruel Optimism*, Berlant (2016) draws our attention to rethink the concept of the ordinary, displaced from the political in everyday life, in apprehending what happens to the bodies, whose capacity and capabilities are absorbed by a present situation. Berlant points out to the emergence of a new ordinary in which optimism becomes cruel when an image of a good life maintains the habits to which we are accustomed, despite our uncanny apprehension of their uselessness. Focusing on the duration of the in-between situations to which she refers as an *impasse*, Berlant (2016) efforts to identify cruel versions of optimism in which the bodies are fixated to repeating their past experiences rather than seeking for the

possibilities of (re)orienting oneself in the face of the threatening situation. Berlant (2016) argues that “the present, “which is perceived, first, affectively... before it becomes anything else” is a “mediated affect” under continuous scrutiny before it becomes an object and a “temporal genre,” (p. 4) conventions of which are generated through the personal and public filtering of *existing* situations and events. In my attempt to open a discussion on law as a queer space, I try to unpack what is about law that makes it an attractive space for its inhabiting bodies; whether and how it compels them to maintain or change ‘how they reside.’

Situating the Personal and the Professional Knowledges

In examining personal accounts concerning everyday practices and institutional processes of the law in Turkey, I adopt multiple ethnographic research method¹⁶. I specifically benefit from ethnographic methods offered by institutional ethnography¹⁷ and autoethnography¹⁸. The multi-sited nature of institutional ethnography is crucial for my study in situating personal accounts of *avukats*, the events and processes involved in legal change, and the aspirations in addressing the issues concerning gender and sexuality as a matter of the political. Through using auto-ethnographic methods, I also examine my personal and professional experiences as an *avukat* (lawyer/advocate), as well as my testimony as a witness.

¹⁶ See Harrison, Anthony Kwame. 2018. Ethnography. In *Understanding Qualitative Research*. Oxford: Oxford University Press.

¹⁷ See Smith, Dorothy E. 2006. *Institutional Ethnography as Practice*. New York: Rowman and Littlefield Publishers, Inc.

¹⁸ Jones, Stacy Holman, Tony Adams and Carolyn Ellis. 2014. *Autoethnography: Understanding Qualitative Research*. New York: Oxford University Press.

I focus on the everyday personal and professional experiences of who invest a significant amount of professional time and effort to the legal issues and cases concerning gender and sexuality. I held semi-structured interviews with eleven *avukats*, which constitutes my primary data. In having access to information rich cases concerning the purposes of this inquiry, I focus on the *avukats*, who work in Ankara, the capital, and Istanbul, the business and cultural center of Turkey, due their significance for the collective memory and political history of Turkey. I employ snowball sampling to reach out to potential respondents. I work towards expanding my selection of respondents based on the recommendations of the lawyers I interviewed or with whom I have had rapport.

Through adopting an institutional ethnographic approach to interviewing, I obtain access not only to my respondents' personal experiences but also some key information through which I track the events and shifts concerning the processes legal change in Turkey. According to Dorothy Smith (2006), institutional ethnography is "a method of inquiry," (p. 2) which addresses ethnographic work as "a discovery" rather than an analysis of some empirical work. Interviewing as a key method of institutional ethnography is beneficial in both overcoming the limitations of formal field research and exploring the gap between personal and institutional practices. Through adopting an institutional ethnographic approach to interviewing, I obtain access not only to my respondents' personal experiences but also some key information through which I track the events and shifts concerning the processes legal change in Turkey. As Smith (2006) introduces, the main objective of institutional ethnography as "to explore social relations and organization in which our everyday doings participate but which are not fully visible

to us,” as “a means of expanding people’s own knowledge rather than substituting the expert’s knowledge from our own.” (p. 1) In that sense, interviewing with professionals is particularly important to observe how relationships are mediated between the people and the ruling institutions.

Ethnographic fieldwork concerning knowledge of everyday life situates the researcher in-between the theoretical world of scholarly disciplines and the actualities of people. As an interdisciplinary scholar studying everyday legal practices in-between society and culture, my prior experiences, as a lawyer and as an activist, have also been marked by the in-between people and institutions. What makes institutional ethnography an invaluable method for my study is its emphasis on people as the central reference point. However, as the contested history of ethnography uncovered the epistemological and ethical ramifications concerning the researcher’s actions in the ethnographic field site, the positionality of the researcher became central to the methodological discussions concerning how ethnographers engage in and represent the people and communities involved in their study.

Building on the notion of field site as “activities” and “movements of the people,” I refer to interview processes, visits to physical places related to the research, legal and constitutional documents, and my personal experiences as multiple ethnographic field sites¹⁹. While an institutional ethnography refers to an institution as “coordinated and intersecting work processes taking place in multiple sites,” (DeVault and McCoy, 2006, 24) an institutional approach to interviewing pays attention not only to “people’s

¹⁹ See Caputo, Virginia. 2000. “At 'Home' and 'Away': Reconfiguring the Field for Late Twentieth- Century Anthropology.” in *Constructing the Field: Ethnographic Fieldwork in the Contemporary World*, edited by Vered Amit, p. 19-31. London: Routledge.

descriptions of their work activities and lived experiences,” (DeVault, and McCoy, 2006, 24) but also to the verbal and gestural expressions, as well as the bodily responses to these expressions. In addition to collecting interview records, I also obtain participant observer notes from the interview process and other field sites and auto-ethnographic notes informed by my personal and professional experience of working as a lawyer and in collaboration with lawyers whose professional work focuses on LGBTQ rights. I use the interview data and my field notes as a precursor to navigate the body of law as both a site of belonging and a socio-cultural space.

My prior personal connections and professional experience introduce both some advantages and a few challenges in accessing interviews and building strong rapport with my respondents. Having varying degrees of affinity with my potential respondents required me to survey my position in establishing and maintaining relations within my field sites. As Burgess (1991) writes, friendships and collegial relations do not always pose a challenge to the researcher despite the concern for “closing off access to social situations.” (51) According to Burgess (1991), acquiring access to the field site also influences “the development of the design, collection, analysis and dissemination of the phases of the investigation.” (52) The case of my field work, being somewhat of an insider to the close-knit group of lawyers working on the legal cases concerning LGBTQ+ rights in Istanbul, not only enables me to observe specific situations, but also inspires, if not informs, the design of my research. However, I also pay close attention to the contingent situations of each prior or possible relationship in accessing potential respondents for interviewing.

In the research settings where the researcher and respondent have a prior relationship, Garton and Copland (2010) argue that power positions may diverge due to the shifts in roles while the common language and knowledge of both the researcher and the respondent help co-construct the interview process. During interviews, my positionalities shifted between being a colleague, a friend, and a researcher depending on the level of affinity between me and my respondents. The interview, as a site of power and social interaction, requires the researcher to take into consideration diverse ways in which power relations shape and co-construct the interview situation. Thus, while some interview processes involved not only a common language and knowledge but also shared memories, some followed a conventional approach in terms of gaining access and building rapport. In that sense, some of my interviews profoundly differed based on the intensity of my affiliation with my respondents.

The interviews to which I gained access via friends' or colleagues' recommendations require me to pay particular attention to lawyers as a socio-economically privileged group and the research experiences concerning elites interviewing in addressing power relations during the interviews. Some scholars address the distinguishing features of elite interviews based on whether the interview process "characteristically develops an acquiescence" (Zuckerman, 1972) or not²⁰. Others suggests that the characteristics of elite interview depends on whether the researcher is compelled to acknowledge favorable position of interviewees in creating strategies to diffuse the power they hold²¹. From a post-structural standpoint, both the researcher and

²⁰ Also see Richards, David. 1996. "Elite Interviewing: Approaches and Pitfalls," *Politics*, 16(3): 199-204, 201.

²¹ See Conti, Joseph and Moira O'Neil. 2007. "Studying Power: Qualitative methods and the Global Elites," *Qualitative Research*. Vol. 7, No. 1, (February): 63-82.

the respondent occupy multiple positions and have more than one identity, which paves the way for power dynamics to shift within interviews²². More specifically, some scholars address gender, age and reputation, and social status as dynamics on which the respondents may establish authority²³. In overcoming these issues, various scholars suggested making intensive preparation prior to the interview in improving the quality interviewing process²⁴. Nevertheless, some argued that both researcher and respondent may employ power or become powerless in respective situations, during and even after the interviews²⁵. Thus, Odendahl and Shaw (2002) suggest that strategies to identify and gain access to elite subjects require “a mixture of ingenuity, social skills, contacts, careful negotiation, and circumstance,” adding “luck” as a component of this process. In that sense, varying degrees of relationship in addition to socio-cultural positioning of my respondents introduced both advantages and challenges. While my personal connections and affiliations enabled to have access to a more intimate set of relations, they pose a challenge in terms of representation and interpretation of my data.

As I effort to pay specific attention to how legal everyday practices are negotiated in-between the personal and political, I turn to the personal narratives of my respondents concerning the boundaries between the personal and the professional within the spaces of the ordinary. In her book, *Shaping History: Narratives of Political Change*, Molly Andrews (2007) ask a series of critical questions that help me to think about the relationship between personal narratives and political change. Andrews argues that the political frameworks form a context for personal stories. Andrews questions how

²² See Smith (2006).

²³ See Odendahl, Teresa and Shaw, Aileen M. 2002. *Interviewing Elites*. California: Sage Publications.

²⁴ See Richards 1996.

²⁵ Mikecz, Robert. 2012. “Interviewing Elites: Addressing Methodological Issues.” *Qualitative Inquiry* 18 (6): 482-493.

personal narratives demonstrate how stories of everyday life is filtered, highlighting or obscuring some; how certain facts and emotions are selected to represent the personal while they also represent the author as ‘person’ as well; what makes a certain goal, form, or relation in interpreting and representing the events that shape these stories. Among Andrew’s question, the following is central to the discussions I intend to hold in this dissertation: “To what group or groups do we feel we belong, and how, if at all, does this contribute to our understanding of the political universe?”²⁶

These questions inspire me to think about to what extent the norms and hierarchies of socio-cultural belonging translate into political narratives or *vice-versa*, which highlights my multiple position in conducting research for and becoming the author of this dissertation. Thus such position informs the processes of data collection and interpretation, personal memories represented in the form of narratives. Anderws (2007) discusses experience of listening different narratives as a researcher as follows:

Researchers do not necessarily become better listeners over time. Indeed, the development may be in the opposite direction: as we develop knowledge in our areas of expertise, we may become increasingly embedded in the arguments we construct and less open to entertaining opposing lenses of interpretation. Here, the important distinction between confidence and certainty becomes blurred. (p. 15)

In addressing the ambiguities in representing narratives, Anderws (2007) invites us to think about four issues, including who the audience is, how do the author position her/him/themselves; which stories the author can or prone to telling; what roles and responsibilities the author has in asking people to tell about their lives. In the light of these questions, I benefit from self-reflexive methods in critically engaging in positions not only as a citizen of Turkey, a member of the professional community of *avukats*, an

²⁶ Andrews, Molly. 2007. *Shaping History: Narratives of Political Change*. Cambridge: Cambridge University Press.

advocate for LGBTQ+ rights in Turkey, but also as a friend, colleague, acquaintance, and a researcher.

Structure of the Dissertation

In Chapter 1, I lay out to what extent and how legal change constitute an important topic in discussing the “historical” in the present of Turkey, discuss the significance of the legal change in negotiating the norms and hierarchies of socio-cultural belonging with regard to the issues concerning gender and sexuality, and explain the theoretical and methodological design informing this dissertation reach through addressing some epistemological and ethical considerations of this interdisciplinary study. Through opening a discussion on law as a site and a socio-cultural space, I intend to build on theories of practice and theories on affect. I argue that law constitutes not only a space, which is shaped by the relationship between its inhabiting bodies and objects, but a site in which the terms and conditions of belonging are mediated through legal processes, languages, and objects in-between the past and the present.

In Chapter 2, I investigate the meanings and significance attributed to legal change in opening up a discussion on the changes in the atmosphere of the present in Turkey. I explore how scholars represented and discussed the events that were considered significant and to what extent they inscribed new meanings informed by the present of the historical knowledge and practices. Focusing on the issues concerning gender and sexuality, I discuss the aesthetic concerns in providing a narrative of the development of the body of contemporary law and assessing how such aesthetics have been embodied

through the norms and practices of gender and sexuality in Turkey. I address contemporary law as a site of socio-cultural belonging, the norms and hierarchies of which have also been negotiated with regards to the issues concerning gender and sexuality. I argue that the contemporary body of law constitute a site of socio-belonging in Turkey through which it is possible to observe that the issues concerning gender and sexuality was considered a boundary in delineating the norms and hierarchies of socio-cultural belonging in-between the national and the foreign, as well as the local and the global. I first lay out some theoretical and methodological considerations in unpacking how law circumvents both the historical and the present in (re-)forming its subjects and objects through its specific language and practices. Late, I discuss Turkey as a specific context through providing examples on affective attachments to the law and question of belonging. Finally, I analyze the historical narratives concerning two historical events through which the norms and practices of gender and sexuality was negotiated in forming and transforming the contemporary body of law in Turkey.

In Chapter 3, I investigate the sources and conditions through which one aspires and gains access to becoming *avukat* through tracking the narratives of my respondents. I examine how *avukats* were drawn to and endure within their professional practice through providing some ethnographic insights concerning field encounters, interview processes, ethical and epistemological issues concerning privacy and representation of respondents. Through exploring how my respondents articulate their personal experiences which led them to the path of *avukatlık* and how they statue their professional practice in the conventions and identities of the legal profession, I discuss the concept of autonomy divorced from the institutional framework of independence or liberal conventions on

agency. I argue that the law creates the professional subjects that compete in generating the desired outcomes, whereas the professional competition among these subjects is informed by their personal experiences and professional practices, which are shaped during their encounters with the socio-political complexities of everyday life.

In Chapter 4, I discuss everyday practices of these lawyers in building and maintaining professional relationships with their clients and within the juridical and professional spaces, as well as their future goals concerning and retrospective insights to their professional practice. Building on Sarah Ahmed's ontological discussion on queer space, this chapter revisits the personal narratives of judicial relations and spaces in discussing emotional attachments through which the movements of *avukat* bodies become (re-, dis-) oriented during their imminent personal and professional relationships and practices. I discuss to what extent how *avukat* bodies, who operate in-between the personal and the political, offer the possibility of socio-legal transformation. I argue that the movement of *avukat* bodies are rather informed by their personal experiences and encounters, in which is shaped by their movements and proximity to the institutional and actual bodies. I demonstrate that such protentional that is embedded in how they expose themselves different experiences of the ongoing ordinary rather than pre-established gestures of the political or professional ideologies. I argue that through building a horizontal relationship with their clients and with their colleagues, *avukat* bodies constitute both a subject and object enabling the potentialities for the particular bodies who were excluded from the body of law based on specific legal aesthetics, to (re-)negotiate, challenge, and alter the norms and hierarchies of socio-cultural belonging, through becoming the subjects of the queer space of law.

Chapter 2:

The Promise of Legal Change as Historical of the Present in Turkey

On July 2nd, 2020 the deputy chair of AKP, Numan Kurtulmuş, held an interview, which was broadcasted by thirty TV channels in Turkey²⁷. Kurtulmuş talks about a number of issues, including Hagi Sophia's status, use of social media, as well as withdrawing from İstanbul Convention²⁸. Kurtulmuş's statements concerning Hagi Sophia's status and Istanbul Conventions attracted the attention of both national and international political actors and media, due to that government was preparing to make unilateral decisions of the government and disregarding the established international principles and legal practices concerning these. While Kurtulmuş's fiercely criticized the Istanbul Convention, his statements were surprising even for the host of the program, who interrupted Kurtulmuş to state that they heard such critique from the government for the first time. Kurtulmuş adamantly stated: "İstanbul Sözleşmesi olmazsa Türkiye'de kadına karşı şiddet artar tezi de bir şehir efsanesidir. Yalan, bir yanlış propagandadır."²⁹ Kurtulmuş not only cited an alleged thesis, which places presence/absence of the Istanbul Convention as a force *per se* in preventing violence against women, but also called it an urban legend. Considering the current increase in the violence against women due to the globally experienced circumstances created by COVID-19, Kurtulmuş's statements

²⁷ See <https://www.youtube.com/watch?v=VUBGpqztw10>

²⁸ See euronews, "Istanbul Convention: What is the domestic violence treaty and has it had an impact?" accessed September 06, 2020. <https://www.euronews.com/2020/07/27/istanbul-convention-what-is-the-domestic-violence-treaty-and-has-it-had-an-impact>.

²⁹ "The thesis that in the absence of İstanbul Convention violence against women increases is an urban legend. A propaganda that is full of lies." (Kurtulmuş 2020)

raised some questions concerning why the government took such step towards the İstanbul Convention now?

In his narrative, Kurtulmuş not only stated that the current government made a historical success in responding to the circumstances introduced by the global pandemic COVID-19; however, they were concerned with addressing the common expectations of an alleged majority of voters, regardless of their political party affiliations. According to Kurtulmuş, such majority expected Hagi Sophia to be turned into a mosque serving for daily prayer since people consider it to be “a symbol of the concurrence of Istanbul” and as “a seal of the presence of Muslim Turks on these lands.” For Kurtulmuş, such majority also showed a tremendous reaction towards LGBT whom he describes as a threat to the notion of family and against society, expecting that the Istanbul Convention to be either abandoned or revised. While Kurtulmuş situated himself as someone who read and studied the İstanbul Convention in both English and Turkish repeatedly and diligently, his regret towards signing of the İstanbul Convention was certainly disorienting especially for those, who invested in the legislative and judicial processes in addressing gender-based and sexual violence in Turkey, given the fact that Turkey became the first country to sign this Convention in 2011. Thus, Kurtulmuş’s statements concerning withdrawing from the İstanbul Convention has received a backlash from various feminists and women’s movements, leading to a controversy among the public circles of Justice and Development Party (AKP)³⁰.

³⁰ KADEM responded Kurtulmuş’s allegations by underscoring that “Istanbul Convention is the first international document, which provides a detailed protection against all forms of violence against women based on a legal framework.” KADEM further elaborates on the purposes, scope and content of the Convention through answering sixteen questions that were directed to KADEM’s president Dr. Saliha Okur Gümrukçüoğlu in their press statement. KADEM responds to the question of whom the Convention protects as follows: “The Convention is drafted mostly for women; however, it does not only protect women. It includes the forms of violence women exposed to because of being a woman (forced abortion,

In her article, *Thinking about Feeling Historical*, Laurent Berlant (2008) questions to what extent and how transmission of trauma or shame constitutes “the structure of an affective rather than a typical emotional event.” (p. 4) Berlant (2008) draws attention to the situations in which *historical present* becomes evident due to “a shift of historic proportions in the terms and processes of the conditions of continuity of life” (p. 5) shaping the atmosphere of the ongoing present. Berlant demonstrates that being forced to think about a traumatic or shameful event unfolds an affective experience of “a crisis lived within the ordinariness” rather than of “a break or a traumatic present,” (p. 5) drawing attention to the actions of the speaker in presuming the comprehension of their audience and in assuming their own effect on the collective conditions. Considering the excess in the way Kurtulmuş’s narrative concerning these events, which was oriented towards such an alleged majority, it becomes imperative to interrogate what made the Turkish government rush to sign the İstanbul Convention back in 2011, what makes withdrawing from the İstanbul Convention an urgent issue ‘now’. More importantly,

women’s circumcision etc.) or the types of violence they frequently exposed to compared to men (sexual harassment and rape, stalking, sexual abuse, domestic violence, forced marriages, forced sterilization). These types of violence emanate from both power inequalities between women and men and discrimination against women ... The Convention does not include any provision concerning generating a third category or determining or encouraging LGBT inclinations as a legal norm. The Convention does not bring any standards concerning sexual orientation including legalization of the same sex marriages. Putting it mildly, alleging that this Convention paves the way for legitimatizing homosexual orientations is an indication of malicious intention. The term “sexual orientation” is only included in Article 4 of the Convention. This provision emphasized that no one shall be discrimination in the struggle against violence and that the violence based on gender and sexual orientation should be not be accepted along with the categories of religion, language, race and etc. The provision certainly does not include any imposition. All people are included in this provision. In any case, a person to be excluded from a protection against violence is incomprehensible.” For full version of the press statement, see: <https://kadem.org.tr/istanbul-sozlesmesi-hakkinda/>

Following their response, KADEM’s support for the İstanbul Convention was considered controversial, causing members of KADEM, became target for criticism and insult among some AKP supporters. See Bianet, “AKP women's branch to file suit against Islamist columnist over article on İstanbul Convention.” Accessed Noember 13, 2020. <https://bianet.org/english/women/228626-akp-women-s-branch-to-file-suit-against-islamist-columnist-over-article-on-istanbul-convention>.

what turned the promise of the İstanbul Convention into shame in-between now and then?

In this chapter, I investigate the meanings and significance attributed to legal change in apprehending how the historical narratives inform emotional attachments to the body of law in the contemporary affective environment in Turkey. I explore how scholars represented and discussed the events that were considered significant and to what extent they inscribed new meanings informed by the present of the historical knowledge and practices. Focusing on the issues concerning gender and sexuality, I specifically address aesthetic concerns in narrating the development of the body of contemporary law and in assessing how such aesthetics have been embodied through the norms and practices of gender and sexuality in Turkey. I address contemporary law as a site of socio-cultural belonging, the norms and hierarchies of which have also been negotiated with regard to the issues concerning gender and sexuality. I argue that the issues concerning gender and sexuality was considered a boundary in delineating the norms and hierarchies of socio-cultural belonging in-between the national and the foreign, as well as the local and the global.

The historical development of the contemporary body of law in Turkey has been a fascinating topic especially for non-Turkish scholars. For instance, in her book, *Law as Metaphor: From Islamic Courts to the Palace of Justice*, June Starr (1992) situates Turkey in contrast to the countries ruled by Islamic law in exploring to what extent and how Turkish secular elites override Islamic law and maintained the secular order in the face of rising Islamic fundamentalism in the second half of 20th century. For Starr, Islamism means a religion and an ideology based on a hierarchical gender relation to

control the state and the law, she associates secular ideology with gender equality and Western institutions of law. Starr's description of the cultural and political context of Turkey underscores how cultural associations within a given location may become linked to the domestic competition based on political ideologies. Thus, this depiction not only contours the prevalent categories of Islamic and European legal cultures, but also poses some questions concerning how the issues concerning gender and sexuality becomes relevant to discussions on legal culture and political ideology in Turkey and how the aesthetic formation of the body of contemporary law in Turkey informs the histories through which the norms and hierarchies of belonging with regard to gender and sexuality were shaped.

The recent debates concerning the İstanbul Convention is informed not only by the ongoing crises in Turkey, but the history of how national and international laws became entangled in shaping both political discourses and everyday practices in different localities, the history of how national body of law came to govern bodies through its specific institutional processes languages, and practices, the history of how gender and sexuality norms and practices has been mediated by the distinction between public and private laws in inhabiting modern and secular dispositions and practices of everyday life in contemporary Turkey. Signing the İstanbul Convention, the Turkish government required to adopt a new law regarding protection of family and preventing violence against women through translating this legal framework into Turkish. Through this law, the Turkish state undertook a more refined responsibility towards not only identifying but also eliminating all forms of violence oriented towards particular bodies of women. Despite the fact that the title of the law addressed family and woman's body as the

objects of legal protection, the language of this law adhered to the original text in defining the term, domestic violence as “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.” (İstanbul Convention, Article 3) In that sense, this framework paved the way for unmarried couples, as well as LGBTQ+ partnerships to be included under this protection. In that sense, this particular framework not only extended the state protection that is historically allocated to the public sphere, but also oriented towards abolishing social and cultural norms and practices that perpetuate the hierarchies and discriminatory practices based on gender and sexuality.

The effect of such law provides an insight to the historical role and significance of law in mediating the norms and practices of gender and sexuality in-between the state and particularized subjects of rights in the context of contemporary Turkey. Thus, this particular law as an object promised a potentiality to address the issues concerning gender and sexuality and to protect particularized bodies from the possibility of suffering from this specific form of violence. However, in Kurtulmuş’s narrative, this object was turned into something to be ashamed of. The recent debate on the İstanbul Convention unfolded how the historical of the present comes to the surface of ordinary life in shaping affective responses to the particular events of ordinary life, such as a potential loss of such promise. It also demonstrated how the narratives on particular objects and bodies reflect the emotional attachments through which these objects and bodies become aestheticized, as well as through which bodies become (re-, dis-) oriented. also unfolded

Through addressing law as a site, I intend to unpack the body of law as both an aesthetic object in making of political worlds and a site of socio-cultural belonging in writing of the history. I examine the historical narratives on legal change in demonstrating how the body of contemporary law in Turkey as a form has been negotiated in-between Islamic and European aesthetics in demonstrating how law circumvents both the historical and the present in (re-)forming its subjects and objects through its specific language and practices. In doing so, I first discuss how legal technologies shapes the body of law as a promise of the history of present through adopting or creating legal texts. Later, I introduce the theoretical links between the historical narratives on and aesthetic attributions to the body of contemporary law in Turkey. Finally, I analyze the historical narratives concerning the processes concerning codification and reception of laws from nineteenth century Ottoman reforms to the early Republic of Turkey in discussing how the norms and practices of gender and sexuality was negotiated in forming and transforming the contemporary body of law in Turkey.

The Promise of Legal Change in Contemporary Turkey

During his speech on the 19th anniversary of Adalet ve Kalkınma Partisi (the Justice and Development Party) on July 13th, 2020, the president of the Republic of Turkey and the Adalet ve Kalkınma Partisi (AKP), Recep Tayyip Erdoğan described their political movement as follows: “ Bu hareket, bu dava, Selçuklu’nun kalbi, Osmanlının

vicdanı, Cumhuriyetin aklıdır.”³¹ Starting from the AKP’s first electoral victory, Erdoğan narrates the AKP’s 18 yearlong rule through citing various events concerning the economic and political crises and the “success stories” concerning Turkey’s socio-economic development. Situating Gezi Park uprising as a historical threshold that opened up a new era to which Erdoğan refers as the “struggle,” the historical present of Erdoğan’s narrative paints the AKP appeared as the sole target of the attacks during the economic and political crises, which became emergent through the military coups between 1960s and 1980s and continued in the legal field throughout 1990s and early 2000s. In giving an account of the socio-economic development in and of Turkey, the AKP also appeared as the sole protagonist of the “success stories” which included various statistical accounts of economic, material, and technological changes, as well as the issues concerning the women’s employment, political representation, education, citing the legal reforms, marked by the legal amendments in 2004, the constitutional changes in 2010, the Law No. 6284 drafted through a translation of the İstanbul Convention.

Before mentioning his remarks on the latest discussion on the İstanbul Convention Erdoğan turns the spotlight towards the historical role of women in Turkey, stating “Kimse kadınlarımızın kazanımlarını yok sayamaz ... Unutmayın, biz bu toprakları kadın erkek beraber vatan yaptık.”³² as he refers to the AKP as the “Teyzelerimizin, halalarımızın partisidir... En az genç erkekler kadar, belki de daha,

³¹ “This movement, this cause is the heart of Seljuk, the consciousness of Ottoman, and the mind of Republic.” (Erdoğan 2020)

³² “No one can deny the gaining of our women ... Do not forget we made this land a nation together as women and men.” (Erdoğan 2020)

fazla genç kızların partisidir”³³. Establishing a link between the War of Independence in 1919 and the military coup attempt in 2016, through emphasizing the role of women, Erdoğan presents the following description of the Turkish society: “İlla bir tanımlama yapılacaksa, Türk milleti aile-erkil bir millettir.”³⁴ Erdoğan further explains the central role of family in terms of belonging to Turkish society as follows: “Nasıl her ferdimiz milletiyile büyük bir aile ise ayrı ayrı da her Türk ailesi milletimizin nüvesi olmanın yanında vatanımızın, devletimizin, bayrağımızın geleceğimizin teminatıdır. Ailenin temeline dinamit koyan hiçbir anlayış, hiçbir düzenleme, hiçbir ideoloji insani olmadığı gibi meşru da değildir.”³⁵ In condemning the language used against KADEM, Erdoğan underscores their responsibility to protect women, and accuses the women’s organizations, human rights activist, and some professional organizations, depicting them as follows: “Bu kesimler için zihinlerindeki ajandayı hayata geçirebilecek bir zemin bulabilmek her türlü insan hakkı mücadelesinden önemlidir. Bu tavırlarıyla kendi konumlarını kendileri belirliyor. Bu konumun tarifi de iki yüzlü ideolojik saplantılı milletin değerleriyle barışamamış bir çizgidir.”³⁶ Erdoğan’s concluding remarks on the debates on the Istanbul Convention points to a potential in generating legal frame works and producing texts based on the Turkish government’s approach, instead of adopting laws through translation of “foreign” documents. While Erdoğan does not completely

³³ “Political party of our aunts... The political party of young girls, as much as, even more so than young boys.” (Erdoğan 2020)

³⁴ “If a description much needed Turkish nation is a family-archial nation.” (Erdoğan 2020)

³⁵ “As much each one of our individuals are a part of the family of our nation, each Turkish family separate is the gurantee of our land, state, flag and future besides being the nucleus of our nation. Any view, regulation or ideology that places a dynamite to the foundations of family is neither humanistic nor legitimate.” (Erdoğan 2020)

³⁶ “For these groups, finding a ground for the agenda in their minds is more important than any type of human rights struggle. They determine their position by their own actions. The description of such position is a two-faced, ideologically obsessed course of action that could nont make peace with the national values.” (Erdoğan 2020)

reject the international body of law in forming such potential, he rather delineates the extent of adoption of “foreign text” with benefits:

Kadına yönelik şiddet konusundaki hassasiyetimiz de insana olan saygı ve sevgimizden olduğu kadar, aile kavramına olan yaklaşımımızdan da kaynaklanıyor. Ne kadına şiddetle mücadelemizin zafiyete uğratılmasına ne de bir avuç marjinalin aile değerlerimizi zedelemesine izin veririz. Türkiye olarak bin yıllara sâri medeniyet birikimimizde insanı ve insan onurunu yücelten aileyi merkeze alan toplum dokumuza uygun özgün ve öncü metinler çıkarma potansiyeline ziyadesiyle sahip olduğumuza inanıyorum. Şimdiye kadar oluşan uluslararası külliyattan da istifade ederek tercüme metinler yerine artık kendi çerçevemizi kendimiz belirlememiz gerekiyor. Hani diyordum ya... Kopenhag kriterleri diyeceğimize Ankara kriterleri der ve yolumuza devam ederiz. (Alkışlar) Enerjimizi ve vaktimizi heba eden son tartışmanın kasıtlı bir şekilde alevlendirildiğini bazılarının da bilerek bilmeyerek bu ateşe odun taşıdığını düşünüyorum. O ateşi körükleyenler kadına şiddetle mücadeleden veya kadınların insan haklarını tesis etmekten bir adım olsun geri gideceğimizi sanıyorlarsa şimdiden bilsinler ki hüsrana uğrayacaklardır. (Alkışlar) Gereksiz tartışmalar üzerinden körüklenmeye çalışılan bu fitne ateşini inşallah basiret ve ferasetle davranarak tamamen söndüreçimize inanıyorum. (Erdoğan 2020)

Drawing a straight parallel between Kurtulmuş’s statements and Erdoğan’s concluding remarks would be a stretch; however, empirically, both narratives refer to the translation of “foreign” legal texts as a crisis in the ongoing present. Thus, the debate on the İstanbul Convention unfolds an impasse in which both politicians stop to address something about the ongoing present through expressing their regret for failing the expectations or frustration towards the actions of their assumed audience. What also seems to be at the center of both narratives is the distinction between the “foreign” and “national” body of law and the processes, techniques, and practices of translation through which these bodies became entangled. Thus, started by the late 19th century Ottoman reforms, the translation of European codes became a contentious but consistent practice in shaping the contemporary body of law in Turkey until today. In that sense, creating “our own texts” is neither a new premise nor an old promise, which draws parallel to the

promise of excessive and reoccurring emphasis and investment in adopting new laws in the contemporary Turkey. In that sense, I suggest taking into considering the recent crisis, revolved around the translation of international legal texts, as a reckoning of the history of or “the historical” in the present.

In his book, *The Promise of the Foreign: Nationalism and the Technics of Translation in the Spanish Philippines*, Vicente L. Rafael (2005) discusses the concept of “foreign” through investigating the translation and transmission of “foreign” in its various forms to create a nationalist coherence in 19th century Philippines. According to Rafael, the technological developments “circulated the expectation of society becoming other than what it had been, becoming, that is, modern in its proximity to events in the metropole and the rest of the “civilized world,” as well as “embodied the promise of the foreign, or more precisely, of the becoming foreign associated with the experience of modernity.” (p. 5) Rafael’s historical study not only situates translation as a technology in the production of discursive objects but also how the role of those who are intermediaries between who is considered “the foreign” and “the native” shapes the changes through which the bodies in a certain locality become connected and adapted to the changes happening around the world. In this sense, Rafael demonstrates the interconnectedness between national/international bodies was shaped through the technological exchanges between the colonizer and colonized, creating a specific affective political atmosphere.

Rafael’s discussion inspired me to think about the contemporary body of law as a site and technology in which the aesthetic differences between the “foreign” and “native” can be inscribed into the law as these differences are mediated through techniques of translation and interpretation. Situated in-between various historical and cultural divides,

such as colonizer/colonized, East/West, secular/Muslim, Islamic/European, traditional/modern, Turkey constituted a geo-political and a socio-cultural limit in defining to the boundaries of Europe. As Meltem Ahıska (2003) points out, in Turkey while the “hegemonic national imaginary,” informed by “the West” as both a model and a fantasy, “displaces the present and focuses on the future,” this future “is overshadowed by a fixed past.” (p.355) Moreover, a recent study by Erkan Erçel (2016) shows that the historiographical studies in the past twenty years have focused on a pre-modern Ottoman tolerance and peace offering “a social fantasy of Turkish-Islamic nationalism, which enables its adherents to constitute their realities and ‘native’ identities as well as sustain their affective investments.” (p.72) Both works provide an insight to contemplate on how the present is displaced in-between the promise for a becoming future and the loss of a becoming past.

In her book, *Nostalgia for the Modern: State Secularism and Everyday Politics in Turkey*, Esra Özyürek (2006) investigates rapidly shifting boundaries between public and private focusing the changes brought about by the challenges posed to “the memory of a strong, independent, self-sufficient state and its secularist modernization” (p.3) in the late 1990s. In her analysis on privatization of public and private in the post-Cold War Turkey, Özyürek (2006) observes an excessive nostalgia among many nationalist and modernist citizen of Turkey for the memories of early Republican era in contemporary Turkey, who became discontent with the political and economic modern criteria offered for Turkey in the late 1990s. In discussing how the specific memories of such became a battle ground for both Kemalist and Islamist politics in contemporary Turkey, Özyürek (2006) argues the representations of the past both “serves as a ground for” and “can constitute a source

of resistance to cultural reproduction.” (p.154) To what extent and how privatization affect the boundaries between public and private laws in Turkey?

The legal changes brought about by the 2010 constitutional amendments introduced a new mechanism that allow individuals to make complaint to the Turkish Constitutional Court (TCC), which used to review constitutionality of laws, constitutional amendments, and specific cases such as dissolution of political parties. Through this mechanism, individuals were able to bring their cases before the TCC, which reviews these cases based their admissibility and merits in terms of both constitutional and international body of law. Prior to the individual application mechanism, individuals made applications to the European Court of Human Rights (ECHR) in claiming the state’s accountability. Despite that this mechanism annihilate seeking remedies from the ECHR, it functions in ensuring that the issues concerning human rights that intersects both public and private laws, as well as the issues, remain within national juridical boundaries in Turkey.

A quick review of constitutional court decisions on the issues concerning gender and sexuality introduced that the constitutional articles regarding ‘personal inviolability, corporeal and spiritual existence of the individual’, ‘equality before the law’, and ‘privacy to private life’ constituted the fundamental grounds, intersecting both public and private laws. These articles, which underscore the state’s obligation to protect individual’s private life, in juridical practice, were cited in a variety legal cases ranging from domestic violence to name change due to divorce, custody or gender reassignment proceedings or cases, from discrimination and termination based on gender, gender identity, and sexual orientation, to freedom of expression and freedom of assembly, as

well as defamation cases³⁷. The individual application mechanism is relatively new juridical practice, emergence of which constitutes a socio-legal event that underscores the history of the ongoing contestations over and conventions on human rights laws and practices between national and international bodies of law in (re-)shaping the historical site of law. In the next section, I will address the law as a site, which is shaped by multiple histories, as well as the everyday legal practices at a temporally specific locality. I discuss how the body of law is represented as an aesthetic object through writing of legal history and how the historical representations of contemporary body of law constitute a site in which norms and hierarchies concerning socio-cultural belonging are negotiated.

Situating the Historical Narratives as A Site of Socio-Cultural Belonging

While historical studies concerning the legal issues concerning gender and sexuality provides a rich literature regarding the development of the body and practice of law in contemporary Turkey starting from 16th century court practices³⁸, to what extent and how these issues were addressed by Islamic and European traditions the formation of

³⁷ A published report on individual application statistics between 2012 and 2020 demonstrated that ninety percent of adjudicated applications were found to be inadmissible and that less twenty five percent of the cases in which a violation was found were concerned with the articles mentioned combined. See Constitutional Court of the Republic of Turkey. "Individual Application Statistics (23/9/2012 - 30/9/2020)" https://www.anayasa.gov.tr/media/7154/bb_statistics_2020-3.pdf.

³⁸ For instance, Ronald C. Jennings shows that women participated in court hearings and make claims against men in 17th century Ottoman courts of Kayseri. See Jennings, Ronald C. 1975. "Women in Early 17th Century Ottoman Judicial Records: The Sharia Court of Anatolian Kayseri." *Journal of the Economic and Social History of the Orient*, Vol. 18, No. 1: 53-114. Similarly, Judith Tucker tracks gendered nature of the interactions between legal writing and the understandings and experiences of individuals through studying various sources of Ottoman law. See Tucker, Judith E. 1998. *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine*. Berkeley: University of California Press. Building on both works in her micro historical study of the Ottoman Court in Aintab in 16th century, Leslie Pierce discusses law as a process in which gendered performances of both women and men can be observed in the court records. Peirce unpacks the paradoxical nature of women status in courts referring to the exclusionary rules serving as a case witnesses, giving testimonies or taking an oath of innocence and the practices that are advantageous for women, such as being appointed as guardians and financial guarantors. See Peirce, Leslie. 2003. *Morality Tales: Law and Gender in the Ottoman Court of Aintab*. University of California Press.

the contemporary law and legal culture in Turkey has been a contested issue among historians, legal historians, and legal scholars due to the ambiguities surrounding identity and belonging in Turkey. The historical transformation of nineteenth century Ottoman legal institutions not only laid the foundations of contemporary law and legal practices in Turkey, but also formed by the processes of codification and reception through which the socio-cultural norms and hierarchies inscribed into a textual body of law in marking the differences between bodies based on ethnicity, religion, gender, and sexuality. In that sense, the historical (trans)formation of law in the Ottoman-Turkish continuum, which combined both Islamic and European aesthetics of law, also constitutes the history of identity and belonging in Turkey.

The effect of such history on the contemporary debates concerning law and identity can be observed in the recent historiographical works, which introduced a divergence between the Ottoman history and history of the Ottoman law. While the prevailing assumptions of Ottoman historians situated Ottoman Empire as “somehow unique and incomparable,” (Faroqhi 2010, p. 57) Ottoman law has always been analyzed in comparison to the mainstream normative traditions such as Islamic law and European law rather than its centrality and the merits of Ottoman theory and practice on its own (Miller 2008). If the histories addressing Ottoman and Turkish legal cultures and identities overlap, what makes the latter unique compared to and the former comparative to other histories in narrating the historical formation of the body of law in the ongoing present? How does the narrations of such history inform the aesthetic formation of contemporary body of law in Turkey? To what extent and how the legal issues

concerning gender and sexuality matter in terms of apprehending the affective attachments and the meanings attributed to legal change in contemporary Turkey?

In apprehending the historical and socio-cultural underpinnings of the contemporary law, I benefit from theories of practice, which suggest thinking of how everyday life is shaped by historically and culturally determined social and institutional practices in a specific temporal and spatial context. Through addressing law as a site, I build on Pierre Bourdieu's discussions on juridical field to which he referred to as the site of professional competition and of Michael De Certeau's critique of writing of the history in discussing how the narratives of legal historians and legal scholars represented the historical formation of the body of law and what meanings they attributed legal change in assessing the aesthetic formation of contemporary law in Turkey.

In his article, *The Force of Law: Toward a Sociology of the Juridical Field*, Pierre Bourdieu (1987) brings in Foucault's insight into his discussion on the social universe of law, which is shaped through the historically constituted legal practices, languages, processes, and relations. For Bourdieu (1987), this universe, is neither a fully independent epistemic authority, nor relatively dependent on socio-political authority; but "in practice relatively independent of external determinations and pressures." (p. 816) Referring to Foucault's analysis on discourse as "structured structures, historically constituted," (p. 839) Bourdieu (1987) points out the processes of "symbolic struggle" among legal professionals and "division of labor" between the theoreticians and practitioners of law in shaping the social history and the discourse of juridical production. While the former functions in creating the practical content of the law as a result of judgement, the latter

contains such content in the specific form of juridical decision in establishing a link between the past to the present.

Bourdieu's juridical field allows us to consider history and culture as forces that shape the contemporary law. Thus, legal scholars and professionals, as distinct subjects of the juridical field, embody the experience of acting upon and within both the disciplinary knowledge and knowledge of everyday in shaping the practice of law. In that sense, they become an intermediary between the actual bodies and the body of law in (re-) generating the conditions through which the law as a modality of power, can be inscribed into the bodies. Bourdieu's use of the conceptual form "law as..." in introducing a social universe poses an epistemological challenge to his effort to delineate the temporal and spatial context in which the professional competition and legal doxa are shaped. Thus, for Bourdieu (1987), such context is contingently shaped within the national legal culture; however, as anthropological studies focusing on legal histories presented, the processes, languages, and practices of law to a certain extent relied on various local, as well as transnational sources of law, which clearly transcends the boundaries of national body and practices of law.

The conceptual framework "law as ..." situates the "law in society" in offering a plausible alternative to the "law and," which considers the law as "distinct from society" among scholars of legal history. According to Christopher Tomlins and John Comaroff (2011) the former emerged as a distinctive moment, overcame the issues with the latter that grew within the legal realism. In addition, legal pluralism emerged as a paradigmatic critique of both legal positivism and realism. Inspired by the critical theories raised in 1970s and 1980s concerning relations of power and representation -of people,

geographies, cultures, histories and societies-, both realist and pluralist traditions worked towards acknowledging the problems introduced by the epistemological and ethical implications of evolutionary models of culture and the structural models of society. A major distinction between the legal realist and pluralist approach may be that the former focused on the relationship between authority and autonomy in understanding the institutional power relations, the latter focused on the non-state centered sources and systems of law in comprehending the relationship between multiple legal orders in a socio-geographic context.

What seemed to be at stake for both critical realist and pluralist approaches is the epistemological representation of continuities and discontinuities between colonial and postcolonial relations in addressing the concurrent norms, relations, subjects, and objects of law. Considering that like law, history is also concerned with the epistemological question of representation, I first address what the limitations of historical representation are and how the historical methods effort to overcome these limits. As Koselleck (1988) points out, history ontologically precedes language, therefore, requires to be represented through communicative forms such as narrative and description. However, such representation is contingent upon the nature of materials. Respectively, contemporary historical methodologies take into account different temporalities, which are interwoven by the interplay between events, such as subjective experiences or actions, and structures, such as law and custom. As structures gain a processual character rather than entities, they inform everyday experience. In that sense, judicial practices and processes provided an epistemological field for scholars to link historical experiences to structures of law.

The scholarly interest in apprehending the historical development of contemporary of law brings together to two epistemic authorities, law and history, both of which rely on distinct techniques and methods in interpreting texts and representing events and subjects. Both of them intersects in investigating the subject(s) of socio-cultural change. In that sense, the historical narratives on the local/national development of law provides a fruitful ground for socio-legal, cultural, and historical research in tackling the ambiguities surround the contemporary legal forms and practices. In addressing the effects of the historical transformation of the contemporary law in Turkey, I build on De Certeau's discussion on historiography in expanding the Bourdieu's discussion on juridical field. In his book, *The Writing of the History*, De Certeau (1988) refers to historiography as a site in which the past is represented in reproducing itself in the present and as a practice, which

symbolizes a society capable of managing the space that it provides for itself, of replacing the obscurity of the lived body with the expression of a "will to know" or a "will to dominate" the body, of changing inherited traditions into a textual product or, in short, of being turned into a blank page that it should itself be able to write. (p. 6)

As De Certeau (1988) discusses, historiography constitutes a site on which representations of the self and the other is negotiated in (re-)producing the norms and hierarchies of belonging:

A structure of belonging to modern Western culture can doubtless be seen in this historiography: *intelligibility is established through a relation with the other*; it moves (or "progresses") by changing what it makes of its "other"- the Indian, the past, the people, the mad, the child, the Third World. (p. 3)

In other words, historiography takes representations of the past as its object to inscribe new meanings informed by the present of the historical knowledge and practices. In that sense, historiography provides a narrative encompassing the theoretical and

methodological changes in study of history reflecting an example of the filters through which the present becomes an object. What difference does historiographical writing brings the home of the discipline of law? What does historiography unfold in terms of these differences? How these differences are negotiated in shaping the distinction between the distinction between Self and Other? What does such difference entail for socio-cultural belonging?

In her detailed review of the literature on belonging, Sara Wright provides a road map for thinking about the potentialities that the notion of belonging offers rather than the ambiguities it introduces in everyday life. Building on theories weak theory, Wright suggest revisiting the notion belonging as an ontological question and “an act-of becoming”. For Wright, “belonging is not only created by people in places, or more-than-humans in places, but actively co-constitutes people and things and processes and places.” (p.391) As Write presents, the notion of belonging has been widely discussed by the literature on citizenship, race, ethnicity, gender, and disability.

A common conception of understanding on the distinction between belonging and citizenship is that the former runs “thicker” than the latter (Crowley 1999, p.22 as cited in Wright 2015; Yuval Davis 2004), discussing that belonging goes beyond the boundaries of political membership. Yuval Davis (2004) further suggests that the notion of belonging is more expansive than both citizenship and identity as it is situated in sociology of emotions, arguing that more often than so the ‘Right’ that exploits a variety of emotions evoked by politicization of belonging through narratives at various levels. The “Right” Yuval Davis refers is an assumed position, which is negotiated by and through the body

of law. How then we think about the body of law in connection to the historical site of law and a site of socio-cultural belonging.

In her book, *Differences That Matter*, addresses the issue of Rights, Sarah Ahmed (1999) provides a valuable insight on the body of law through challenging the distinction between feminist theory and practice. In discussing the relationship between the body of law and particular bodies, Ahmed (1999) builds on Derrida's discussion concerning the subject that one becomes "after the law," establishing a crucial link between law and embodiment. Building on Ahmed's discussion, in the next section I analyze the historical representations of the body of law in discussing how codification and reception processes offered a site in negotiating Islamic and European aesthetics. Focusing on historical narratives provided by the legal scholars and legal historians concerning two major historical events, I demonstrate how the Ottoman laws and legal practices transformed into a dual system through which the distinction between public and private laws became crystalized. I discuss how the issues concerning gender and sexuality appeared as a threshold in welcoming or expelling the "foreign" in shaping the national body of law.

(Trans)forming the body of law in-between reform and revolution

The prevalent discourse on discontinuity with the institutional knowledge and practices of Ottoman Empire, recently under the scrutiny of historiographical critique on the nineteenth century Ottoman legal history³⁹⁴⁰. While such critique promotes a legal

³⁹ In her detailed analysis of early republican historiography, Büşra Ersanlı (2002) discusses the history of the six-hundred-year long Ottoman Empire was selectively embraced for its rise and expansion in its first four hundred years and rejected for stagnation and decay led by "corruption of the ruling elites" in its last two centuries based on. Ersanlı presents that some authors applauded the "reform-oriented" Ottoman bureaucrats as they brought forth a unique and radical change as they also considered the Ottoman Palace to be "nefarious." Ersanlı further presents that most republican authors discussed the Ottoman intellectuals' adherence to Islamic law a failure, while some associated such attitude with being devoted to their religion

pluralistic approach to Ottoman legal history, another historiographical critique draws attention to the pitfalls of an emergent discourse that is centered on a specific imaginary of the pre-modern epoch of Ottoman history as a Golden Age, emphasizing “minority rights, tolerance and the harmonious coexistence of plurality.” (Ercel 2016, p. 73). The historiographical critiques of both the early modern and the post-1980s imaginaries of Ottoman history demonstrates that the affective presence/absence of the colonial histories and the histories of modernization and secularization in the present of writing of contemporary history in Turkey. Considering that the historical development of the contemporary formations of law is situated in-between histories of colonialism and modernism, it becomes imperative to investigate what histories remains hidden or becomes amplified in narrating the history of contemporary law and how the issues concerning gender and sexuality matters to the history of law and legal change in Turkey?

I explore the meanings and significance attributed to legal change between the late nineteenth century Ottoman empire and early twentieth century Turkey. I argue that the attempts to systematize laws and legal practices paved the way for the contemporary body of law to emerge as a site of socio-cultural belonging. The practices such as translating foreign codes emerged as a legal technology, development of which were rooted in colonial histories. These practices also became key to the secular and modern inhabitation of ordinary life, especially in (trans)forming the norms and practices of

as a Turkish nationalist. See Ersanlı, Büşra. 2002. “The Ottoman Empire in the Historiography of the Kemalist Era: A Theory of Fatal Decline” In *The Ottomans and The Balkans: A Discussion of Historiography* eds. Fikret Adanır and Suraiya Faroqhi: p. 135.

⁴⁰ In his critique on the prevailing assumptions on “discontinuity with regard to pre-modern judicial praxis and an alleged competition between secular-modern and religious-traditional cosmologies,” Avi Rubin argues that Ottoman socio-legal change is an ample expression to historical continuity. For Rubin, Ottoman law in its plurality was “consciously syncretic.” See Rubin, Avi. 2009. Judicial Change in the Age of Modernity: A Reappraisal.” *History Compass* 7/1: 119–140, p. 120.

gender and sexuality a threshold in determining the techniques/technologies of contemporary body of law in Turkey. Focusing on the methods used in codifying Ottoman Civil Code, *Mecelle*, of 1877 and Turkish Civil Code of 1926, I discuss how the events and law makers of this period were represented in the historical narratives of Turkish legal scholars and legal historians.

In addressing how intellectual sources, historical figures, and political movements informed the transformation of contemporary gender and sexuality norms and practices in Turkey, feminist scholarship discussed how woman bodies were both displaced and centralized as part of nation-building and modernization projects. Through discussing the (trans)formation of the bodies of law in-between Islamic and European legal aesthetics, I intend to unpack the link between legal change and Turkey's socio-cultural belonging in discussing how Turkey's liminal position reflected on the contemporary tensions revolving around the issues concerning gender and sexuality. I demonstrate the civil codes as objects of history and law offer a gate way to critically engaging with the contemporary distinction between national and foreign in shedding a light to the contemporary body of law as historical site. In doing so, I first address the meanings and significance attributed to the late nineteenth century Ottoman reforms. I later discuss how the reception of Swiss Civil Code as part of codification of Turkish Civil Code of 1926 was discussed by legal scholars and legal historians.

The Promise of the Late Ottoman Reforms

Beginning with a reflective statement, Gülhane Hatt-ı Hümayun of 1839 (*Tanzimat Edict*) addressed the current weakness and poverty of the Ottoman state as a result of one hundred and fifty years of disregard for the rule of Şeriat and the imperial

laws. While Tanzimat Edict underscored how essential observing such rule and laws for the sustainability of the Ottoman state and the prosperity of Ottoman subjects, it also indicated that the Sultanate was hopeful about (re-)covering from the current situation in five to ten years. In doing so, *Tanzimat* Edict not only established continuity between the rule of Şeriat and imperial laws and the Ottoman Empire's prosperity and sustainability, but also reaffirmed the meanings attributed to the rule of Şeriat and imperial laws in reckoning the loss of such rule. Consequently, *Tanzimat* Edict, as a performative text, also promised recovering from such loss, particularly based on its accumulated knowledge and practices in restoring order and providing security for its subjects. In that sense, *Tanzimat* Edict, as an object, reflected the affective attachments to the law in overcoming the empire's struggles in the face of pressing economic and political conditions and ongoing socio-political conflicts.

The contemporary scholarship on legal history agreed that the proclamation of *Tanzimat* Edict, as an event, was the beginning of modernization and secularization in Turkey. Starting from 1940s, the scholarly attempts to discuss the historical conditions and legal character of *Tanzimat* Edict provided a plethora of publications discussing the significance and meaning of *Tanzimat*. Thus, *Tanzimat I*, an edited volume including several articles concerning various aspects of *Tanzimat* period, was published by the Minister of Education, Hasan Ali Yücel in 1939 in commemorating the centennial anniversary of the declaration of *Tanzimat* Edict. Right after the cover page of this publication appeared a picture of Reşit Paşa, who was considered one of the leaders of

Tanzimat movement, which was followed by Yücel's brief editorial explanation⁴¹. Some articles involved in this publication, discussed the historical significance of legal changes brought about during the *Tanzimat* publication through underscoring the emergent distinctions between individual, society, and the state in establishing legal rights and responsibilities. While the authors of these articles presented slight differences in terms of whether and to what extent *Tanzimat* reforms were informed by an increase in the socio-political consciousness among political elites and the public or 'the influence of the Western empires'⁴², they mostly agreed that there was somewhat of a lack of 'a will to know' among political elites, which was central in their critiques concerning the codification processes.

The pioneering historians of Ottoman political and legal history directly and indirectly critiqued this attempt to historicize Ottoman reforms of late 19th century in 1950s, bringing in epistemological and ethical insights concerning the content and methods of the discussions on *Tanzimat* reforms. Şerif Mardin provided an insightful critique on the lack and misuse of historical methods in some of the articles. For Mardin, the *Tanzimat* Edict was characterized by the fact that it gained its strength from and was a result of the political, legal, social, and economic thought and views of its time and contemporary Europe. In his historical analysis on statements of two Ottoman elites,

⁴¹ Yücel (1941) referred to as an important period of Turkey's national struggle in both its continuities and discontinuities and a turning point in Turkey's westernization history.

⁴² Veldet (Velidedeoğlu) (1941), a civil law professor, disagreed with those who regarded the reform movements of *Tanzimat* as "direct initiatives of a couple of individuals and a product imitating the West," arguing that *Tanzimat* was also a product of the prior reform movements. Recai Okandan (1941), an administrative law professor, situated himself with those who regarded the movement to be isolated from the public, Okandan argued that the nation had no active role in the processes of the *Tanzimat* era, but the unilateral desire and will of the Padişah. Finally, Yavuz Abadan (1941), an administrative law professor, referred to the proclamation of *Tanzimat* as underscored "the symptom not the sickness" as the root cause of this issue was the lack of the boundaries between individual and community, as well as citizens and the state.

Mardin presented the emergence and continuity of the influence of liberalism and constitutionalism on *Tanzimat* reforms. In addition, Halil İnalçık referred to *Tanzimat* as both a westernization movement and an initiative of the Ottoman Empire, argued that *Tanzimat* Edict combined the conservative form of Ottoman customary law in accordance with the Şeriat laws and the revolutionary modern principles such as legal security over personal life and property and equality before the law.

Tanzimat'tan Cumhuriyet'e Türkiye Ansiklopedisi, an edited volume published in 1985, started with a reflection of the editor Murat Belge on how the historical scope of this publication has extended so as to include *Tanzimat* period. Belge argued that the inclusion of *Tanzimat* period was imperative to provide ‘a complete picture of the history of contemporary Turkish Republic, as he refers to *Tanzimat* as the “incubation period” of the contemporary Turkey. The six-volume publication included various themes encompassing several aspects of economic, political, social, and cultural life during and after *Tanzimat* period, including but not limited to the constitutional and legal changes, the social-economic impact and character of *Tanzimat*. While legal scholars’ narratives confirmed *Tanzimat* period that brought about a new political and legal order⁴³, legal

⁴³ For Bülent Tahiroğlu (1985), a legal scholar known for his works on Roman Law, *Tanzimat* was an attempt to establish a new political order in overcoming the problems brought about by the centuries-old state structure and system. Tahiroğlu introduced that the dominant views favoring and opposing *Tanzimat* reforms were informed by the discord between the central government (the Ottoman Palace) and Ottoman bureaucracy a newly emerging political force, as well as the dilemmas brought about by the lack of institutional support for *Tanzimat* reforms. Furthermore, Tahiroğlu (1998) presents that while the classical view discussed *Tanzimat* as an affirmative development, oriented towards the rule of law and liberalization, despite its short comings, the political scientists discussed *Tanzimat* reforms and institutions as a reflection of semi-colonialization of Ottoman Empire’s super-structures, such as law, politics, and ideology, etc. Tahiroğlu underscored that Westernization started more than a century before *Tanzimat*, and argued that it is natural for a society, which has lived in various life and legal orders for centuries and forced to adopt a new order, to resort to imitating. For Tahiroğlu the critical issue is not imitating but whether or not this imitation performed randomly and in accordance with the source of imitation and based the historical conditions. See Tahiroğlu, Bülent. 1985. “Anayasal Gelişmelere Toplu Bir Bakış.” In *Tanzimat'tan Cumhuriyet'e Türkiye Ansiklopedisi*. İstanbul: İletişim Yayınları: 10-26. In his second article on the legal reforms following *Tanzimat* period, Tahiroğlu (1998) further presented the pros and cons of *Tanzimat*

historians investigated to what extent and how Tanzimat reforms affected the socio-economic and legal structures of Ottoman Empire⁴⁴. Finally, some legal scholars argued that Tanzimat reforms introduced the institutional practice of reception of foreign laws. For instance, Ülkü Azrak (1985), an administrative law professor, discussed that the codification of public and private laws through translation of French laws during Tanzimat period, as the first attempt to consciously and voluntarily adopted from Western laws. Azrak argued that while the reception process in Ottoman Empire started during Tanzimat; however, European legal philosophy was not integrated into the reception enough and remained to be a foreign source, compared to the reception process of the 1920s republican Turkey⁴⁵.

period. The former included bringing forth a conception of state of law in which the laws are systemized based on a codifications scheme and drafting the citizenship law, which regulated the status of zimmi in addressing the problems led by the lack of such law. The latter involved the dual system involving Islamic law and secular law added to the problems of emerged from a lack of unity within the Ottoman body of law. In his conclusion, *Tahiroğlu* more specifically addressed *Tanzimat* period as “a first step towards the contemporary legal systems,” and “Ottoman state’s preparation, struggle, and maturation period in the social, political, legal fields,” as well as “the roots of the modern” Turkish law (p. 600, 601). See Tahiroğlu, Bülent. 1985. “Tanzimat’tan Sonra Kanunlaştırma Hareketleri.” In *Tanzimat’tan Cumhuriyet’e Türkiye Ansiklopedisi*. İstanbul: İletişim Yayınları: 588-601. Similarly, Coşkun Üçok (1985), a prominent legal historian, discussed the Ottoman laws in the pre-Tanzimat, dividing it into three categories: “Şeriat”, or Islamic law (Fıkıh), the law that was solely applied to Muslims, customary (örfî) law that was applied to all Ottoman subjects, and the laws of the non-Muslim populations. For Üçok (1985), *Tanzimat* was a legal revolution since it secured the lives, properties, and honor of all Ottoman subjects, ended the legal disorder, and made the first step in creating a unified body of law. See Üçok, Coşkun. 1985. “Tanzimat’tan Önce Osmanlı Devleti’nde Hukuk.” *Tanzimat’tan Cumhuriyet’e Türkiye Ansiklopedisi*. İstanbul: İletişim Yayınları: 574-579

⁴⁴ The historians, İlber Ortaylı (1985) and Halil İnalçık (1985) discussed the subject of history and what socio-economic impact these historical subjects made through transforming the established systems and practices of the Empire. While Ortaylı (1985) argued that Tanzimat reformers had historical consciousness, as they did not intend to restore but believed that the preexisting order was required to change, İnalçık (1985) claimed that Tanzimat Edit was by no means a stillborn document, as it paved the way for far-reaching movements and tremor within the traditional social structure. These narratives underscore the impact of Tanzimat reforms in shaping the newly emerging subject and subjectivities in parallel to political, intellectual, social, and economic transformation of everyday relations and practices. See İnalçık, Halil. 1985. “Tanzimat’ın Uygulanması ve Sosyal Tepkiler.” In *Tanzimat’tan Cumhuriyet’e Türkiye Ansiklopedisi*. İstanbul: İletişim Yayınları: 1535-1544. Also, see Ortaylı, İlber. 1985. *Tanzimat*. In *Tanzimat’tan Cumhuriyet’e Türkiye Ansiklopedisi*. İstanbul: İletişim Yayınları: 1545-1547.

⁴⁵ Similarly, Gülnihal Bozkurt (1998) argued that “the reception movement in the Ottoman Empire came as a result of these external pressures” based on “the hope of gaining the loyalty of all its subjects.” (p.284) For Bozkurt, while the increasing national consciousness among non-Muslim populations was the main contributing factor instigating the legal reforms; the peaceful existence among Muslim and non-Muslims

Finally, *Türkiye Araştırmalar Literatür Dergisi*, launched a volume bringing together various legal historians in providing a detailed literature on legal history in Turkey in 2005. Mustafa Şentop (2005), a former law professor and a current member of the Turkish parliament, Şentop (2005) argues that despite the early attempts in the reform movement paid specific attention to the compatibility between the codifications and Islamic law, the sensitivity towards making Ottoman codes compatible with the Islamic Law has faded over time and perished at the beginning of 20th century⁴⁶. What is interesting in Şentop's narrative is his specific emphasis on the historical role of Ahmet Cevdet Paşa in codifying the Ottoman Civil Code, which will be discussed in the next section. This publication also include interview with Halil İnalçık in which he compared the concurrent political and economic situation with those of Tanzimat period as follows:

Tanzimat dönemi geri gelmiş gibi. Osmanlı o zaman da her şeyi yaptı: Gayr-i Müslimlere eşitlik ve azınlık meclisleri kurma izni verdik. Ermenilerin, Rumların ayrı meclisleri vardı. Fazlasıyla liberal davrandık. Bugün de benzer şekilde, radikal reformlar yapıyoruz; ama Batı'nın istek ve baskısının nihayeti yok. Yunanistan'ın politikaları AB'yi yönlendiriyor. Yunanistan "AB'ye girdik ya, Bizans'ı da canlandırabiliriz" diye düşünüyor. Herkes tarihten gelen dürtülerle hareket edip politikalar üretirken, Türkiye'deki politikacıların tarih körlüğü inanılmaz bir şekilde sürüyor. Peki alternatif ne? Amerika mı, Avrasyacılık mı? Her şeyden önce ekonomik ve askerî bakımdan güçlü olmak gerekiyor. Ekonomi çok önemli. Orta Asya'ya ekonomik yardım yapamadığımız için nüfûzumuz geriledi⁴⁷. (p. 484)

have perished with the decline of Ottoman power. These narratives reflect the tendencies of prevalent and emergent historiographical discourses as they discussed this specific practice with reference to either an aesthetic assessment of Ottoman modern institutional practices or an affective imaginary of pre-modern administrative relations between the Sultanate and Ottoman subjects. Bozkurt, Gülnihal. 1998. "The Reception of Western European Law in Turkey." *Der Islam* BdL 75, S. 283-295.

⁴⁶ Şentop provides a brief overview of both internal and external dynamics that shaped the codification process, the codified laws, and the literature on codification in Turkey. While Şentop did not separate the Ottoman and Republican codification movement, he provided insights to the main discussions concerning reception of Swiss Civil Code in 1926.

⁴⁷ "It is as if we are back to Tanizmat period. Ottoman did what need to be done back then: Provided equality to non-Muslims and authorization to establish minority councils. We acted excessively in a liberal fashion. Similarly, we are making radical reforms; but there is no end to the demands and pressures of the West. Greek politics run the EU. Greece thinks: "We gain access to the EU; we can revitalize Byzantine."

While Şentop's narrative on Tanzimat underscores a historical loss of sensitivity towards Islamic law, İnalçık's narrative of the present demonstrates the affective presence of *Tanzimat* in shaping the contemporary legal reforms. Both narratives problematize a lack of sensitivity towards histories of Islamic legal tradition, which was lost, and a lack of consciousness towards modern History, which never arrived. *Tanzimat Edict* as a textual object entangled both histories in shaping affective atmosphere of nineteenth century Ottoman reforms which were marked with a hope emerged in the reckoning of a loss of economic and political security.

Through presenting these narratives, I demonstrated that writing of the history of Ottoman reforms opens up a space in which how the affective attachments to the history of law and legal change vacillate between specific images of the past that were associated with specific historical epochs, the meanings of which was informed by the present socio-political contestations in Turkey. In the next sections, I extend my exploration of historical narratives through discussing how the historical prototypes of Civil Law *Mecelle*, drafted between 1869 and 1876, and 1926 Civil Law were represented in the narratives of Turkish legal scholars and legal historians. Through these discussions, demonstrate that the issues concerning gender and sexuality constituted a threshold in shaping the body of law as an aesthetic form through which differences between bodies were negotiated between Islamic/traditional and European/secular inhabitation of everyday practices.

While everyone acts based on their own historical drive on doing politics; the politicians in Turkey incredibly continues to remain historically blind. Well, what is the alternative? United States of America? Euro-Asianism? First and foremost, we need to be economically and military-wise strong. Economy is utterly important. Our population diminished because we stopped our economic support to Asia.”

Drafting the Civil Code in-between Codification and Reception

Tanzimat reforms has brought about not only drastic changes in the juridical, administrative, and legal changes but also introduced the knowledge and practice concerning a specific form in which the content of laws would be represented. Following the proclamation of Tanzimat Edict, Ottoman reformers showed a great effort in restructuring the centuries-old systems in systematizing the language and court practices of Ottoman law through adopting a mixed approach, ranging from drafting a code based on the pre-existing laws and legal practices to translating and integrating foreign laws into the Ottoman body of law⁴⁸. While the issues ranging from land ownership to taxation, from commercial relations to criminal laws and practices were shaped by the latter practices of translation of French laws, the issues concerning family, inheritance, as well as contracts, which were historically allocated to the realm of civil law, introduced contesting views in terms the extent to which the European/secular laws would be adopted in (re-)forming a systematic body of Ottoman law. The Ottoman Civil Law (Mecelle) emerged as a distinct outcome of such historical contestation between Ottoman legal scholars and bureaucrats, which situated orientations towards generating and adopting legal technologies in shaping the form and content of laws.

The history of legal technologies of codification and reception of laws in embedded in the European legal and political desire to generate systematic and universally applicable forms and practices. Emerged through the German legal scholars' interpretation of Roman Laws, which was followed by the formation of Napoleonic French laws, these technologies established the nascent forms of governance as much as

⁴⁸ See Aydın, Mehmet A. 1989. "Mecelle'nin Hazırlanışı." *Osmanlı Araştırmaları*, IX: 31-50.

it is tested in imperial and colonial territories. While the aesthetic attributions of these technologies can be found in the intellectual histories concerning modernization and secularization, I focus on exploring how the emergent forms and contents of law were negotiated in (re-)forming an aesthetic conception of legal subjectivity and the difference between contemporary legal cultures. I argue that the historical meanings attributed to codification of civil law in transforming the historically and culturally determined relations of property and propriety through the languages and practices of law in shaping aesthetic differences between bodies, as well as the contemporary norms and hierarchies of socio-cultural belonging. Through examining the historical narratives on events in which the meanings attributed to codification of civil law were negotiated, I discuss the law as a historical site of the political desire in shaping techniques and technologies of law.

The narratives of legal scholars on drafting *Mecelle* mostly praised Ottoman legal scholars' achievement in transforming the Ottoman law, which included both written and unwritten sources of Islamic laws, as well as local customs and traditions, into a systematic body of law, as well as criticized *Mecelle* as an object of legal aesthetics⁴⁹. Nevertheless, the narratives concerning *Mecelle* predominantly focused on the role of historical figures in drafting this code while dealing with the internal and external pressures that surrounded the conditions and processes in which the legal reforms of *Tanzimat* period were shaped. Among these historical figure, Ahmet Cevdet Paşa, the

⁴⁹ See Velidedeoğlu, Veldet H. 1943. "Türk Medeni Kanunu ve İdarecilerimiz". *Ankara Üniversitesi SBF Dergisi* 1 (1943): 18-30. Also see, Onar, Sıddık Sami. 1985. "İslâm Hukuku ve Mecelle" *Tanzimat'tan Cumhuriyet'e Türkiye Ansiklopedisi*. İstanbul: İletişim Yayınları: 580-587.

head of the Mecelle commission, appeared to the main historical figure in determining the direction of Ottoman body of law.

The first descriptions of Ahmet Cevdet Paşa as part of codification of Mecelle appeared in an article published in 1946. In his article, Ebül'ula Mardin (1946) focused on Ahmet Cevdet's involvement in the codification of *Mecelle*. In his brief overview of how Ahmet Cevdet, who used to be the vakanüvis (chronicler) of the Ottoman Palace, became involved in this process, Mardin (1946) drew attention to problems within Ottoman bureaucracy by underscoring the delays of delivering separate parts of *Mecelle* and the changing positions of Ahmet Cevdet within Ottoman bureaucracy following his appointment as the head of the Commission. Through presenting two petitions written by Ahmet Cevdet, Mardin also presented the extent to which Ahmet Cevdet's fear and worry due to the criticism he received from the Sultan Abdülhamid, the second. Thus, after the second constitutional period, the Commission was abolished. For Mardin (1946), it was Sultan Abdülhamid's speculations over the Commission was not able to include the chapters on laws concerning family, heritage, and charitable institutions. In his critique on Mecelle's deficiencies, Mardin (1946) underscored some issues in terms of both its form and content. According to Mardin (1946), while Mecelle's content was limited as it predominantly depended on Hanefi school of Islamic jurisprudence, its form was similar to the Islamic sources as opposed to the form of a code. Mardin (1946) further presented that Mecelle was imagined as a code but shaped as an organized source of Islamic jurisprudence. Mardin's narrative presents how Ahmet Cevdet's emotional attachments to Mecelle as an object informed his social interactions with the committee in shaping the aesthetics of Mecelle before a politically polarized audience.

In his article concerning the origins of Mecelle, Şerif Mardin (1961) narrated the events concerning process of codifying Mecelle took place under the historical conditions and affective environment of Tanimzat period. Mardin presented that Ottoman reformer Reşid Paşa anticipated a possible compromise between the newly adopted laws and Islamic laws might become necessary as he observed that the reforms might cause conflicts between the Ulema, the body of Ottoman scholars specialized in Islamic law and theology, and the Sultanate. For Mardin (1961), the committee, which was established to overcome these problems in 1856, was criticized by European officials for its inefficient functioning. Mardin (1961) further explains that Ahmet Cevdet now had to not only justify the newly emergent judicature but also find legislative solutions to everyday issues encountered in the courts due to the changing outlook and content of the body of Ottoman laws. Mardin presented the following states of Ahmet Cevdet:

It was necessary to make laws and regulations that would be used both in the *Divan-a Ahkam-ı Adliye* and the lay courts of original jurisdiction and appeal and of commerce, the establishment of which was being considered. Yet the fundamental law of each European state was the Code Civil, translated in our language as *Hukuk Kanunnamesi*, and since the Ottoman state was founded on the *Şer-i Şerif*, the desire to establish the *Şeriat* as the foundation stone of its laws and regulations had been present among all those holding correct views in the matter. Among the ministers, opinions with regard to this subject followed two separate streams. Some of them desired that the *Şer'i* provisions which were in harmony with the demands of the times should be made into a compendium and used both as *Şer'i* law, in disputes involving Moslems, and a lay code [*kanun*], in disputes involving non-Moslems ... Other ministers desired that the French Code Civil be translated and used as fundamental law in the lay courts. (p.278)

Ahmet Cevdet's narrative presented two views in approaching the methods of adopting foreign codes, including a hybrid system in which the ethno-religious differences would be maintained in defining the subject of rights and freedoms and a brand-new uniform body of law through translating French Code in shaping in which all Ottoman citizens

would be subjected to the same laws and regulations. Mardin (1961) described the position Ahmet Cevdet took as follows:

Cevdet Paşa's middle-of-the-way attitude, however, did not make things easy for him; his rationalization of the lay judiciary made him *persona non grata* with the Şehülislam Hasan Fehmi Efendi, while his opposition to "Westernist" ministers ("mütefernicin" in Cevdet Paşa's words) placed him in an awkward position with regard to the Porte. The final book of the Mecelle was accepted only a decade later (26 Saban 1293: 17 September 1876) and this delay was due in part to Cevdet's being thus placed between hammer and anvil, between the criticism of the Ulema and that of the "Europeanists." (p. 278-279)

As Mardin's narrative presented, the political tension revolved around adoption of foreign laws did not only pertain to Ottoman reformers and political actors, but also scholars of Islamic law and theologians. On the one hand, drafting of *Mecelle* as a code required Islamic law to be (trans)formed into a uniform body, form and content of which solidified the sacred Islamic law as it was oriented towards everyday issues that was considered to belong to the realm of the profane. On the other hand, its hybrid form posed a question in terms of both the sacred character of Islamic law and the historical processes that led to the emergence of secular laws.

In his article on *Mecelle*'s historical significance, Karahasanoğlu (2011) discussed whether *Mecelle* resided with the natural law school or the historical school of law. For Karahasanoğlu (2011), the Islamic law was theoretically considered to be universal, however, its practices varied based on the social, political, and geographical differences in each society that adopted Islamic law. While Karahasanoğlu (2011) acknowledged that the natural law can be transformed into positive law through rationalization processes, he rejected that the scholarly explanations, which situated codification of *Mecelle* along the lines of the historical school. However, considering that Ahmet Cevdet was first a

historian of Ottoman palace, to what extent and how his conception of history and law informed codification of *Mecelle*?

In his book on the political views of Ahment Cevdet, Christoph Neuman (1999) presented Ahmet Cevdet's critique and views concerning successful state craft. Neuman's following discussion provides a critical insight to how Ahmet Cevdet's positioned himself before the theory and practice of Islamic law despite how he was represented as a historical figure:

Cevdet'in Medeni Kanun ve Anayasa konularında da şeriatın geçerliliğini savunması onun İslamcı olarak yorumlanmasında başlıca delil olarak ileri sürülmüştür. Ancak, tarihle ilgili sorunlarda sergilediği pragmatik tavır dikkate alındığında Cevdet için başka bir şeyin ağır bastığı düşüncesi akla daha yatkın görünür: Hakimlerin ve tebaanın İslam hukukuna belirli düzeye kadar vakıf olduğunu düşünmek yanlış olmazdı. Buna karşılık Fransız Medeni Hukukunu uygulamaya koymak geniş çaplı bir eğitim gerektirecekti ve ondan da önemlisi Müslümanların özkimlik anlayışı zedelenecekti. İşte korunması gereken bu idi, yoksa tanrının buyruğunun yerine getirilmesi değil.⁵⁰ (p. 212)

Neuman's narrative presented that for Ahmed Cevdet protecting the self-identity was analogous to being an Ottoman Muslim and came before how Islamic laws would be represented. In that sense, it would not be far-fetched to say that for Ahmet Cevdet codification of Islamic law was a means to an end, which establishing the form through which the Muslim Sunni Ottoman identity with the precedence of *Hanefi* tradition would be established and sealed.

The *Tanzimat* reforms introduced the legal technology of codification through which different legislative categories and genres were generated. Drafting of the Civil

⁵⁰ "The fact that Cevdet argued that Islamic law should be applied to the subjects of the Civil Law and the Constitution was pounded as the main evidence for Cevdet to be considered an Islamist. However, it seems more plausible that something else took precedence for Cevdet, considering his pragmatic approach to issues concerning history: it would not be wrong to say that the imperial judges and subjects had a grasp of Islamic law to a certain extent. On the contrary, enacting the French Civil Law would require an extensive education and, more importantly, would destroy Muslim identity. This was what required to be protected, not so much following the orders of the God."

Law, *Mecelle*, constituted an exception to the historical (trans)formation of the body of Ottoman laws, which were codified mainly based on the text translated from various French laws. In that sense, the codification process conducted under the *Tanzimat* reforms not only established a political and legal practice of shaping the body of law to regulate everyday life, but also laid the historical foundations of the contemporary aesthetics of the contemporary body of law in Turkey.

The issues concerning gender and sexuality constituted a threshold in adopting a European legal form and content. Emerged as a unique form and content, *Mecelle*, made visible the norms and hierarchies of belonging to Ottoman culture and society, as it was shaped by the interpretations of the *Hanefi* school of Islamic jurisprudence. However, the establishment of Republic of Turkey, the *Mecelle* was considered to be an object of the Ottoman past, which needs to be buried in the history along with Ottoman Empire, while the 1926 Turkish Civil Law, which was adopted from the 1907 Swiss Law, was considered the present.

In his opening statement of the event concerning the establishment of the Faculty of Law in Ankara in 1925, Mahmut Esat Bozkurt underscored the change in the language of 1926 Civil Law through referring to the rhetorical switch from the Arabic term “*Kale*” (said) towards the Turkish word “*Diyorum ki*” (I am saying). For Bozkurt, the term “*Kale*” represented “a crippled and limping but essential and prevalent foundation of Islamic legal language” and signified being unconscious and unsympathetic, being fixated on middle age philosophies, being absent and being dead. Bozkurt continued his rhetorical speech concerning the vitality of the form and content of the law in the preface of the 1926 Turkish Civil Code as follows: “*Hayat yürür; ihtiyacat sür'atle değişir, din*

*kanunları, mutlaka ilerliyen hayatın huzurunda şekilden ve ölü kelimelerden fazla bir kıymet, bir mânâ ifade edemezler.”*⁵¹ Bozkurt’s philosophical attempt to emphasize ‘progress of life’ within the temporal structure of present may be discussed as a reflection of cutting ties with the form and content of Ottoman laws; however, it also indicates a change concerning the historical and cultural meanings attributed to Turkey’s past and present. The ambiguities surrounding Turkey’s belonging shapes within the temporal gap concerning Turkey’s past and contemporary historical and cultural experiences, which has been an appealing object of study for both historians and legal scholars.

The International Committee of Comparative Law, which hosted thirty delegates from abroad and a significant number of mostly distinguished law professors from Turkey, convened in 1955 in İstanbul to discuss the to what extent and how Turkey’s experience concerning reception⁵² of Swiss Civil Code was a success. C. J Hamson (1956) described why Turkey became a significant case study for studying reception, through his following representation the historical transformation of the late 19th century Ottoman reforms to the early 20th century legal changes of the Republic of Turkey:

In particular it is a mistake to exaggerate the effect of the Revolution, however, thorough going in some respects that may have been. Turkey did not in 1926 quite suddenly move from being a medieval Ottoman despotism into becoming a modern democratic State. The Turkish experience does not warrant the belief that any such startling and dramatic transition is possible. It is necessary to remember that Western law had been in process of being received into Turkey, however imperfectly or partially, for a period of at least one hundred years. (p. 29)

⁵¹ “Life goes on, needs quickly change, while the religious laws do not have much value or meaning before the absolute progress of life.”

⁵² Referring to the phenomenon of reception as to as “the most striking juridical events” since the beginning of 19th century, C. J. Hamson provides the following definition: reception is a “transplantation” in which “the system of law which is received has usually been one of West European origin or inspiration, but the circumstances, and the antecedent culture, of the countries into which it has been received have been remarkably different.” See Hamson, C. J. 1956. “The Istanbul Conference of 1955.” *The International and Comparative Law Quarterly*, Vol. 5, No. 1: pp. 26-39.

According to Hamson (1956), the most important effects of such modernization process was the emergence of “a generation of jurists was trained to whom the principles of European law were familiar and whose minds were formed by those principles,” enabled by the initiative of Turkish Ministry of Justice in 1908 to send some twenty young men, many of whom subsequently became professors, to study law in European Universities.”(p. 30) Hamson further his narrative citing the attempts to codify a civil law through referring to the “1920s revolution” as an innovative break from Ottoman reforms in the following:

These pre-revolutionary reforms had in theory at least respected Islamic law—the substance of the civil law especially regarding the family, marriage, succession and property had remained Islamic. The reforms were bits and pieces, introduced originally without much enthusiasm and intended perhaps mainly to conciliate hostile foreign criticism. The great innovation of the Revolution of the 1920's was to make a clean sweep, to take over *en bloc*, though by way of selection, an entire system of European law including the Swiss Civil Code, and to accept the change not only with determination and conviction but with a genuine and revolutionary fervor. Ataturk became the leader of a national uprising: under his guidance people decided to re-create itself in the image of a European State, at first perhaps with more zeal than discretion. But a sufficient time has now gone past to allow that zeal to abate without detracting from the determination of the endeavor and to make it possible for Turkish jurists to judge with an impartial realism the true sense of what had happened during the last thirty years. (p. 30)

In Hamson’s narrative, the reception of Swiss Civil Code was represented as a conscious decision, while the affective environment of 1920 was associated with ‘zeal’ more so ‘than discretion’. Hamson’s narrative also refers to the establishment of laws and legal systems in Turkey as a great innovation and a clean swap, while the ‘impartial realism’ among the contemporary legal professionals in Turkey indicated that such zeal diminished enough to be able to discuss Turkey’s past. In that sense, Hamson’s narrative on reception of Swiss Civil Code represented the bodies of political elites, lay people, and legal professionals with a determination to become oriented towards modeling a

European state despite the zeal. However, the following observations by K. Lipstein (1956), the International Association's Director of Research, reflected the historical tensions that has been prevailing since the historical decision of drafting Mecelle instead of adopting French Civil Law.

According to Lipstein (1956), “the prima facie unpromising topic: whether Turkey had received a foreign *code* or a foreign *system of law*” (p.33) unfolded probably the most fundamental differences among the Turkish participants. The tension between these schools underscored a significant issue concerning the technique of the reception, which posed some challenges in interpreting legal texts in practice. Lipstein (1956) further shared an insight by a Turkish sociologist suggesting the foreign participants not to attribute “too much influence or importance to alleged native customs or conventions” since the formation of codes under the national drive towards modernization has already overcome the influence of “the alleged customs.” (p.33) Lipstein further presented the view of revolutionary school as follows: “it was the Turkish text that had to be interpreted and applied by the Turkish courts” in case of a divergence between Turkish and the foreign text of the code (p.36).

This particular debate between revolutionary and conservative schools is an important marker that the sources of local culture was displaced from the aesthetics of the body of law, while their presence continued to disrupt the legal interpretation. However, for Turkish legal scholars, the issues concerning the interpretation of the source of law was a technical matter that would be resolved through time rather than addressing the differences between local and national, as well as national and foreign legal cultures. In that sense, at the core of the divergence between these schools mainly stem from

aesthetic conception of reception as adopting either a culturally and historically contingent legal text or a source of knowledge in shaping everyday life. Considering that law epistemologically constitutes both, what mattered in emphasizing one versus the other?

For Hıfzı Veldet Velidedeoğlu (1957), a Turkish participant, Turkey argued that the historical development of the body of law in Turkey followed a divergent route compared to the established legal traditions, due to a lack of systematic scheme or a comprehensive index, partial secularization of the technical aspects of law, and exclusion of the crucial elements of “the sphere of civil law proper” such as family law and succession during the *Tanzimat* reforms. Velidedeoğlu (1957) situated Turkish Civil Law among other legal traditions as follows:

In Turkey, the reception of foreign law occurred in entirely different circumstances. For centuries, Turkey had formed part of the Islamic world both culturally and in matters of religion. Religion molded Turkish society and its outlook on problems of conscience, morals and law. Having been a theocratic state until 1893 and a semi-theocratic state until 1924, secularization was only achieved as a result of abolition of Caliphate and of religious tribunals in 1924 and the adoption of the Swiss Code in 1926. To hope that the new civil code based on Romano-Germanic and Christian traditions would operate without difficulty was to hope for a miracle. Naturally, the social structure of the Turkish society was opposed to it. (p. 62)

Velidedeoğlu (1957) discusses the problems concerning the reception process through addressing voluntary issues including administration and judicial organization, religious, social, economic, cultural geographical, and biological differences and involuntary issues such as technical mistakes during the process. Velidedeoğlu (1957) reiterates both the problem and the solution as follows: “Until the cultural level of rural population has been raised and until women in rural society obtain their proper place in

social life, it will remain impossible to restrain certain sections of the population from marrying the old form.” (p. 63)

While Velidedeoğlu’s narrative problematized the level of voluntariness concerning the reception of Swiss Civil Code, following the secular procedures of marriage seemed to constitute the main empirical indicator of how voluntary the people became in adopting the practices of European secular practices of everyday life. The issues were centered on monogamous civil marriages not being followed by the couples cohabiting a household without having valid marriages. Furthermore, another Turkish participant Fındıkoğlu discussed the distinct position of Turkey in recognizing civil marriages among other legal systems, which either require a marriage in religious form prior to a civil marriage; or allow a marriage of religious form subsequent to any civil marriage ceremony; or do not recognize marriages in civil form. For Fındıkoğlu (1957), Turkey “became almost a laboratory for testing this typology” (p. 15) upon reception of the Swiss Civil Code in 1926. While Fındıkoğlu (1957) offered the possibility of employing a new type of men of religion as civil marriage officers in overcoming the discrepancies between informal and formal marriages, like Velidedeoğlu (1957), he emphasized the role of women in realizing the socio-cultural changes concerning marriage and family in the following:

The cultural progress of women, changes in the attitude towards sinful behavior, and the wearing of the veil, the evolution of the family from a patriarchal unit to a conjugal form in consequence of many causes, the disappearance of the family as a center of production, all these factors gradually weakened the institution of polygamy, and this process is continuing at a quick pace. If the consequences of this development are examined from the viewpoint of applied and functional sociology, the purposes of the Swiss Civil Code will be realized in Turkey to an ever-increasing extent. In particular as the social position of women improves, the improvement affects not only the woman but also the man, and the psychological

forces which supported polygamy disintegrate. The reception of Swiss law in 1926 succeeded in both respects, as I hope to demonstrate later on. To conclude: the participation of Turkish women in the economic division of labor enhanced her personality and her individuality to such an extent that today even sterility is not regarded as a sufficient reason for introducing a second wife into the family. Moreover, as the organization of social assistance and social security is spreading across the country from the big cities, the need for polygamous marriages as a means of providing homes for unattached women is decreasing.(p. 18)

Fındıkoğlu (1957) further discusses how the legal changes favoring monogamous family setting affected the members of polygamous families as follows:

The reception of 1926 has, of necessity, had a revolutionary influence upon the psychology of the polygamous family, the growth of which was regarded in the past as a natural development, at least to a certain extent. For instance, today a Turk who has two wives is reluctant to mention this fact in official and in private circles; he is even ashamed of it. A feeling of social uneasiness has emerged which did not exist half a century ago. Then polygamous families could be seen confidently walking in the streets, the husband preceding his wives. They cannot be seen now. Polygamous marriages which were concluded before 1926, and which are regarded as legally valid today, are vanishing for lack of new additions to their ranks. (p. 19)

Fındıkoğlu's narrative presents that the aesthetic differences between the old and new bodies of Civil Code shape the differences between bodies in terms of how they habituated the practices of everyday life. In discussing the changing conventions on the structure of family, Fındıkoğlu's narrative points out that the practice of polygamy, which was considered natural in the past, counters the contemporary social and cultural norms, leading those, who consider such practice to be natural, feel alienated. In that sense, the aesthetic formations of the body law reflect the changes in the norms and hierarchies of belonging as they inform normative ways in which everyday practices and dispositions are shaped. The bodies that were associated with the polygamous family became 'foreign' to the new norm(alitie)s of the Republic of Turkey.

While the normative switch between these dual modalities of marriage established a boundary between familiar and unfamiliar forms of intimacy, the distinctions and hierarchies between these practices were sealed within and through the body of law based on what it emphasized as the official/formal way of establishing family as a unit. Another striking example concerning the relations between the socio-cultural belonging and the body of law can be observed in both blurring of and establishing the lines between who familiar and unfamiliar as a foreign body. Thus, in his final note in Lipstein (1956) concluded that Turkey's reception of European law a success, as he cites an event carved into the collective memory of Turkish society occurred during the conference took place. Lipstein reports his impression on the September 6-7 pogrom during which Istanbul Greek Orthodox were attacked by a group of organized nationalist mob, causing deaths due to the beatings and arson and harm to some Armenian and Jewish people, as follows:

The riots, which began as a patriotic demonstration by students over the Cyprus issue, degenerated into an organized and highly systematic wrecking of property belonging to "foreigners": which in this context signified non-Muslim persons, whether or not of Turkish nationality. The horror of the destruction was accentuated both by the deliberate non-interference of the police force, who could, at the outset at least, have prevented it, and by the servile acquiescence of the victims of the outrage. The events of that night recalled to mind events of fifty, sixty years ago which nobody would have believed to be capable of recurring, had they not recurred—though on this occasion property only was destroyed and comparatively few lives were lost. The riots distressed the Turkish participants at the colloquium even more than they distressed the visitors, but they may have served a useful purpose if they reminded all parties of the difficulty as well as the importance of the task to which the Turkish jurists, in company with other of their compatriots, had set their hands. Despite the riots, there is caused to believe that the Turkish experiment not only has already succeeded to a greater extent than might have been judged probable not so long ago, but that it is in process of attaining an even more remarkable success. (p. 39)

In Lipstein's narrative, the events of September 6 and 7 was referred to as a patriotic demonstration, which, in fact, was an organized hate crime against ethnic and religious

groups, the status of whom was referred to as ‘minority’ through the Treaty of Lausanne in 1923 that promised protection for these groups. Then, why and how the law-enforcement deliberately did not interfere with the ongoing crime as Lipstein (1956) indicated in his narrative? Lipstein (1956) as a foreign legal professional witnessing how minorities were mistreated as they were considered “foreigners.” In that sense, the minority status inscribed within and through the body of law establishes a boundary within the boundary between who is familiar and unfamiliar to the normative identity properties, which became manifest through the (trans)formation of the body of contemporary law and the processes of legal change since the late nineteenth century Ottoman reformer.

The examples concerning how norms and hierarchies of belonging was inscribed in the body of law can be multiplied by discussing the ethnic and religious hierarchies within the Muslim majority in Turkey. In that sense, ambiguities surrounding the question of belonging in Turkey can be apprehended through examining how the historical transformation of Ottoman-Turkish society under the “new” norms and hierarchies reflected on the issues concerning gender and sexuality, as well as citizenship and how these issues reshaped socio-cultural spaces from households to public places in everyday life. The answer can be found on how everyday politics mediated the distinction between public and private life based on an imaginary of Turkish Muslim Sunni monogamous heterosexual married couples in re-shaping the hegemonic discourses and practices of ordinary life. The most recent example of such prevalent political practice can be observed in the debates on the Law No. 6284 drafted based on Istanbul Convention.

During the negotiations on this draft law, the term “household” became a battlefield between those, who would like to stick to the original text that was focused on the temporal and spatial context of intimate relations, and those, who would insist on the expression of “household” to be translated as ‘family,’ which invokes the heterosexual married couple as the legitimate beneficiary of the state protection and the subject of rights. This tension constitutes one of the many practices that can be observed in “the ordinary,” which Berlant refers to as “a zone of convergence of many histories, where people manage the incoherence of lives that proceed in the face of threats to the good life they imagine.” (p. 10) in underscoring that everyday life is disorganized as much as its organized by the pressure created by the external forces. The contemporary body of law in constitutes a zone of the ordinary, which has been shaped by a specific aesthetics in preserving the hierarchies of “property and propriety.” (p. 548)

In her article, *The Ottoman and Islamic Substratum of Turkey's Swiss Civil Code*, Ruth Miller (2000) problematizing the relative success of the reception of Swiss Civil Code in Turkey through examining to what extent and how the 1926 Turkish Civil Code relied on or modified the original text. For Miller (2000), this process has turned out to be “a fixable adaptation” rather than a reception of a foreign code, since she found that the 1926 Turkish Civil Code the sources that were inspired by three areas of Ottoman and Islamic legal practice: laws of status, marriage, and divorce. In that sense, Miller (2000) propounded the vitality of Ottoman/Islamic legal practices despite Mahmut Esat Bozkurt definitive performance before the specific audience of legal professionals. Miller (2000) further explained specific political and social objectives of authors of the Turkish Civil Code as follows:

More specifically, politically, they wanted to preserve, more than the original Swiss Code would have allowed, an Ottoman inspired relationship between the state and its citizens, while at the same time introducing all sorts of new definitions and ideas about what personality meant and what, conceptually, the relationship between a citizen and the state should be. Likewise, socially, they wanted to meddle as little as possible in the actual process of marriage and divorce as these two procedures had been carried on for years, but also, concurrently, restructure the more abstract and less practically important concepts and definitions of the two along Swiss lines. (p. 356)

As Miller (2000) presented, the 1926 Turkish Civil Code attempt to preserve a historical content through the conceptual forms of citizenship and personality, while they adopted abstract linguistic forms from the Swiss model. Similarly, Umut Özsu (2010) problematizes the historical meanings attributions to the 1926 Turkish Civil Code as a success story; however, his analysis focused on the success of reception as a political discourse.

In his article, *'Receiving' the Swiss Civil Code: Translating Authority in Early Republican Turkey*, Özsu (2010) investigates tensions and contradictions concerning the legal reform processes in realizing the early republican elites' two main political agenda to modernize socio-legal relations and to create a coherence concerning 'tradition' as the core value of their nation building project. For Özsu (2010), the Turkish Civil Code of 1926 was "fundamentally unintelligible absent an appreciation of the techniques with which endogenous and exogenous legal norms came to be fused as part of a campaign to elaborate and entrench a novel ideal of 'Turkish nationhood,'" (p.65). I was also an ideal that "was meant to mark a departure from Ottoman-Islamic institutions of governance sharp enough to satisfy the ambitions of a secularizing vanguard without being so comprehensive as to run the risk of full-scale non-compliance among those classes and regions that were deemed to be especially 'reactionary'." (p. 65) According to Özsu, the

elites, who adhere to Kemalist ideology⁵³ committed to oversee ‘tradition’ through the Civil Code of 1926, which is “the result of a struggle – albeit a fairly lopsided one – between specific facets of the Ottoman-Islamic (more precisely, Hanafi–Sunni) and Swiss (or, as it has often been amplified, ‘Western’) legal traditions.” (p. 64)

These contemporary studies by Miller and Özsu provides an insight to the extent and the ways in which the historical conventions of both universalist and relativist conservatisms were inscribed into the body of law through emphasizing the role of political consciousness and ideology. I add to this discussion through emphasizing the historical significance and role of law in shaping and preserving the conventional norms and hierarchies of belonging through generating a specific form and content by the legal technologies such as reception and codification. Thus, Francois Hartog articulates such effect of the history or historical in shaping the present as follows:

With the result that the production of historical time seems to be suspended. Perhaps this is what generates today’s sense of a permanent elusive and almost immobile present, which nevertheless attempt to create its own historical time. It is as though there were nothing but the present like an immense stretch of water restlessly rippling. So, should we talk of an end of, or an exit from modernity, from that particular temporal structure we call the modern regime of historicity? (p.18)

Building on Reinhart Koselleck’s observation on the tension between “the space of experience” and “the horizon of expectation” (p. 17), Hartog explore unpack the types of distance and modes of tensions between two, referring to the crisis generated by this tension as “Presentism.” (p. 18) Hartog’s observations provide a fruitful ground to

⁵³ See Özsu’s take on Kemalist ideology in the following: “Kemalist ideology ought to be understood as a technocratically ‘managed’ merger of deeply gendered models of ‘modernity’ and ‘tradition’, mediatory relations between the two contextually intelligible only when viewed against the background of what Ziya Gökalp, the most influential theoretician of Turkish nationalism in the 1910s and early 1920s, termed the competing demands of ‘culture’ and ‘civilisation.’” (p. 64)

discuss how the historical promise of legal change as a promise is negotiated in-between personal and professional practices of everyday life. In the next section, I tackle the everyday experiences and encounters of avukats in aspiring to acquire a law degree and focusing on the legal issues concerning gender and sexuality. I present the sources and conditions of becoming an avukat in discussing bodies become oriented towards the knowledge and practices of law and how their movements and everyday practices are affected by the experience of both the Historical and the historical.

Chapter 3

Practicing Law In- Between the Personal and the Professional in Turkey

The legal profession is unequivocally appealing for many people, not only because of its socio-cultural prestige, but also because it grants access to the knowledge of law, which allows one to gain autonomy and mobility in various power fields including the field of law itself. Having the knowledge of legal languages, processes, and practices, brings about a potentiality to access various power positions and a capability to speak on behalf of people's interest, political causes, and/or social justice. While for some law is an ideal career choice particularly because of such professional aspiration, I was pragmatically motivated to add some faculties of law in my university application list in case I had to give up my ideals of studying social sciences to become a sociologist, psychologist or an ambassador. Thus, holding a legal degree premises a potentiality in accessing power positions which allow those, who hold such a degree to speak on behalf of people's interest, political causes, and/or social justice, but also a body historically functions to mediate personal, social, organizational, institutional, national and international relations in culturally and spatially specific contexts. This potential reflects on the professional bodies as much as they are considered *hukukçu*⁵⁴ (lawyer). While becoming *hukukçu* offers a plethora of career options, most graduates of law school pursue a career in the legal profession including *savcılık* (prosecution), *avukatlık* (attorneyship), *hakimlik* (judgeship). What makes the bodies to become attracted to these distinct practices of law? How does a law school graduate become oriented towards

⁵⁴ Hukukçu (lawyer) colloquially used to refer to those who hold a degree in law. However, this term has multiple meanings that involves multiple facets of law and legal practice. Chapter 4 will focus on the specific meanings attributed to this term.

becoming an *avukat* (attorney)? How do the legal issues concerning gender and sexuality inform the personal and professional experiences and practices of *avukats*?

In this chapter, I investigate the sources and conditions through which one aspires and gains access to becoming *avukat* (attorney) in Turkey. Through examining my respondents' narratives on what led them to the path of *avukatlık* and the professional practices concerning the legal issues of gender and sexuality, I discuss the distinct experience of becoming *avukat* in informing the boundaries between specific professional and juridical positions. I argue that while the law creates the professional bodies that compete in generating their desired outcomes, the professional competition among these bodies is informed by their personal experiences and professional practices, in addressing the socio-political complexities of everyday life. I further contend that the historical development of *avukat*, as both a legal representative of their client and a representative of the defense position in the juridical setting of a court, situate these professional bodies closer to their clients, as well as the situations and practices of the ordinary life compared to the professional bodies of *hakim* and *savcı*, whose practices mostly take place within the court environment.

The historical, social, and cultural differences between these positions were informed by both the modern and secular theories concerning legal formalism and the historical development of local practices of law. Thus, Max Weber, who propounded the most influential theories of modern law, distinguished between rational and irrational forms of law, which also shaped the criteria to assess law-making and making legal judgements⁵⁵. Weberian typologies of law not only distinguished between Islamic,

⁵⁵ See Turner, Brian. 2006. "Weber and Islam." In *Max Weber Classic Monographs, Volume VII*. London: Routledge.

Continental, and Common law traditions, but also assessed these laws according to their level of systematization, formalization, and rationalization. While Islamic law was associated with charismatic authority of Ottoman judge *kadı*, Continental law was considered to be the par excellent form of systematic, formal, and rational legal form. Considering that the development of formalization of law and legal profession included a drastic transformation the formal to latter, the ethics an aesthetics of legal profession in Turkey offers a fruitful discussion on observing the effects of such history on the contemporary norms and hierarchies of everyday legal professional practices.

In his critique on legal formalism, Pierre Bourdieu (1987) discusses that the degree of formalization and normalization of the body of law is dependent on the interaction between the theory and practice of law, which is shaped by the temporally and spatially specific professional competition among legal scholars and legal practitioners such as judges, prosecutors, counsels, and attorneys, as well as legal commentators. For Bourdieu (1987), the systematic differences between national traditions of law are informed by the power disparities between legal professional groups in practicing their distinct skills and competence in apprehending and interpreting the law. Bourdieu's critical insight inspired two contemporary socio-legal studies concerning the conventions and competitions shaping the contemporary juridical field in Turkey.

In her ethnographic study on urban court practices in Turkey between 1999 and 2000, Dicle Koğacıoğlu (2008) introduced that legal professionals perceived themselves to be state representatives in “disseminating civilized manners and protecting the sanctity of the state as part of their job in the legal bureaucracy.” (p. 101) Seda Kalem (2010) presented the draft law on Alternative Dispute Resolution (ADR) between 2006 and 2009

disrupted the national conventions and political contestations concerning legal professional identity, in maintaining their historically determined professional monopoly over dispute resolution practices. While these studies reveal the effect of the historical in shaping everyday discourses and strategies of, as well as the meanings attributed to everyday practice of law; like Bourdieu, they consider legal professionals as social groups, which compete with each based on their professional and political interests.

In contributing to these discussions, I take a closer look at the personal orientations towards practicing the law based on a specific position of legal professional groups. Through discussing the personal experiences of professional practice, I intend to unpack to what extent and how the historical, which informs the practice of law and the meanings attributed to legal professional identities in Turkey, informs the personal experiences of becoming oriented towards a specific professional position and how everyday experiences in occupying a specific professional position shapes the history of professional practices of law. Focusing on the personal experiences in becoming an *avukat*, I demonstrate the sources through and conditions in which one aspires and gains access to becoming an *avukat*, as well as practices the law concentrating on specific legal issues in discussing the potentialities *avukatlık* practices engenders for legal change. I specifically concentrate on the professional experiences of *avukats*, who currently invest in addressing legal issues concerning gender and sexuality that are situated at the intersection of public and private laws. Through examining the personal narratives concerning building a professional path of *avukatlık* and becoming oriented towards this specific practice of law, I offer an analysis of the extent to which individual and

collective experiences and encounters of legal education and professional training inform everyday practices of law.

In analyzing the relationship between the personal (experiences/encounters) and the professional (positions/practices) and, I build on theories of practice and theories of affect through addressing what promises legal change or what the promise of legal change is in shaping the world of law and legal profession. I benefit from Bourdieu's conceptual framework, the juridical field, in addressing law as a socio-cultural space and discussing professional autonomy divorced from the institutional framework of independence or liberal conventions on agency. I later turn to Sara Ahmed's discussion on emotions and affects that are stuck to objects in questioning how the knowledge of law transformed into an object in shaping the distinction between professional and lay bodies. I also refer to Laurent Berlant's conceptual framework *impasse* to address affective limits of legal change in affecting the bodily movements and endurance of *avukats* in their everyday professional practice. Finally, I refer to Claire Collebrook's critical insights in which she put Jean Jacques Derrida's post-modern critique on law in dialogue with the notion of becoming offered by Gilles Deleuze and Félix Guattari in discussing the law as both a force and a desire in shaping legal subjectivity.

Addressing memory as one of the sites of my ethnographic research, I present how I gained access to my respondents and collected their narratives concerning their personal experiences and encounters in building their professional path and shaping their everyday professional practices. My respondents' narratives include what sources inspired them to become attracted to law as a professional career path, how they gained access to working on the issues concerning gender and sexuality, and how their personal

experiences and encounters during their legal education and professional training informed their current professional practices. These narratives demonstrated that the personal memories are generated within and through the socio-cultural spaces of law and organized around emotions and affective events in shaping the narratives on knowledges and practices of the law. I also benefit from my personal memories in articulating the experience of witnessing and remembering socio-cultural, as well as emotional and affective encounters shaped within and through the spaces of law though using auto-ethnographic methods.

I first provide a historical background concerning formations and conventions of contemporary *avukatlık* in Turkey and discuss the background of my encounters within the field in gaining access to and conducting interviews with my respondents. Consequently, I present and analyze the narratives of my respondents concerning how my respondents were inspired and how they gain access to become an *avukat* in demonstrating the emotional and affective encounters during legal education and professional training. Further, I introduce my respondents' narratives on how they became inspired to focus on the legal issues concerning gender and sexuality in shaping their professional practices. Finally, I open up a discussion on the divergence and convergence between the personal (experiences/encounters) and the professional (positions/practices) in shaping subject of (before/after) the law.

(Un)becoming *Avukat* in-between History and Memory

In examining the distinctions between autonomy, independence, agency in relation to emotional and affective experiences in the ordinary life, I turn to the role of contemporary history in distinguishing the subjects and objects inhabiting a specific social space. As I discussed in Chapter 2, De Certeau, building on Marxist critique concerning the historical present, argued that the writing of history came to be a site in which the historical is represented in (re-)shaping the norms and hierarchies of belonging, which in return shaped how we apprehend the connections between histories, cultures, and identities. In that sense, the practice of writing history came to inform the practices of world-making in the present. Considering such a reciprocal relationship between these practices, we cannot think of the historical, which involves multiple representations of the past, vis-à-vis the experiences and encounters of the present, which are stored and organized by personal and collective memories. Thus, in everyday experiences and practices both history and memory become enmeshed in shaping the personal and collective filters of the present based on how bodies, objects, events, and practices are perceived and represented. In that sense, it is through personal narratives of the present, these enmeshed representations become intelligible in which the emotions stuck on and the affects that are transmitted by objects and bodies.

In this section, I problematize Bourdieu's emphasis on "relative independence of" law from the external pressures through discussing the link between history, memory, emotions, and affect in shaping the duration, intensity, and direction of bodily movements in a temporally and spatially specific context. In his critique, Bourdieu presented that both idealist approach to formalism and instrumentalist approach to functionalism provided a partial representation of how the theory and the practice of law

becomes both a means and an end in shaping the social relationships between professional bodies. While I agree with Bourdieu's critique as it underscores that the historical formation and symbolic logic of the language and practice of law shapes the professional competition over the body of law, I suggest that the notion of dependence/independence underscores an objective approach to the historical relations between subjects and objects. I also contend that the concept of agency assumes that an inherent potentiality, which becomes manifested as it comes to the surface of individual consciousness and builds on capacities/capabilities within inherent in the liberal construction of an individual.

Referring to autonomy as a bodily potential, I build on Ahmed's "inside-out" and "outside-in" model of perception and Berlant's notion of impasse "shaped by crisis in which people find themselves developing skills for adjusting to newly proliferating pressures to scramble for modes of living on." (2008, p. 8) I offer a critique on the distinction between external and internal through addressing the emotions and affects as forces, which disturb the internal and external boundary in shaping the temporally and spatially contingent relationship between objects and bodies.

In analyzing the relationship between the historical of the contemporary *avukatlık* in Turkey and the personal experiences of *avukatlık* practices, I refer to narrative as a site of historical representation, witnessing, and remembrance in which the meanings attributed to the body and practices of law, as well as both emotional attachments and affective filters of the present are contested, confirmed, and confronted. I first present a brief overview of the historical events that were considered to be significant in writing to the history of *avukatlık*. I later discuss personal memory as a site of institutional and auto-

ethnography in introducing how I gained access to interviewing with this particular groups of *avukats* and how I benefit from narrative analysis in bringing forth the effects of intuitional history and personal experience.

Considering ambiguities surrounding formalization of law, the historical development of legal profession in contemporary Turkey has led to divergent opinions among historians. For some, the main difference of Ottoman legal system from the Western models was that the lack of professional attorneys, while some consider the expanded legal procedures through *Tanzimat* reforms as a reflection of “rationalization of the judicial sphere, in the Weberian sense.” (Özman 2010, p.81) Instead of contesting or confirming such aesthetic difference, I discuss the historical development of contemporary forms of *avukatlık*, through addressing the historical roots of state control over the legal profession and foundations of legal profession identity in contemporary Turkey. Through providing a broad overview of the H/historical that demarcate legal professionals as a distinct social group, I demonstrate the historically and culturally specific position of *avukats* compared to other legal practitioners, as well as the meanings attributed to *avukatlık*, which was negotiated between a public service and a free profession. I also discuss how the contemporary legal market and legal professional identities in Turkey were affected by the changes brought about by globalization of law since early 2000s in addressing ongoing crises concerning the politics of law and legal profession.

The birth of the term ‘*avukat*’ brought about by *Muhâmât Kanununu* (Attorneyship Law) in 1926 replaced the term “*dava vekili*”⁵⁶ (trial attorney); however,

⁵⁶ The term “*dava vekili*” can be traced back to the Tanzimat reforms. The courts of the pre-Tanzimat period involved the *kadı* and the parties to the legal case. However, “*arzuhalcilik*”, a practice in which

the historical roots of trial attorneyship dates back to the pre-Tanzimat period in which the duties and practices of a vekil was “was expected to simply provide the necessary information in order for the judge to get to the truth of the matter.” (Rubin 2012, p.118) Thus, various historical studies depict *kadı* as the central figure in collecting and recording court documents, as well as conducting court proceedings; they also present the secondary roles the members of the local community undertake depending on their socio-economic status within this community and personal relations with the disputing parties. The legal reforms brought about by the *Tanzimat* period required standardization and formalization of court proceedings, especially in line with the secular aesthetics of the newly established *Nizamiye* courts.

In the first constitutional period of Ottoman Empire, *Tanzimat* reformers established the foundations of educational institutions of law and a professional community, as well as some formal standards concerning the practice of trial *attorneyship*. Ottoman reformers (re-)formed the Islamic and secular laws and practices, which required expanding and formalizing the body of legal professionals through educational and legal changes. On the one hand, the graduates of these schools generated the new body of legal professionals, who were required to obtain a license after taking an official exam, on the other hand the preexisting attorneys were considered to be far from the ideal image of an Ottoman attorney. Especially, those, who did not obtain a license, became a significant concern for the Ministry of Justice, adding on to the preexisting

people write petitions concerning court proceedings, as common but external to the Ottoman juridical space. For Özman, the law of 1762 prohibiting this practice was a first attempt to establish a state control over juridical proceedings. In 1874, the Ministry of Justice (Adliye Nezareti) developed a method of examination for those who wanted to become a licensed practitioner as “dava vekili”. Umut Karabulut argued that the term “dava vekiliği” (legal representation), established under the first constitutional monarchy of Ottoman rule, was used to address the practice of lawyering based on the term “muhâmî,” used in Egypt, instead of the term “avukat,”

discourse on attorneys depicting them in a controversial fashion⁵⁷. In 1880, the Ministry of Justice published an official circular, which required trial attorneys to obtain a license to represent their clients at the court. However, these efforts were revoked in 1886 when Sultan Abdülhamid the second abolished this requirement.

In the second constitutional period of Ottoman Empire, these established the institutions and legal communities started to shape some ethical standards and generate more detailed characteristics and functional attributions to trial attorneyship in establishing the foundations of contemporary form of *avukatlık* in Turkey. Thus, the İstanbul Attorneys' Association took some initiatives in improving the image of Ottoman trial attorney through adopting some ethical standards and creating a draft code, which provided a more detailed role for attorneys that was close to the contemporary *avukatlık* practices⁵⁸. The term *muhammi*, which meant “the one who protects and helps the people” (Özman 2000, 334) replaced the unfavorable image of trial attorney and continued to be used as to distinguish specific practices of attorneys in the early Republic of Turkey. However, the draft code could never be enacted. Moreover, a couple of years before the collapse of Ottoman Empire, the professional standards established by the İstanbul Attorneys' Association were abolished through The Circular concerning Legal Representation in Civil Courts that was enacted in 1921. While the professional community of trial attorneys had not reacted towards the government intervention to the institutional regulation of the trial attorneyship profession, the İstanbul Attorneys' Association showed a strong reaction towards abolishment of the official standards.

⁵⁷ See Karabulut Umut. 2013. “Muhâmât Kanunu: Türkiye’de Avukatlık Kurumunun Düzenlenmesi ve İstanbul Barosunda Yaşanan Tasfiyeler.” *Journal of Modern Turkish History Studies* XIII/27: 79-104.

⁵⁸ See Özman, Aylin. 2010. “Law, Ideology and Modernization in Turkey: Kemalist Legal Reforms in Perspective.”, *Socio Legal Studies* 84: 67-84.

The government of the newly established Republic of Turkey embarked on establishing standards to shape the profession of *avukatlık*. The petition for drafting Attorneys' Law included the following objectives: eliminating those who were not registered to a bar association, worked against Turks during the war of independence or had a criminal record. While the draft law introduced extensive structural changes concerning the professional standards and institutional organization, it was the elimination of some of the legal practitioners that created main political tension, which also caught the public eye⁵⁹. The new law established committees, which decided who would be eliminated from the profession of attorneyship. As a result of this particular law, a large group of attorneys, who were predominantly non-Muslim, were disbarred, while some of those who were disbarred were able to recuperate their professional title⁶⁰. The enactment of 1926 Attorneys' Law constituted a traumatic political event, which shaped the history and collective memory of *avukatlık* in contemporary Turkey.

Some historical studies presented effect of such historical event on the formation of legal professional ideology and identity of *avukatlık* in contemporary Turkey. While Karabulut (2013) argued that 1926 Attorney's Law not only intended to establish

⁵⁹ While Istanbul Bar Association suggested that the legal training to be practiced under the supervision of a practicing attorney, while the government anticipated the legal trainees to be considered as government officials. institutional organization of bar associations, regulations for mandatory legal training, age limit for becoming an attorney, the limits on the scope of attorneys' professional activities. Furthermore, the duration and supervision of legal trainees created tensions between some bar associations and the state as well as during the parliamentary debates concerning this law. See Karabulut Umut. 2013. "Muhâmât Kanunu: Türkiye'de Avukatlık Kurumunun Düzenlenmesi ve İstanbul Barosunda Yaşanan Tasfiyeler." *Journal of Modern Turkish History Studies* XIII/27: 79-104.

⁶⁰ Özman (2010) argued that the authoritarian relationship between the state and the legal profession paved the way for statist concerns to overcome universal values of law, undermining the Weberian notion of formalism¹³⁸. In that sense, Özman's narratives on both Tanizmat period and early republican Turkish state underscores a historical continuity in discussing the state control over of the legal institutions and body of legal professionals in Turkey. However, her use of Weberian critique introduces a Eurocentric measure to discuss the complex relationship, which ends up overlooking the temporal and spatial specificity of Turkey. See Özman, Aylin. 2010. "Law, Ideology and Modernization in Turkey: Kemalist Legal Reforms in Perspective.", *Socio Legal Studies* 84: 67-84.

professional standards but settle accounts with those who worked against the Turkish forces during the War of Independence, Aylin Özman (2010) referred to the implications of this event as “a ‘statist’ socialization process based upon the promotion of republican ideology.” (p. 69) According to Özman, while the ruling elites of the early republican era recreated legal professionals through the legal and judicial reforms, attorneys and bar associations were a key professional group that were reshaped by the modernizing ideology under the statist policy and the premises of nationalism. Özman further describes two contesting views the nature and function of *avukatlık* in this particular period:

The first arguing that the profession of attorney should be fully autonomous, with no connections to the state; the second suggesting that the profession should be organized along purely statist lines, with attorneys being incorporated into the civil service... Proponents of the former argument maintained that the motivational source of an attorney's commitment was to be found within the entrepreneurial spirit and not in the attainment of justice. They thus castigated the Code for its elevation of attorneys to an honourable 'statist' position that was undeserved. In contrast, the latter view focused on attorneys' public responsibilities and attributed a primary, social-justice-securing role to the state in the matter of achieving the best interests of defendants. (p.79)

These contested views coalesced in forming the contemporary convention of *avukatlık* as both a free profession, which constituted a break with the Weberian conception of “*kadı* justice” and a public profession, which highlighted the historical function of trial attorneys as an element of the judicial space. Thus, Koğacıoğlu (2008) provides a deeper insight to how the meanings attributed to legal professionals was negotiated in-between formal and informal attributions and how such meanings reflected on the everyday practices of legal professionals in the following:

The particular attachment of legal professionals to this historically produced civilizational meaning of legal formalism informs their actions. As agents of the law, they work in the bureaucratic administration of justice. Yet, this work is also loaded with the mission of acting as the embodiment of the modernizing forces of

the state. They feel the need to both uphold legal formalism, but also to function as state actors and thus protect state hegemony. This generates their perception of the mixing of formal and informal conduct and its differential registering as normal. Naming it “education,” they generate parallels between the cultural categories they use to identify their past and their daily tasks. Seeing themselves as actors who have been initiated into state culture naturalizes their perception of their task as involving the furthering of “education.” (p. 119)

Koğacıoğlu’s narrative demonstrates that the legal professionals embodied the historical top-to-down bureaucratic disposition with a specific mission to educate the public in adopting a specific disposition concerning the law. Another study by Mithat Sancar and Ümit Atılğan (2009), which discussed juridical independence in Turkey, shows that the judges and public prosecutors mostly demonstrated a loyalty to the state interests especially in the politically charged cases.

The independence of law legal professional has always been a significant issue, which were recently brought about more frequently under the rule of consecutive AKP governments. The professional associations, such as largest bar associations and the Judges and Public Prosecutors’ Association (YAR-SAV), as well as prominent professional figures, including Supreme court judges and legal scholar have spoken out about the state control over the legal profession. However, especially the critiques from Bar Associations regarding the independence of law and legal profession in Turkey mostly emphasized the importance of juridical independence as a guarantee of republican and secular values, rather than political and economic ramifications of global and neoliberal politics/policies on the body and practice of law⁶¹.

In parallel to the judicial reform packets drafted as part of Turkey’s accession to European Union, the Attorneyship Law has undergone the most extensive changes in 2001. While these changes allowed international law firms to enter into legal markets,

⁶¹ See Akbaş Kasım. 2011. *Avukatlık Mesleğinin Ekonomi Politikği*. İstanbul: Nota Bene Yayınları.

these changes created anxiety and tensions especially among lawyers, who were solely trained in the national sources of legal education and professional practice. In addition, the global changes in technical and technological infrastructure increased the prominence of law in introducing the demand for specific local professional bodies specialized in the common law practices, as well as human rights law. These broader transformations disrupted the boundaries of the national legal market and legal professional practices, leading a prolonged conflict and an ongoing crisis concerning the politics of legal profession in Turkey, which recently escalated by the draft law amending the current *Avukatlık Kanunu* (Attorneyship Law)⁶².

This event may be considered yet another ideological clash between the secular formations of *avukatlık* and the Islamist tendencies of the Justice and Development Party (AKP) governments; however, I suggest paying attention to the long-term effects of the ongoing crises on legal professional bodies and the practice of law in shaping the ordinary life through asking the following questions: What happens to the professional bodies in the presence of such crises? Whether and how the effect of the contemporary history of *avukatlık* reflect on professional bodies in their everyday legal practices? To what extent and how law as both a historical site and a contemporary socio-cultural space attract bodies in becoming an *avukat*?

The expression “what happened” signifies a specific event or functions as a performative act. Regardless of its form, this expression is oriented towards apprehending

⁶² On June 19th, 2020, the chairs of all eighty bar associations in Turkey organized a series of demonstrations to protest this proposal. At the heart of the current political tension was the provision that allowed multiple/alternative local bar associations to be established. The chairs of all bar associations in Turkey marched towards Ankara, referred to as “Defense March.” Most of these chairs, who stood still in front of the parliament building to protest the submission of the proposal for the draft law that was being submitted to the parliamentary committee, were attacked by the police. In response to the police attack, thousands of lawyers gathered in front of the courthouses in various cities to show their solidarity with the chairs of bar associations.

and transforming past events, which are stored in the memory, into a narrative that is shaped at a certain time and place. The expression “what happens” invokes not only the personal but also collective representations of and attributions to a cluster of events concerning a specific situation orienting us towards thinking beyond the temporal and spatial apprehensions of the ongoing now in the present. It potentially includes multiple representations of the historical and the present, as well as an abstraction of future possibilities and actualities. In addressing the questions of what happens to the bodies under the duress of such crises, I effort to lay out some traces of *avukatlık* above. Now I turn to the question of “what happened” in apprehending how *avukat* bodies became oriented towards legal profession. Through addressing the question of how a body becomes attracted to the law as a professional career path, I intend to discuss personal narrative as a site of both individual and collective memories of everyday personal and professional practices of the law, as well as of the institutional ethnography and autoethnography.

In her article, *Intuitionists: History and the Affective Event*, Laurent Berlant (2008a) addresses the question of affect through investigating the moments in which “sensing or intuiting contemporary life” at certain localities can be observed (p. 845). Berlant (2008a) invites us to consider how “a shared historical time” exemplifies “a particular affective response” in the ongoing present (p. 845). Through her discussion focusing on “the historical present”, Berlant (2008a) attempts to go beyond the structural comprehension of world-making practices, as well as those that depend on agency in underscoring the effect of the historical present in leading bodies to adjust, adopt, and

improvise in everyday life based on their vision of future potentialities, possibilities, and actualities.

Building on Berlant's claim that "the present is always perceived first affectively; the present is what makes itself present to us before it becomes anything else, such as an orchestrated collective event or an epoch on which we can look back." (Berlant 2008, p.4) I interrogate to what extent the ordinary experiences of becoming *avukat* may unfold in terms of what events inform the historical in ongoing present and to what extent personal narratives of becoming *avukat* reflects the collective events through which the perceptions on the practice of law and legal profession are shaped. As Berlant introduces, in his book, *Matter and Memory*, Henri Bergson demonstrate that intuition functions for the personal memory to translate the history. However, for Berlant, intuition as a "visceral response" is not only autonomous, as Bergson argues, but also disciplined through "normative ideology, and embodied practices of discipline and invention." (Berlant 2008a, 52) If intuition is a visceral response in making sense of the present, how then it becomes objectified and articulated in everyday socio-cultural interactions.

In her book *the Cultural Politics of Emotions*, Sara Ahmed (2004) presents that the narrative as both a form and content works in representing the bodies and objects, while conveying emotional attachments through which these objects and bodies marked as familiar or unfamiliar in making sense of the Self/self and the Other/other. Ahmed (2004) demonstrates how the modern nation building coupled with the institutional discourse of evolution in prioritizing reason over emotions and in generating a hierarchy between emotions, which not only particularize certain bodies and objects but also marks them as good or bad. In that sense, Ahmed (2004) insightful discussion helps us to

elaborate on how visceral response of intuition is informed by the work of narrative in aestheticizing bodies and objects as social life. In synthesizing analytical studies of memory and ontological discussions on matter, Bergson suggest that the surface of body constitutes “a common limit” between bodies, which become manifest in the forms of affective sensation and representational images. However, in her critique of the objective language of psychology in defining emotions, Ahmed (2004) builds on the sociological and anthropological theories of emotions in suggesting that both the surface of and boundaries between bodies are “an effect of the impressions left by others.” (p. 9)

In introducing her model of sociality of emotions, Ahmed (2004) argues that emotions create “the very effect of the surfaces and boundaries” (p. 10) in distinguishing between what is inside and outside to a body that is articulated in forms of “I” (the personal) and “we” (the collective). However, for Ahmed, emotions are not something that can be found “in” a body, but something that creates “produce the very surfaces and boundaries that allow the individual and the social to be delineated as if they are objects.” (p. 10) Building on Ahmed’s critical discussion concerning the links between narrative and emotion, as well as the personal and the socio-cultural, I now turn to some epistemological and ethical issues that came to shape the ethnographic methods through which I collected and analyzed narratives of my respondents.

In her book, *Shaping History: Narratives of Political Change*, Molly Andrews (2007) asks a set of questions, one of which is: “Why some stories are selected and other ignored?” (p. 2) Andrews (2007) further presents that narratives provide a rich basis to investigate the link between how an individual and a community represent themselves and construct their identity. Andrews identifies four themes that organize the most

essential skill, listening, in analyzing narratives: audience positioning, tell-ability, and empowerment. Inspired by the set of questions that Andrews asked in unpacking these themes, I respond to the following questions in addressing epistemological and ethical aspects of my research activities as part of this dissertation: how I gained access to conducting interviews with the particular group of *avukats* with whom I interviewed; to what extent and how my prior relationship with my respondents affected my data collecting and analysis; what stories included emotional attachments; and what concerns my respondents had during and after the interview.

In gaining access to my possible interviewees, I benefitted from prior personal and professional connections. However, when the COVID-19 lock down happened in March 2020, I had to reorient my goals and priorities in accordance with the changing conditions. Since I had to rely on the internet to conduct interviews, I had to narrow down my list of possible respondents who were within my reach. Therefore, I ended up interviewing mostly former colleagues and friends, except two to whom I reach via my respondents. My familiarity with my respondents played an important role in terms of how I conducted the interviews. Thus, after moving to another country to complete a doctoral program, it became harder to keep up with the emotional proximity between especially with those to whom I referred to as friends. However, during my field work, I built rapport with some colleagues, who later became my respondents.

I hold interviews with eleven *avukats*. All of my respondents have worked closely or at least in touch with civil society organization, which was the most essential sources through which I gained access to my respondents. Having an educational and professional background in law and having worked with civil society organizations, I was

positioned as more of an insider of the legal community than an outsider as a researcher. In addition, as I witnessed most of my respondents' professional practices, I was also familiar with their specific area of work related to legal issues concerning gender and sexuality varied from criminal law cases related to domestic violence to civil law cases concerning gender reassignment processes, from administrative law cases concerning political rights and freedoms to divorce and custody cases.

Due to the current political circumstances and considering some of my respondent's concerns regarding the confidentiality of their identity, I pay specific attention to not to disclose information that would reveal who they are and with whom they worked through using pseudonyms, some of which were chosen by my respondents and used certain symbols while I refer to the places in which they live and worked. I also generalized their biographic information as follows: My respondents, who graduated from the faculties of law at Ankara, İstanbul, and Marmara Universities, worked in various areas of public and private law in Ankara and İstanbul, Turkey. While most of them have been working on legal issues concerning gender and sexuality for more than ten years, some of them have barely completed their fifth year in the profession. Most of my respondents were in their late thirties and early forties. A few were under twenty or over fifty years old. My respondents mostly identified as female, only three of whom identified as male. My respondents also identified with a diverse cluster of sexual orientations, including both heterosexual and LGBTQ+ orientations, as well as with Turkish and Kurdish ethnic identities.

Under the COVID-19 circumstances, I had both the advantages and disadvantages of holding interviews online. While arranging the time and place of the interviews was

rather easier, the time difference between where the U.S. and Turkey led minor issues in terms of scheduling and following up with the schedule. My main challenges in collecting data were reorienting myself to interact via web camera as well as the quality of the interview records. While the former required me to pay special attention to gestures more so than a face-to-face interview, the sound quality has been trouble-some depending the quality of the equipment and internet connection. However, I was able to capture some moments during the interviews and transcribing interview records that enabled me to gain an insight about the sensory experiences of my respondents when answering specific questions and recalling certain events. Furthermore, I was also able to observe that some of my respondents, who were also friends, seemed rather detached from how I remember them and their practices, while some with whom I contacted for conducting and interview were open and articulate in answering questions.

In presenting the narratives of my respondents, I stick to their original statements as much as possible. Considering that language constitute an important context in shaping contingent meanings of terms and expression that cannot be translated, I included the narratives in Turkish in the body of the text and used footnotes to add the English translation. Thus, the languages used in these narratives included some legal jargon and expressions pertaining to colloquial Turkish languages as well as the terms and expressions pertaining to the language, *Lubunca*, which was used among mostly transgender circles and became an element of LGBTQ+ sub-culture. Through using the original terms and expressions emerged from multiple languages, I demonstrate that the experience of practicing the law from a specific position may alter how legal

professionals are exposed to and integrate different languages that are not visible to the public eye.

The narratives of my respondents concerning how they build their path and oriented towards working on the issues concerning gender and sexuality provides insights to the experiences of becoming an *avukat*, as well as institutional history of the contemporary *avukatlık* in Turkey. The following section presents my respondent's narratives concerning how they become inspired to study law, how legal education shaped their conception of the practice of law and legal profession, what events or situations led them to invest in working on legal issues concerning gender and sexuality. Through analyzing these narratives, I demonstrate that while the law as a profession premises a distinct knowledge and set of skills that is instrumental in shaping the law through everyday legal practice, the bodies, who are drawn to becoming an *avukat*, are trained in apprehending and assessing the value of knowledge of law through the socio-cultural encounters on everyday spaces of educational and professional institutions in distinguishing themselves from the non-professional bodies and in which the emotional attachment to legal profession disseminates among the bodies to become legal professionals.

(Un)becoming *Avukat* in-between Legal Education and Professional Training

The professional path to *avukatlık* requires a standard four-year university education during which law students become familiar with the legal knowledge and practices in all areas of law. In being admitted to a faculty of law in Turkey, junior high school students first choose an interest area including natural and social sciences,

humanities, and language classes and attend classes that are predominantly taught in these areas until their senior year. At the end of their senior year, students take a three-hour multiple-choice exam (Student Selection and Placement Exam) administered by the Higher Education Council (Yüksek Öğretim Kurumu). Depending on their score, high school graduates make a list of choices including the faculties and universities they want to attend. Based on the score they receive from taking this standardized test, they are placed in one of their choices. In that sense, the Student Selection and Placement Exam (SSPE) is one of the most significant life events in shaping professional paths, as well as a significant material and emotional investment, since the options to switch between faculties and universities are limited once one is admitted. Considering the significance of such life event, making a decision on a professional path depends on one's aspirations, which may be shaped during childhood or informed by everyday socio-cultural relations in and material conditions of ordinary life.

Most of my respondents were initially interested in studying social sciences and humanities; some of them were determined to become an *avukat* since their childhood. Those who had interests other than law and those who were undecided about their professional future either went through a process of negotiation between childhood dreams, personal interests, impositions by their family and major life events, or came to accept law as their future carrier in the face of uncertainty concerning the university admission processes. Those who were determined to study law since their childhood also had a strong sense of realizing justice and defending those who were bullied.

Personal/Collective Histories in Becoming Oriented Towards Legal Education

The narratives of how my respondents are drawn to studying law to build their carrier presented that orientating towards studying law was informed by various sources including histories that situated emotions as ‘weak’ or created power relations based on the emotions shape the surface of and boundaries between bodies, as Ahmed argued; inspirations informed by familial, social, and cultural encounters; and social and economic conditions of ordinary life. I discuss the temporal and spatial differences in shaping personal experiences, discuss family as a historical and socio-cultural force in translating prior experience into professional aspirations in the ongoing present, and discuss emotions that (re-)orient bodies towards the law. Through discussing these factors shaping educational aspirations towards the law, I offer a critical discussion on to what extent and how emotional attachment to bodies and object inform personal orientations towards acquiring legal education in generating or limiting the potentialities of gaining personal autonomy in everyday life.

The narratives on childhood aspirations introduced how the historical meanings attributed to certain dispositions and bodies inform personal and collective experiences inform the contemporary meanings attributed to the law in gaining a certain position in the socio-political hierarchies of everyday life. Thus, my respondent’s personal experiences and impressions concerning social pain led them to become oriented towards the law as a future career. For instance Siyah, an acquaintance with whom I met during my field work, states that he had a “hassas” (sentimental) character, which was reflected in his compassion towards vulnerable bodies, such as young kittens he saw on the street or the kids bullied in his school. Thus, Siyah recalled that those who observed his compassionate character suggested him to toughen up, as they perceived him to be

‘powerless and weak’. Siyah narrated how an image of lawyer he created during his childhood enabled him to cope with such pressures and how the image of an *avukat* specifically match the image he created as follows:

Bu duygusallığı aslına bakarsan insanlar şöyle algılıyor: Profesyonel yaşantıda tabi bu kadar duygusal olamazsın.... (Duraksıyor.) İşte senin karşına çıkar. Acımasız olmalısın derlerdi küçükken bana. Ama işte kafamda yarattığım avukat imajı, hukukçu imajı benim işte insanların bana yönelik olan işte güçsüzsün veya zayıfsın sözlerine ilişkin bir karşı koymaydı. Çünkü gözümdeki imaj güçlü bir hak savunucusuydu, aynı zamanda yani mağdurların haklarını savunan güçlü bir karakterdi. Ben de o yüzden hem güçlü olduğumu güçlü bir karakter olarak mağdurların hakkını savunabileceğimi göstermek istiyorum diye bir düşünceye kapıldım... Aslında bunu sadece şey hukuk olarak bakmıyordum meseleye. Biraz da toplumcu düşünerek kamu yönetimi okuyup acaba ilçe ilçe köy köy gezip insanların problemlerini o anlamda değerlendirip bir şeyler mi yapsam sosyolog mu olsam bunları yani bunlara benzer düşünceler vardı. Ama kendimi en iyi ifade edeceğim iş olarak hukuk da değil avukatlık olarak doğrudan avukat olmak istiyorum diyerek öyle düşündüm. Çünkü başka bir alternatifin beni mutlu edebileceğini düşünmedim. Yani o anda.... O yüzden her zaman hedefim o noktada öyle oldu. Biraz yani çocukluktan gelen işte karakter yapısından gelen bir şey herhalde.”⁶³

In Siyah’s narrative, it is possible to observe that the reactions towards Siyah’s acts of compassion included gendered connotations. While, on the surface, those who suggestions him to become cruel, informed Siyah on what he lacked in terms of his future survival in life; these suggestions were directed to the young male body of Siyah, underscoring that sentimentality was not proper for making him ‘powerless and weak’. However, these reactions reflected on Siyah’s child mind as an intervention towards what

⁶³ “People perceive such sentimental character as such: I mean you cannot be that sentimental in professional life.... (pauses) They would confront you. They used to tell me to be cruel when I was a kid. But lawyer, the image of avukat, the image of hukukçu I created in my mind was a resistance to people’s attribution to my characters “You are powerless.” or “You are weak.” Because the image in my vision was a powerful defender of rights, at the same time, I mean, a powerful character who defends the rights of the victims. That is why I had this thought: I want to show that I am a powerful character, and I can defend victims’ rights... I actually did not consider this solely to be law per se. I also considered becoming a sociologist and studying public administration to be able to reach out to people in peripheral places, like villages. But it was not studying law through which I could express myself, but avukatlık, I thought so... That I directly wanted to become a lawyer. Because I thought other alternatives would not make me happy. I mean at the moment... That is why it has always been my goal at that point. Somewhat related to a character trait from childhood, I guess.”

he believed to be the right way of acting. Thus, Siyah referred to law as a reflection of his character, which was mediated through the image of an *avukat*.

As Siyah sought to resist these social pressures, he created an image that enables him to become who he believed he was. Instead of adopting to the norms and practices imposed by the society, Siyah became attached to the specific image of *avukat* as the defender of other's rights, which he told to be the best way to express himself. Similarly, Usagi with whom I met via Siyah, told that her professional path in becoming an *avukat* was shaped around her character. Usagi narrates how she identified with becoming an *avukat* during her early teenage years:

Avukat olacağım dediğim yaş on ikiydi. Yani.... Ya şey... Kendime biçtiğim karakterden kaynaklıdır. Konuşmayı çok seviyordum. İnsanlarla tartışmaktan kaçmıyordum. İşte o zamanlar kendimi de öyle şekillendiriyordum: “ben böyle bir insanım.” Kimi zaman bu gıcık bir çocuk profiline de dönüşebiliyordu ama işte.... Mesela işte üst sınıflar bahçede oynamamıza izin vermediğinde herkes geri çekilirken ben şey yapabiliyordum yani.... “Hayır! Biz oynayacağız, çünkü önce biz geldik.” deyip böyle şiddet görebiliyordum ... Bunu böyle benimsemişim herhalde. Oradan gelen bir şeydir. Kendime herhalde avukat olmayı yakıştırmışım.... Savunma olarak direnme olarak artık. Tahminimce öyle basit bir düşünceden. Oturup çok araştırdığımı hatırlamıyorum. Kafamda sadece sürekli kendimi savunmak gibi bir şey vardı. Öyle aman aman ezilen bir çocukluk da geçirmediğim. Öyle misyon edinmişim.⁶⁴

Like Siyah, Usagi's narrative introduced that Usagi was attached to who she was rather than what was supposedly expected from her as a child. Thus, Usagi recognizes

⁶⁴ “The age I told that I would become an avukat was twelve. I mean, well... It must be because of how I formed my character. I very much enjoyed talking to people and did not avoid getting into discussions. This is how I build myself back then: “This is who I am.” Sometimes this (self) may turned into the profile of an annoying kid, but... For instance, when older kids tried to push us (she and her friends) from the school playground everybody would back off, while I could do things like.... Saying “no! we are going to play (here) because we came first” and then being subjected to violence (by the older kids). This is how I internalized this character... I guess this is where this is coming from. I attributed myself to become an avukat... As defense as resistance at this point. This is my guess. Just based on a plain and simple idea. I do not recall doing a detailed research on it. It is just that I recalled that I constantly had in my mind to defend myself. Well, I did not experience an excessive oppression during my childhood. I happened to develop such a mission.”

that the way she acted might be perceived as “annoying” as the social expectation from a child to be docile and silent around elders. In that sense, Usagi’s knowledge of herself preceded being appealing to others. Thus, Usagi did not avoid confronting those who are older than her, as she thought it was right to defend her and her friends.

Ferzan, who I met during my field work in Istanbul, realized that she wanted to study law when she came across an interview given by a famous feminist lawyer. Ferzan, who studied philosophy in one of the top universities in Turkey at the time, was impressed so much by this figure that she set a new goal of becoming an *avukat*. However, as Ferzan told that personal experience as a woman became central to her professional life, it made sense to me that the foundations of her professional path was rather informed by her childhood experiences and identifications. Growing up in a family which she described as a “Kurdish feudal bourgeois family that was devoted to its values,” Ferzan was the sixth daughter of her mother and tenth child of her father. Ferzan told that her family mourned for her father, who died when Ferzan was one year old, her entire life, as she recalled that the people who see her told that “She might as well be born a boy.” Ferzan also witnessed her mothers’ lament for not giving birth to a boy as she recalled her mother saying that had she have a boy; her life would have been easier. Ferzan stated that being born a girl became a childhood trauma that made her feel inferior, as her family did not want to send her to school and tried to get married as soon as possible. Facing such challenges and going through these traumatic experiences, succeeding at school became very important for both Ferzan and her sisters. Ferzan narrates an encounter with her mother when she was young in expressing the extent to which such trauma became central in shaping her entire life in the following:

... biyoloji dersinde bir çocuğun X Y kromozomlarını öğrenmiştik. Anneden X babadan X gelirse kız olur, babadan Y gelirse oğlan olur diye. Ben koşarak eve geldim o gün okuldan çıktığım zaman. “Anne!” dedim, “senin hiç kabahatin yokmuş. Bütün kabahat babamdaymış.” (Gülüşmeler) Annem bana baka kaldı. “Sende X kromozomu varmış. Babamdan Y kromozomu gelirse oğlan olurmuş. Aslında babam vermemiş sana Y kromozomu. O yüzden biz hep kız olmuşuz,” dedim. Annem de döndü bana “Okulda böyle terbiyesiz şeyler mi anlatılıyor!” (Gülüşmeler.) Yani ben doğduğum gün feminist olduğum başka alternatifim yokmuş yani. Hayatımın odak noktası oldu. Ben bir kadın olarak ayakta durmak, başarmak, çalışmak, para kazanmak, toplumda bir yer edinebilmek, sözünü dinletebilmek ve “Ben varım!” diyebilmek için... Ben hayatımı bunun üzerine kurdum.⁶⁵

In Ferzan’s narrative, education appears to become a source, inspiring her to create a response to the social pressures defining her life based on her gender identity. Witnessing of the reactions such as a prolonged mourning and a strong longing for having a male child, Ferzan sought to find an answer to why giving birth to or having a female body that was something to be blamed for. However, she found her answers in feminism, she sought to stand by herself in life through becoming successful in educational and professional life. Despite her success in education life, which already offered her a university degree, Ferzan became attached to the image of a successful woman *avukat*, who also struggle to address the issues concerning gendered inequalities.

The narratives of childhood experiences introduced that my respondents became oriented towards studying law to protect themselves or others based their personal experience and witnessing concerning social pain and suffering. Thus, both Ahmed and

⁶⁵ “We learn about a child’s X Y chromosomes in biology class. We learned that if the X chromosome comes from mother and the X chromosome comes from a father, you have a girl, if the Y chromosome comes from father you have a boy. I came home running that day. I said, “Mom! You have nothing to be blamed. My father was the one who was to be blamed.” (laughter) My mom kept starting at me. [I said] “You had the X chromosome. If the Y chromosome comes from my father, you would have a boy. Actually, my father is the one who did not give the Y chromosome to you. That is why we all end up girls.” My mother turned to me and said, “Is this what they teach you in school, impudent things?” (laughter) I have become a feminist the day I was born, I had not had any other alternative. It became the focus of my life: To be able to stand on your two feet, be successful in life, work, earn money, make a place for oneself in the society, make people listen to you, say “I exist”. I build my life based on that.”

Berlant discussed social pain as a way of making of the political and social worlds, yet they also presented a critical view of compassion in generating and maintaining social difference and perpetuating social and economic inequalities through affective tactics and prompting certain feelings. In her article, *The Subject of True Feelings: Pain, Privacy, and Politics*, Berlant presents that both nation and law are oriented towards citizen, as their object, “to eradicate systemic social pain, the absence of which becomes the definition of freedom.”⁶⁶ In addressing this particular historical objective, Berlant aims at underscoring how “law, policies, and public experiences of personhood in everyday life” conveys certain feeling though rhetorical devices, she also demonstrates the historical premise of law in protecting others from suffering and promising future possibilities of freedom. Thus, for my respondents, such promise became objectified in the particular image of *avukat* signifying personal autonomy in addressing injustice rather than the image of a judge or a public prosecutor.

Another manifestation of the historical can be observed in the narratives concerning influence of family. Some of my respondents narrated key role that the families and social circles played in shaping their professional aspirations. Doğa with whom I became a close friend while working together, was interested in arts during her early teenage years. Inspired by a successful relative working in the film sector, she wanted to become a movie director as she recalled spending a lot of time in the movie set where her relative worked. However, Doğa told that as soon as her family started to become aware of the extent to which she was seriously considering a professional path in the movie sector, they began to impose the idea of studying law as a future career for her. Doğa realized that her father, who has been an important figure in her life, influenced her

⁶⁶ Berlant, pp. 53.

decision on studying law over the span of two to three years as she recalled being convinced about studying law by her senior high school year. At this point of the interview Doğa claimed that there was no other background to her story on deciding to study law; however, in a little while, she recalled that her grandfather had to quit studying law at Ankara University and that both her mother and uncle were admitted but could not attend Ankara Law School. She continued her narrative on deciding to attend Ankara Law School as follows:

Yani bir Ankara Hukuk'ta bir şey var, bir hikâye var. Onun dışında şey... Hiç çevremde hukukçu falan yoktu açıkçası. İşte babam çok şey yaptı: “Keşke hukuk okusaydım. İşte uluslararası ilişkiler okudum kamu yönetimi okudum, bir şey olmadı.” falan filan ee... O süreçte... Galatasaray Hukukta sıra bana gelmişti. İşte Ankara mı Galatasaray mı derken Ankara Hukuka hiçbir şey olmadan... Böyle bir araştırma işte olmadan... “Şu hoca iyidir, bu hoca iyidir, o yüzden gidiyorum” diye bir hikayem yok yani... Galatasaray Üniversitesi'ndeki bir kadın da “Ne duruyorsun?! Ankara hukuk kazanmışsın. Niye Galatasaray hukuk istiyorsun?” filan demişti.⁶⁷ İşte o kadının önerisiyle (kahkahalar) Ankara Hukuk'a girmiş oldum. Ama öyle özel bir şey yoktu hukukla ilgili. Hayır! Ama sinemayla ilgili desen anlatırım. Hukukla ilgili yok.

In Doğa's narrative, it is possible to observe how personal aspirations may be transformed through family members' narratives concerning the events in the history of some family members and personal experiences of professional life. Furthermore, Doğa's narrative also present that the positionality of and affective relations with some family members played a significant role in generating the effect of personal and collective

⁶⁷ “I mean there is something, a story about Ankara Law School. Other than that, ... Honestly, there is no lawyer in my close social circle. Well my father many times would be like: “I wish I studied law.” I studied international relations and public administration; it did not change anything.” This like that. During that process... I also had the chance to attend Galatasaray Law School. I was asking myself: “Is it going to be Ankara or Galasaray?” With no information.... No prior investigation... I mean my story is not based on thoughts such as “I attend [Ankara Law School] because this or that professor is good.” A woman working at Galatasary University told “What are you waiting for? You were admitted to Ankara Law School. Why do you want to attend Galatasary Law School? I ended up attending to Ankara Law School based on this woman's suggestion (laughter). But there is nothing special about law [for me]. No! But if you ask about cinema I would tell. Nothing related to law.”

histories within the socio-cultural space of family. Thus, despite Doğa aspiration for future, studying law appeared to be an opportunity, which various members of the family has lost, and which Doğa could have. Doğa's father's experience coupled with her mothers' family history underscored that attending to specifically, Ankara Law Faculty was a rare opportunity, which was also confirmed by an outsider, who worked in the admission office of a well-known law school. Considering that many people gave up their education and professional careers in the face of 1980s military coupe, this lost opportunity may be an effect of the contemporary political history in Turkey, as the narratives of this event has still been informing personal, familial and collective memory, as well as politics of identity and ideology in the ongoing present.

Like Doğa, Rengin with whom I worked on several projects and built a close friendship over the years also aspired to a professional path in arts; however, was led to focus on obtaining a college education as a future investment, which is referred to as having an "altın bilezik" (a golden bracelet), a colloquial term to refer to socio-economic security especially for young girls. Rengin told that making a decision on studying a subject, specializing in a professional area, or realizing one's ideals in Turkey was not a conscious choice, since her parents, who had a solid educational background, paid attention to neither her talents and interests nor the type of intelligence she had. Rengin stated that her future dreams of becoming a musician ceased to end in her late teenage years as she became interested in reading novels, where started to build her own sense of justice. Growing up in a small city in the Eastern part of Turkey, Rengin also recalled her Turkish teacher and childhood friendships as her part of childhood inspirations, as well. However, when her family moved to Ankara, Rengin realized that the shortcomings of

her previous education and fully aspired to studying law, especially attending to Ankara Law School around sixteen seventeen years old. Rengin narrated the role of the place she grew up on her decision of becoming an *avukat* as follows:

Bu bizim aslında biraz da çocukluğumuzun belki de X gibi bir yerde geçmesi ile mi alakalı bilmiyorum, büyük şehirde olsaydık böyle mi olurdu? Ama o dönemde küçük yerde yaşamının büyük idealleri oluyor çocukların kafasında. Yani gördüğümüz şey kafanızda çok büyük bir şey oluyor. Yani benim için de her zaman hani hukukçu olmak... Hatta çok şaşırtıcı bir şey söyleyeceğim ama ben hiç hakimlik savcılığa özenmedim. Hep avukatlık yapmak istedim.⁶⁸

Rengin's narrative introduces that she was also very much attached to her childhood dream. Taking the risk of upsetting her family, Rengin efforted to create the potentialities to realize the future that she desired to live. In Rengin's narrative, the influence of her family was manifested as a direct prohibitive force, and an indirect support for her interest in reading novels, which offered another source of inspiration for her in becoming an *avukat*. In addition to the influence of family and her developing cultural interests, socio-cultural environment in which she grew up also had a significant influence on aspiring to become someone important. While legal profession was an appealing option for Rengin, she identified herself with the specific practices of an *avukat*.

In addition to family and socio-cultural environment, professional experiences also provided an insight that inspired my respondent Oya to whom I reached via a former colleague. Oya recalled having no aspiration for studying law, but an interest in politics during her high school year. However, Oya's opinions changed after talking to some

⁶⁸"I do not know whether this is something related to our childhood taking place in such a place like X. Would it be the same if we grew up in a big city? But around these times, living in a small place, big dreams develop in children's mind. I mean the things you see becomes a big deal in your mind. I mean for me becoming a lawyer has always been ...In fact, I am going to say something very surprising. I always aspired to becoming a judge or a prosecutor. I always wanted to practice law as an *avukat*."

acquittances who studied political science and those who studied law and later chose doing politics as a professional path. After learning about other's experiences, Oya stated that she changed her mind about studying political science and decided that studying law was a more adequate field for her future aspirations concerning doing politics. In that sense, Oya's narrative draw parallel to Doğa's narrative in confirming the conventions on legal education as a gate way to doing politics more so than international relations or political science.

A significant group of my respondents referred to how they were oriented towards studying law as an unconscious choice. While some of them decided to study law after being placed in a law school by the university admission system in Turkey, some of them led by some life events to pursue a career in law. For Fırat with whom I worked in multiple projects, law school was no different than his other choices, which ranged from school of education to sociology from psychological counseling to philosophy. Fırat told that it was not until he received the information concerning his admission to law school, he was not sure in which department or university he will end up.

Evren, a friend who allowed me to engage in human rights field, told that law school was not something familiar to him back in his childhood. Having a successful his high school education and that he stated, Evren stated that he rather aspired to receiving a high score from the university exam. Evren also recalled being impressed with that his neighbor's success in university entrance exam, who chose to attend Ankara Law School. Evren appealed to self-help books, while his family was going through a financial crisis. Evren narrated how he chose to study law school as follow:

Yani o dönem lisedeyken bazı kişisel gelişim kitapları okuyordum. Onlar çok Amerikan bakış açısı.... Şu anda eleştiriyorum yani parantez açmak istiyorum. Şu

anki durumumdan o anki durumu eleştiriyorum. Gençken onları okumak, şirketti, yükselişler, veriler falan bilmem ne... Onlar bana çok cazip geliyordu. Ama hukukla onu bağdaştırmıyordum. Hukuk seçme sonradan bir şey oldu. Bir de üniversiteyi kazanmadan önce ailemde de babamın ekonomik durumunu sarsacak bazı haksızlıkla karşılaşmak da herhalde farkında olmadan beni biraz hukuka yöneltti... Bilinçli bir seçim değildi. Bilinçli yani böyle hukuk okuyacağım falan vesaire yoktu. Hani ailemde hukukçu yok. Hatta göçmen bir ailenin Türkiye’de doğmuş çocuğu olarak tek hukukçuyum. Kendi ailemde tek avukatım.⁶⁹

Coming from an immigrant family, Evren was driven by success in shaping his future. His apprehension of success back in high school depended on a quantitative measure of university entrance exam score or statistical data pertaining to American corporate life. However, the life event in which Evren’s family encountered an injustice that led to a financial crisis introduced a qualitative dimension of life including a sense of justice and security. Considering that legal education provides key information on how to deal with justice on one’s own, admission to law school offered a potentiality for future in addressing both quantitative measures of and qualitative meanings of success in life.

Hazan’s choices were also affected by a life event. Hazan with whom I met during my professional work at a civil society organization, initially prepared for the university entrance exam with the ideal of studying psychology in Hacettepe University in Ankara. Hazan did her research on the professors in that specific university and received a score that was sufficient for her ideal university education. However, when her mother was diagnosed with diabetes, Hazan had to stay in İstanbul to support her. Hazan stated that studying law was not a priority for her at that point in her life, but something

⁶⁹ “During high school, I have been reading self-help books. They were very much [written by] an American perspective... I am critical of them now; I want to put it in the brackets. I am critiquing myself back then as the person I am today. When I was young reading these books, companies, rising through the ranks, statistics etc... They were very appealing to me. But I did not associate them with [studying] law with them. Choosing law came later. In addition, before I was admitted to law school encountering an injustice that undermined my fathers’ economic status most probably led me to study law. It was not a conscious choice. I mean I did not say “I am going to study law.” There is not a single lawyer in my family. In fact, I am the only lawyer as a second generation in an immigrant family. I am the only attorney in my family.”

that her mother imposed. Both her mother's health situation and imposition led her to decide to attend İstanbul Law School. Despite her appreciation on legal theory classes in which she learned about how the law shape people's lives, Hazan told that she considered dropping out of law in her third year she considered dropping out of law when she realized the gap between legal theory and practice. Hazan explained why she stayed in law school as follows:

Yani bu hukuku bırakmak tıbbı bırakmak mühendisliği bırakmak... bunlar böyle o kadar kolay ve tek başına alabildiğin kararlar olmuyor. Çok ciddi bir toplumsal baskı oluyor üzerinde. Bir statünün reddedilişi oluyor bu. Dışarıdan bakınca çok saygın bir statünün. Tabi şimdi ne kadar kaldı saygınlığı? Adliye önünde avukat dövüyorlar polisler falan. Ama yine de böyle bir toplumsal üst akılda bir şey var yani. Avukatlık herkesin çocuğunun okumasını istediği hukuk öyle bir bölüm. Ben bırakacağım bilmem ne okuyacağım diye hele üçüncü sınıfta dörde geçerken yapamıyorsunuz. Öyle olunca devam ettim.⁷⁰

Hazan's narrative introduced certain types of education attracts not only individuals but family as a social group. As Hazan stated, the opportunity to have such education creates a social pressure over those who gain access to it. So much so that even in the face of current political pressures over *avukats* in Turkey, legal education provides a potentiality for future to which most people appeal. In that sense, legal education constitutes a socio-cultural belonging, which is considered something to be embraced rather than rejected. In that sense, while legal education opens some potentialities in attaining a better life, it becomes harder for those appeal to choosing a different path to take action towards alternative educational options.

⁷⁰ "I mean dropping off law school, medical school or school of engineering... These are not the kind of decisions that you easily make and that you can take on your own. You receive a very serious social pressure. It becomes a rejection of a social status. Well, how respected is it now? They beat up lawyers in front of the court houses. Nevertheless, there is something [about it] in the social consciousness. Law school is a type of education all families want for their child. You cannot just say I will drop off and study something else, especially when you are approaching to your senior year. That is why I continued [my legal education]."

Similarly, Yasemin, who I met while I worked at a civil society organization, also thought of dropping off her law school education. For Yasemin, aspired to studying public administration to become a governor, narrates the anxiety that her admission to Ankara Law School created on her as follows:

Annemle babam dehşet fırça attılar. Üstelik Ankara hukuk fakültesi ile ilgili hep böyle şehir efsaneleri var. İnsanlar yıllarca bitiremiyor. Kalın kalın kitaplar ezberlemek zorundasın. Hepsini yani... Hiç bana çekici geliyor yani. Hiç içimi açmıyor. Bizde bir de şey.... Birinci sınıftan ikinci sınıfa geçerken şey baraj vardı. Alttan ders alamıyorsun. Tüm derslerini vermen lazım. Ben kaldım birinci sınıfta. Üç dersim kaldı ve baraja takıldım. İkinci sene bir dersimi verdim, iki dersten bütünlemeye kaldım. Atılacağım okuldan veremezsem bütünlemede. Acayip strese girdim. Tekrar ÖSS sınavına girdim. O derece hukuk fakültesinde nefret ediyorum. Bir de Cebeci'desin yani. Sıkıcı bir yer.⁷¹

Overwhelmed by the compelling standards of legal education and disappointed with the social environment of law school, Yasemin took the university exam for the second time and received a score that allowed her to attend the department of English Language and Literature in Ankara University as her backup plan. Torn between continuing her legal education and enrolling in a different school, Yasemin sought advice from her favorite professor. Yasemin narrates his answer as follows: “Ya, İngilizce nasıl olsa biliyorsun. İngilizce diploması alsan ne olur? Hukuk fakültesi her zaman kazanamazsın. Atılırsan da aflu gelirsin.”⁷² Yasemin stated that took the risk and continued her legal education following her professor’s advice. Like Hazan, Yasemin hesitated to

⁷¹ “My mother and father trounced me. On the top of it, there are urban legends about Ankara Law School. People could not finish their law degree for years. You need to memorize thick books. All of them...It did not appear appealing to me at all. It did not unburden my heart either. There is also that [in our school] ... You have to pass all classes in your first year to be able to continue your second year. I failed in three classes in my first year. I tried to pass these classes next year. I passed but failed two, which I had to take make-up exams. I will be kicked out from the school if I cannot pass these classes. I was extremely stressed out. I took the university entrance exam again. This is how much I hated the law school. Furthermore, you are in Cebeci. A boring place.”

⁷² “You already know English. What difference does it make whether you receive a diploma or not? You cannot always get into law school. If you are expelled, you may return when they allow academic amnesty.”

drop off her legal education, despite being overwhelmed and disappointed with her educational environment. Thus, in her professor's narrative having access to legal education appeared as a rare opportunity. Speaking from the position of a valued professor, the professor convinced Yasemin to continue her law education despite that she could have possibly choose an alternative educational path to which she has already gained access.

In the face of the uncertainties, having access to law education offers more than a job security. It promises a privileged position that accommodates a potentiality to protect others against a possible suffering. The symbolic force of the knowledge of law and legal practice becomes objectified through the exchange of what Bourdieu (1987a) referred to as cultural and social capital. In that sense the knowledge of law and legal practice contains such force in situating those who hold them into a position of power. Thus, the narratives of my respondents demonstrated that having access to such knowledge is considered "a rare opportunity," which not only attract bodies but also compels them to retain such attraction.

In her genealogy on happiness, Ahmed (2010) presents that the meaning of happy as "having "good hap' or fortune" implies that happiness is "an effect of what you do, as a reward for hard work, rather than being "simply" what happens to you." (p. 22) Ahmed (2010) presents that the word unhappy meant "causing misfortune or trouble," "miserable in lot or circumstances" or "wretched in mind." (p. 17) Ahmed (2010) writes, "the history of the word unhappy might teach us about the unhappiness of the history of happiness." (p.17) If holding the knowledge of law and legal practice determines one's future happiness. While having the opportunity of studying law, one potentially holds a good

fortune, a happening that supposed to bring happiness, having the position of holding the knowledge of law requires one to reach out and protect those who has less fortune, unhappy. The following section will discuss to what extent and how (un)happiness sticks onto bodies as they are articulated in everyday narratives concerning legal education.

(Un)happy Bodies of Legal Profession

Admission to law school constitutes a significant life event in which the memories of first impressions concerning the physical, social, and cultural environment of the faculty of law vividly retained in my respondent's memories. Coming from a small city, Evren recalled being excited about enjoying the life in the metropole city of İstanbul. Evren described his experience of a strong disorientation as he stepped into the physical space of Marmara Law School for the first time:

Fakültenin birinci günü burada ne işim var diye sormuştum. Onu hiç unutmuyorum... Anlayamamıştım... Ondan sonra hukuk eğitimine kendini vermek konusunda biraz zorluk çektim açıkçası. O biraz da şeyin getirdiği bir etki olabilir yoğun bir üniversite sınavı sonrası biraz daha hayatı yaşamak.⁷³

Evren's encounter with the built-in place of law school is a moment frozen in his memory. As Evren entered into the law school building, he was disoriented, in making sense of how unfamiliar this place was to him. In Evren's narrative, this encounter was followed by having the difficulties that he encountered in adjusting to law school education. In addressing these difficulties, Evren referred to his emotional and mental state after going through an intense process of his university exam prep. However, as Evren stopped to think about what he was doing in this place, he begun to realize that his

⁷³ "I asked myself what I am doing here. I never forget that... I could not apprehend... After that, I honestly had a little bit of hard time adjusting to legal education. It may be an effect of wanting to live the life a bit after the intense experience of university entrance exam."

ordinary life has fundamentally changed and that he is required to adjust to the everyday practices of a law student and the places of his life in İstanbul. The built-in environment of faculty of law was an unfamiliar place to which Evren already became attached to through his official admission. The moment in which Evren realized his disorientation is when he perceived the present within the affective environment of faculty of law.

Usagi also recalled an affective experience during her first encounter within the built-in space of faculty of law. Usagi narrates the dialog engaged in when a sour-faced teaching assistant asked her why she chose to study law, she replied that she wanted to become an *avukat* as follows:

... “Sence avukatlık ne?” Böyle gayet moral bozucu bir şekilde... Ben başkalarının hakkını savunan kişi meslek dediğimde “Sana kolay gelsin!” deyip işte tanıtım kitabını önüme fırlatmıştı. Daha oryantasyonda hevesimizi kaçırdılar. Öyle başladık bölüme. Dört sene boyunca da böyle devam etti. Hiç şaşmadılar bu aşladıkları motivasyonda.”⁷⁴

Usagi’s narrative reflects something striking about the interaction between Usagi and the assistant beyond the performative nature of the assistance’s question and comment, which is manifested in the assistance excessive bodily response to Usagi’s mundane answer. The narrative form of this dialog enables us to image what has been animated through this interaction. The assistant’s reaction towards Usagi’s body may be related to something about what Usagi said, her demeanor, or her body. However, the affective attachment to either *avukatlık* or Usagi in the assistance excessive response reflected on Usagi’s body creating a sensation, which she described as “her whim being taken out.” The affective attachment was transmitted via the brochure in marking this moment in

⁷⁴ “... “How do you describe avukatlık?” [he asked] in a demoralizing manner... When I said the person, the profession that defends other’s rights, he said, “Good luck to you then!” and throw the introductory brochure towards me. They started took out our whim even at the orientation. This is how I started law school. This continued for four years [of entire legal education]. They never drift off form motivating us in such manner.”

Usagi's memory. In return, Usagi's narrative presented that the assistant's body became an object which both represents the law faculty's administrative body and the moment in which her whim taken away abruptly. Such encounter generated the history of the present that was stretched throughout her entire law school experience.

Both Evren's and Usagi's first impressions from their affective experience and encounters with the built-in and social spaces of law faculty draws a darker picture that is far from a happy one. Ahmed argues that perceptions concerning a body, or an object are distinguished based on having either an optimistic or a pessimistic disposition in emphasizing what affects or benefits that this object or body would have on oneself. For Ahmed, the dichotomy between pessimism and optimism is geared towards whether and how the objects would bring us (un)happiness⁷⁵. The following narrative by Hazan introduces the law professors' narratives on whether and how holding the knowledge of law shapes emotional attributions to bodies during a classroom encounter:

Yani hukukla ilgilenmek işte... Yasa yapım süreçlerini bilmek yasaların insanların hayatlarına nasıl temas ettiğini bilmek bana iyi geliyor. Ama işte teori ile pratik arasındaki makas Türkiye'de günden güne açılıyor. Okurken... Hocalarımız sürekli söylüyordu pratikte mutsuz olacağımızı aslında. Yasaların uygulanmayışının yasaları bilenleri en çok üzdüğünü... Sokaktaki vatandaşın çok büyük bir kısmı zaten bilmediği için işte anayasa hukuku vs gibi. Daha spesifik konuların o politikaya yansıyış biçimde de çok büyük bir hayal kırıklığı yaşamıyorlar ama hukukçuysan ya da hukuk eğitimine bir şekilde dahil olmuşsan, işte kamu okuduysan, uluslar ilişkiler okuduysan vs., iyice mutsuz oluyorsun. Onun mutsuzluğu var.⁷⁶

⁷⁵ Ahmed, pp. 173.

⁷⁶ "I mean being interested in law, knowing how legislation processes work and how laws touch upon people's lives is a revelation for me. But, the junction between the theory and the practice [of law] falls out with each other day-to-day in Turkey. While studying... Our professors in fact has always said that we would be happy when practicing law. The fact that the laws are not applied in practice makes those, who knew them... Since the vast majority of the lay people do not know [the subjects] such as constitutional law etc. They do not become disappointed about the way in which more specific issues reflects on a particular policy; however, if you are a lawyer or somehow involved in legal education through studying public administration or international relations, you become utterly unhappy. There is that kind of unhappiness."

Hazan's narrative presented that her professor imagined non-professional bodies as happy due to their lack of the knowledge of law and professional bodies as unhappy due to their expectation that the law would reflect on everyday politics. The professor's body appears as both the narrator of these images and a vibrant evidence of an imminent (un)happiness brought about the knowledge and practice of law in everyday life. However, while his position as the narrator disappears, as the narrative form takes an objective apprehension of personal experience which would never be understood by the blissful lay masses. The personal experience in its objective form disseminated the images of unhappy legal professional and happy non-professional bodies, which became stuck to Hazan's body. In that sense, when articulated in narrative form emotions becomes an important source of shaping the conventions of legal profession in addition to discourses on professional identity and ideology.

The socio-cultural spaces of legal education distinguish the law students from those who does not acquire the knowledge of law through formal education, while the law students are distinguished from one and other through the law school they graduated from. Contemporary legal education is predominantly offered in Turkish, having foreign language skills became a significant plus for lawyers as Turkey became oriented towards integrating into European Union. Especially in 2000s, having English as a second language became an asset for law school graduates, who sought job positions in the financial sector. Also, private universities started to offer legal classes in English, paving the way for a new group of lawyers, who have wider access to the newly emergent practices of law as multi-national law firms established partnerships in Turkey.

Starting law school in 1999, I recall the extent to which having foreign language became important to law school students in my sophomore year. At the beginning my Contract Law course, a professor asked how many of us knew two foreign languages. Sitting at the back rows of the huge lecture hall, I saw a few hands raising up. The professor told the class that the students who raised their hands will definitely find jobs. He later asked how many of us knew one foreign language. I saw a few more hands raising up as I raised my hand as well. The professor told the class that those students, who knew one foreign language, are likely to find a job and that the rest will be unemployed. I remember that a mixed set of feelings started to disseminate all over my body, vacillating in-between a sense of relieve and shame.

Having learned English back in high school, I felt shame for not learning a second foreign language, for knowing a second foreign language while a vast majority of my classmates did not and for my professor for considering the vast majority of my classmates, who numbered at least a hundred, as potentially unemployed, solely based on their lack of foreign language skills. The narrative of having multiple language skills constituted another criterion in assessing whether or not students would have fortunate career in legal profession. The potentiality of having access to newly emerging areas of legal profession in Turkey situated foreign language skills as an aesthetic object, which introduced new socio-cultural hierarchies between legal professional bodies.

Similarly, Hazan realized the importance of having foreign language skills and provides the following insight concerning the differences between the private and public legal education:

İngilizcem konusunda çok pişmanım. Devlet üniversitesinde hukuk fakültesi okuyan kişilerin yüzde doksanı da bu konuda pişmandır bence İngilizce

konusunda, çünkü kesinlikle İngilizce öğrenmiyoruz. Çoğu özel üniversitede derslerin bile bir kısmı bazen İngilizce yapıldığı için insanlar mecburen İngilizce öğreniyorlar. Ve bitirdiklerinde İngilizce biliyor olarak çıkıyorlar. Ama onun dışında aldığım eğitime derslerin içeriğine dair bir şey söyleyemiyorum, hukuk nosyonuma çok şey kattığını düşünüyorum. Hukuki düşünme biçimime... Yoksa bütün fakültelerde aynı şeyler öğretiliyor. Bir hukuki vakıa ile karşılaştığında açıp hangi kanuna bakacaksın. Kimsenin aklında TCK bilmem ne maddesi diye gelmiyor. O olaya ilişkin düzenlemeyi hangi kanununda bulacağımızı öğreniyoruz başka bir şey öğrenmiyoruz aslında. Ama işte dediğim gibi biraz daha hukukçu düşünmeye dair bir şeyler öğrendiğimi düşünüyorum.⁷⁷

Despite her emphasis on the standardized nature of law education in Turkey, Hazan sees a distinction between legal thinking skills and standard legal education. While the former type of knowledge enables law students to become familiar with the knowledge of the order of laws, the latter set of skills offers an equipment, which allows lawyers to know how to operate within such order. Hazan's narrative projects two dispositions in practicing law, which is embedded in the quality of education concerning national practices of law. Considering that the established faculties of law admit students based on the score they receive from SSRE, Hazan's narrative points out to another aesthetic distinction in combining the quality of the national education with personal capabilities.

Hazan further provides another example of how socio-cultural environment of law school distinguishes different bodies of legal profession in the following:

İstanbul hukuk mezunuyum ben. İstanbul hukuk Türkiye'deki en köklü fakültelerden biri. Burada mesela şöyle bir tartışma dönüyordu: "Ankara'dan hâkim savcı çıkar bizden avukat çıkar. İyi avukat çıkar." deniyordu. Ve hocalarımız hep sunu söylüyordu bize: "Hakimlik de savcılık da iyidir, hoştur.

⁷⁷ "I very much regret my English [skills]. I think ninety percent of the students, studying law in aa public university are also regretful about [their] English [skills], because we do not learn English. Since, most private universities sometimes offer some classes in English, people are compelled to learn English. And when they finish law school, having English language skills. However, except that, I do not complain about anything related to the content of the classes I took [in law school], [in fact] I think it made significant contribution to my legal thinking. Otherwise, they teach same stuff in all law schools. Which law you are going to apply in a legal case. No one recalls the articles of The Turkish Publishment Code. We actually just learn how we will find the regulations relevant to a situation, we lean nothing else. But, as I mentioned before, I think I learned more about thinking as a lawyer."

Ama onlar devlet memurudur. Siz yaratacaksınız bu farkı. Biz burada avukat yetiştiriyoruz.” diyorlardı.⁷⁸

In Hazan’s narrative, legal professional bodies were not only distinguished based only the ranks within the profession and the competition among them, but also depending on the historical mission of law schools. Thus, three law schools, including Galatasaray Law School, İstanbul Law School and Ankara Law School was foundational built-in spaces historical development of the body of law and the legal profession in Turkey. Among these school, İstanbul Law School played specific historical role in expanding the body of *avukats* through making the law school education more accessible to larger body of students during historical transition between the late nineteenth century Ottoman Empires to early twentieth century Republican Turkey. In that sense, the narrative on educational orientations not only reveal the historical in generating legal professional bodies with a specific mission based on how these would function as part judicial relations, but also underscores the distinctions concerning how particular bodies are positioned in operating their function. The professor’s narrative imagined avukat as a more appealing object compared to judges and public prosecutors in transforming student bodies to professional bodies.

Finally, the built-in place of law school also contains the political memory of the legal scholars and professionals and a specific temporal and spatial socio-cultural context in which the student bodies are exposed to different political ideas and ideologies. While these political encounters inspired some of respondents, shaping their professional path,

⁷⁸ I am a graduate of Istanbul University. One of the most established universities in Turkey. Here, there was this discussion: “Ankara [Law School] produces judges and public prosecutors, we produce lawyers. We produce good lawyers.” And our professors have always told us: “judgeship or prosecution is also good, they are fine [professions]. But they are public officers. You are going to make this difference. We are bringing up avukat here.”

for others, they remained as a personal trauma. Thus, Oya states she encountered feminism when was in law school, prompting her to engage in civil society organizations and have access to the cases concerning gender-based violence. However, for those who were studying law during 1990s and experienced political traumas due to the fights between left- and right-wing groups and witnessed the political pressures on those, who belonged to leftist, Kurdish and Islamic political groups. Firat witnessed his Kurdish friend from law school, who belonged to a leftist group, being shot by another law student at the university cafeteria. I also recall a traumatic experience from my first year of law school when a fight broke out between left and right-wing groups in the middle of my civil law class. Hearing the voices coming from the hallway, I remember the color of my professor's face faded. Startled when a student opened the door to escape harm, my professor realized the confusion and fear in her students faces and attempted to say something about the situation while hearing the sounds and screams coming from the hallways at the background. After this event, the heavy police presence, which was first noticed by the police panzer standing right next to the entrance gate of the school, became a mundane thing throughout my legal education.

Emotional Attachments (In)Forming Professional Bodies

After law students get through their legal education in the respective socio-cultural and political environment of their law school, they start their mandatory legal training after being admitted by an *avukat*, who has at least five years of professional experience to the local bar associations. While in the first six months the trainee *avukat* took classes in deepening their knowledge on legal practices related to specific issues and areas of law, in the second six months they pay visits to local courts and gain access to

the knowledge of how the court clerk offices operate and how the hearings are held in courtrooms. The professional training processes geared toward the practice of law introduces different challenges to legal trainees. Evren claims that his legal training made him realize a certain disposition that is common among law students. He describes such a pattern:

Bazı şeyleri görmek açısından iyiydi, ama şöyle bir böbürlenme oluyor. Bu hala hukuk fakülteleri öğrencilerinde var. Bu meslekle ilgili bir şey: “İşte fakülteyi bitirdim, başarılı bir süreçten geçtim. İyi şeyler istiyorum artık. Hani yani yüksek paralar...” Her şeyi biliyormuşsun gibi davranıyorsun ama hiçbir şey bilmiyorsun çünkü stajda sana teorik olarak verilen şeyler aynı zamanda pratik olarak öğretilen derslerin aslında pratikle hiçbir alakası yok. Ve çoğu zaman biz, “Fakültede böyle öğretildi, niye böyle oluyor, bunu insanlar niye bilmiyor, doğrusunu söylediğin halde neden insanlar hala başka türlü düşünür?” diye soruyoruz.⁷⁹

Evren’s revelation in apprehending the differences between legal education and professional experience showed that the personal filters concerning the law and legal practice were reshaped through the personal experiences during mandatory legal training. For instance, in Evren’s narrative, the dramatic interrogation of why and how lay bodies lacked an apprehension and appreciation concerning what is right situated lay bodies as a source of professional frustration, while the knowledge of law as an aesthetic object of what is right. In that sense, it draws parallel to Hazan’s memory concerning the socio-cultural distinctions between lay and professional bodies marked by different emotional attachments attributed to them. Filtered through Evren’s personal experience, such attributions to lay bodies and the knowledge of law becomes an objective performance of arrogance rather than a rightful expression of professional admonishment.

⁷⁹ “It was beneficial to be able to realize somethings, but there is a kind of arrogance. This is still prevalent among law school students. This is something related to the profession: “Well, I finished law school, I had a successful process. I want good things now. Things like having a high salary...” You act as if you know everything, but you know nothing because the theory and practice courses you took during your legal training has actually nothing to do with the actual practice. And most of the time we ask: “This is how it has been taught in law school, why this is happening, why do people not know about that, why do people think in a different way even though you told them what is right.”

The knowledge of law as an aesthetic object also mark particular bodies in terms of gender, sexuality, and ethnicity in *avukats'* everyday encounters during their legal training. Hazan shared her traumatic experiences in one of the theory classes in the professional training center concerning gender identity and sexual orientation, which took place sometime in June when Istanbul Pride Parade was about to be held. Observed that the lecturer, a family court judge started smirking when a legal trainee asked a heterosexist question, Hazan confronted the lecturer, asking him to explain his reaction. Hazan narrates this event in the following:

Bir gün medeni hukuk dersini anlatmaya bir hâkim gelmişti. Aile mahkemesi hâkimi... Zinadan bahsediyor. Karşı cinsle aldatma gerekiyor ya zinada... Oradan bir tane zibidi çıktı dedi ki “hemcinsiyle aldatırsa ne olur?” Tabi ki hoca bekliyor bu soruyu yani. Muhtemelen her sınıfta geyik halinde donuyor bu muhabbet. Şimdi normalde ne yaparsın böyle bir soru gelirse? Oturur açıklarsın. Dersin ki, haysiyetsiz hayat sürmeye sokuyor Yargıtay. Bu durumu zinaya sokmuyor. Zinada karşı cins olması gerekiyor falan filan diye açıklarsın. Adam bundan bahsederken gülüyor manasızca. Niye güldüğünü anlamıyorum ben de... Dedim ki “Hocam ne demek istiyorsunuz? Yani yasa yapıcılar ya da yüksek mahkemeler böyle düşünüyor olabilir. Ama siz bir hâkim olarak bize bir şey anlatıyorsunuz. Ve ben kendimi hiç güvende hissetmiyorum. Ben eşcinsel bir kadın olarak bu sınıfta ders dinliyorum ve bu zaten yasa yapıcının uygulayıcının şöyle bir sorunu ortaya koyuyor: Benim ilişkiyi ilişkiden bile saymıyor. Zina sınıfına dahi sokmuyor. Direkt benim ilişkiyi haysiyetsiz hayat sürmek sayıyor. Ben bunun böyle sayıldığını zaten biliyorum. Peki siz bunu bize aktarıırken neden gülüyorsunuz? Bu bence komik değil. Üzücü bir durum. Türkiye yargısı açısından üzücü bir durum bu kadar fobik olması, bu kadar evrensel standartlardan uzak olması açısından ayrıca. Benim için çok üzücü bir durum, bir aile mahkemesi hâkimi gelip sınıfımda bana bunu anlatırken bana bunu bu şekilde anlatıyor diye.⁸⁰

⁸⁰ “A judge came to lecture our civil law class one day. A family court judge... He is talking about adultery. Since adultery requires cheating with someone from opposite sex... A punk asked, “what happens if the person cheats with someone from same sex?” Of course, the lecturer expected such question. Probably this is an ongoing talkfest among the class. What would you do if you receive such question? You push pause and explain. You tell that the Supreme court categorize same sex relations as dishonorable lifestyle, not as adultery. You explain that adultery requires cheating with the opposite sex etc. This man pointlessly smirks as he talks about this issue. I do not understand why he is smiling... I said: “What do you mean? I mean legislators or supreme courts may have such an opinion. But you lecture us as a judge. And I do not feel secure at all. As a lesbian woman, I listen to this lecture and this poses such a question to the legislators and legal practitioners: They do not even regard my relationships as a relationship. They do

Confronted by Hazan, the lecturer tried to defend himself telling her that he did not mean to say that and that it is the class not him that laugh at this situation. He also invited her to his chambers in the court room to further discuss this situation. When Hazan went to talk to him in person, the judge told her that she misunderstood him and offended him in front of the class instead of apologizing for his behavior. After this event, Hazan became aa target of verbal harassment by one of her classmates who tried to flirt with her, leaving flowers on her desk. Hazan stated that they were loudly telling “ibne,” which means queer in Turkish, every time she passes by them while pretending to talk to each other. Hazan became worried about these harassments; but the sense of security the presence of her friends from law school provided not only helped her to overcome her worry but also courage in taking such action in the classroom in the first place. Hazan’s narrative clearly presents that the social environment of the training center did not provide a secure environment for Hazan’s particularized body whose sexual orientation was already marked as “dishonorable” by the body of the law, despite her belonging to the professional community and the socio-cultural place of the training center. Instead, the presence of her friends provided Hazan a sense of belonging and security, at the face of being discriminated based on her sexuality. In addition, her attempt to confront the trainer posed a challenge to the male-dominated socio-cultural environment of the Bar Association, leading her to become a target of further rebuke by the trainer and harassment by his classmates.

not even consider it to be an act of adultery. They directly regard my relationship as a dishonorable lifestyle. I already know that. Well, why do you smirk while you talk about it? I think it is not funny. It is a sad situation. It is sad for the judiciary in Turkey to be [homo]phobic and apart from the universal standards. It is also sad for me, since a family court judges come to my class to lecture about this issue in such manner.”

Law offices may also become a socio-cultural space which mark or in which particular bodies are marked based on their race and ethnicity. Regin recalled an experience that made her become estranged from her colleagues. In improving her foreign language skills and having professional experience in the international law practices, Regin, a senior law student back then, started working at a law office, which provided both national and international legal services in her senior year. Regin was called to a colleague's room to ask her the following question about her body in the presence of other people: "Bıdığın var mı, yok mu çok merak ediyorum. Kürtler hakkında bir kitap yazıyorum. Kürtlerin arkadasında bıdığı varmış."⁸¹ In an effort to keep her professional posture, Regin gave him the following response: "Onu söyleyince, "Yazacağınız kitabın içeriğini bilmiyorum ama Kürtler dedim. İşte şey.... İşte şeylere... Kaç kola ayrılırlar, ondan sonra işte kaç türlü şiveleri vardır. Yani dil lehçeleri vardır diye işte."⁸² Upon Regin's response, her colleague got mad and said: "Böyle bir şey yok!"⁸³ Regin recalls responding: "O zaman çok eksik bir kitap olacak"⁸⁴ and slamming the door as she walked out of his office.

Upon sensing that her colleague did not like her, Regin stated that she tried hard to establish a friendly relationship with him. When her colleague called her to his office, Regin thought that she would finally have an opportunity to establish with a collegial bond with him. However, her colleague's hateful questions concerning her body, left Regin in a state of shock, which made her realize the source and the extent of his

⁸¹ "I wonder whether you have a lump or not. I am writing a book about Kurdish people. I heard that Kurds have a lump on their back."

⁸² "Hearing his words, I told: "I do not know about the content of your book but Kurds.... Well.... How many different Kurdish tribes and accents, there are I mean language dialects and so on..."

⁸³ "There is not such a thing!"

⁸⁴ "Well, then it is going to be a book full of deficiencies."

hostility towards her. Referring to this event as ‘her first time being discriminated’ after which Regin told that kept distant from the office environment and preparing for her final exams and received a call from a senior *avukat*, who told her the following: “Sakin ofise gelme. Senin hakkında çok ciddi iftiralar dolanıyor.”⁸⁵ Regin gulped for a second before continued to narrate what her colleague said to her: “Hemen istifanı ver. Kendin çık, çünkü bu insanlar senin hakkında senin kimliğin hakkında korkunç yorumlarda bulunuyorlar.”⁸⁶ Regin referred to her colleague, who worked there for eight years also submit her resignation, as someone who was of a significant value for her. Like Hazan, Regin also experienced a loss concerning her sense of security in the professional place to which belonged as an employee. Regin’s attempt to confront her colleague’s racist question and comments through reminding him Kurds’ socio-cultural presence again led him to lash out to her, denying such existence.

While the racist and discriminatory environment of her first professional experience led her to become estranged towards senior *avukats*, Regin did not give up on her career and started her mandatory legal training in Ankara as she applied to a different office to which she gained access via the Istanbul Bar’s web page. Regin shared her job interview in the following: “Çok tatlı... dini bütün bir hukuk bürosunda stajımı yaptım. Görüşmeye çağıran avukatlardan biri bana, “Ben çok mütedeyyin bir insanım.” dedi”⁸⁷ Not being able to recall what pious meant at the moment, Regin responded: “Ben de sizinle aynı fikirdeyim zaten. Din çok önemli değil falan.”⁸⁸ Regin’s response made

⁸⁵ “Do not go to the office. People started a serious defamation campaign against you.”

⁸⁶ “Submit your resignation as soon as possible. You resign yourself because these people make horrible comments about your identity.”

⁸⁷ “I worked in a very sweet... and a devout law office during my mandatory legal training. The senior *avukat* [with whom I interviewed] told me that he was a very pious person.”

⁸⁸ “I agree with you. Religion is not important.”

us both burst into laughter as it was such a contradiction, not only because it was linguistically incorrect but also created socially and culturally awkward situation between the interviewer and interviewee. Thus, Regin observed that the interviewer's face turned completely red. It was not until she noticed some books by Ali Serhati and a painting depicting the conquest of Istanbul by Fatih Sultan Mehmet decorating the interviewer avukat's room, she made sense of the blunder she made. Recognizing these objects, Regin realized these objects as political, cultural and historical signifiers that underscored the interviewer's religious identity. Regin thought the interviewer would not call her, as she left his office and told that she regretted her indiscreet behavior. Thus, even when the interviewer called to invite her to work with their office, she wanted to confirm whether he was serious or not. Despite that she sought financial support from her family since her salary was very low, Regin describes what made her appealing for this work environment for her in the following:

Orda çalışmak beni incitmedi tam tersine biraz daha çok öğrenmeye başladım; çünkü beni meslektaş olarak gördüklerini fark ettim. Bana dosyayı emanet ediyorlar. İşte mesela bana bir para verdiği zaman onun arkasından sormuyor... Gönlü zengin ve meslektaşına saygı gösteren bir büroydu. Dediğim gibi birbirimizi kabul etmiştik. Ben o dönemde Hagarat açıyorum. Simsiyah giyiniyorum. Ondan sonra ben anarşistim diyorum. Ateistim falan... Bir sürü kavramlar dönüyor. Ahmet Bey, "Tövbe estağfurullah! tövbe yarabbi şeklinde... (gülüşmeler) bir şeyler söylüyor. Sonra gel kahvaltı yapacağız, hadi falan... Yani çok tatlı birbirini kabul eden bir ortamdaydık yani.⁸⁹

In other job interviews, Regin recalled encountering questions such as whether she owned a car or how tall she was. In one interview, she was asked to stand up and turn

⁸⁹ Working at that office did not make me hurt, on the contrary, I started learning things; because I realized that they consider me as their colleague. They trust me with a legal case file. For instance, when he lends me money, he would not ask about it afterwards. They were a generous office, which paid respect to their colleagues. As I said, we accepted each other [as who we are]. During that time, I played [songs by] Haggard [, a heavy metal band]. I wore jet-black clothes. Furthermore, I say things like "I am an anarchist. An atheist etc. Lots of different concepts revolve around. Ahmet Bey is like "[I wish]Repentance and forgiveness from Allah! Oh Rab, Repentance!"

around so that the interviewer could see how she looked in detail. Working as a young woman *avukat* Hazan also encountered sexually harassing questions and discrimination based on her sexual orientation and political views. Despite an explicit attribution, the narratives of my respondents demonstrated the extent to which *avukat* bodies are marked based on the particular identifications in the socio-cultural spaces of legal education, professional training, and legal market, as well as the body of law as a performative space.

The legal and professional knowledge, skills, and practices does not constitute a common space for these bodies, who, in fact, are required to create potentialities within the ordinary male-dominated and heterosexist space of law and legal profession in Turkey. To what extent the title of *avukat* provides a professional shield before *avukat* as a person to become a target of discrimination based on their/her/his belonging to a particular social group, class or location?

Practicing Law in-between the Personal and the Professional

Upon receiving their licenses, *avukats* follow different paths in situating themselves in within the professional environment as well as the legal market conditions. My respondents' interest in issues concerning gender and sexuality have developed their personal encounters, while they worked in different areas of law, mostly in different subjects of corporate law to ensure their survival in the legal market. While almost all attempted to establish their own office at some point in their professional career, a few of them continued to work with an employer. Civil society organizations constituted key

social space for becoming *avukat* in establishing personal and professional networks; however, they gained access to this space through different sources and experiences.

As Siyah stated, becoming an *avukat* was not necessarily a decision that determines the type of *avukat* you will become, which takes time. After taking a deep breath, Siyah shared that he did a year-long mandatory military service upon completion of his legal training. Feeling the urge to find a job, Siyah accepted the first job position he could find at a law office which provided legal services for international corporations. However, for Siyah, the work environment, which he describes as “mechanical and pragmatic,” was uncomfortable for him and was not what he looked for in becoming an *avukat*. Despite enjoying social and financial comfort, Siyah found a new position within eight to nine months at a firm that focuses on the legal processes related intellectual property rights.

In Siyah’s narrative, the personal and professional experiences appeared as of equal value, which were considered in their own temporal and spatial context in creating future potentialities. Siyah sought to find a professional position at which he would not only feel financially secure but also a comfortable and inspiring working environment. Siyah’s approach led him to various different experiences, ranging from working in international corporations to engaging in political activities within the Bar Association, from working as a legal counselor for a politician to finally establish his own law office. As Siyah’s sought for his ideal working environment, he focused on the intersections rather than distinctions between personal and professional experiences. For instance, Siyah’s experiences in working on the right violations against LGBTI+ people with which he became familiar while reading a legal critique concerning the social security

rights of transgender people⁹⁰. After establishing his law office, Siyah told that his main challenge in his current private practice was having a sense of being the hero. In dealing with such feeling, Siyah started to think that: “Avukat bir vakıda ön planda olduğu zaman orada bir yanlış vardır,”⁹¹ as he kept in mind not to make steps that would not get ahead of the subject or the case. Anticipating the emotional and financial challenges he would face while working in this field of law, Siyah also took some steps informing his family and close circles about under what conditions he would be working, which he narrates in the following:

Türkiye toplumunda, üst kimlik denilen kimliğe ait bir şahsım. Beyazım, Türküm, ailem Sünni heteroseksüelim vs. falan. Aslında böyle bir kimliğe sahibim... Sonuç olarak ailem de yaşadığım insanlar veya esim de aynı şekilde bu kimliğe sahipler. Ben bu çalışmalarını yapmadan önce onlarla çok uzun konuşmalar yaptım. Bunu neden yaptığımı, neden hedefe aldığımı, işte seks işçileriyle, translarla çalışmak. LGBT'nin ne olduğunu anlatmak zorundaydım ailemden ve yakın arkadaşlarımdan oluşan bir kitleye. Yani kendimi anlatma ihtiyacı duydum. Yeni Akit gibi gazetelerden bir tanesinde hakaretimiz bir şekilde fotoğrafın basılması ihtimali de var. Bu ihtimale ailemin hazırlıklı olmasını istiyordum. “Ben bu yolda ilerleyeceğim destek oluyor musunuz olmuyor musunuz?” [diye sordum.] Yani destek olmuyorsanız ben devam etmeyeceğim de demedim. En azından kararlılığımı göstermek için... Onlar da destek oldular her zaman. Gecenin ikisinde üçünde gittiğimiz oluyor karakollara. Sen de çok iyi biliyorsun. Arkanda destek olmayınca bu kolay olmuyor. Bir de kaygılar... “Başına bir şey gelir mi?” kaygıları gibi... Bunlar kolay olmuyor. Ben böyle bir şey yaptım kendimi garantiye almak için. Rahat çalışmak istiyordum çünkü.⁹²

⁹⁰ See Sukru Kizilot

⁹¹ “When avukat puts himself at forefront in a case, there should be something wrong.”

⁹² “I belong to the superordinate identity in Turkish society. I am White, Turkish, family are Sunni muslims, and I am heterosexual ect. This is actuality the type of identity I have... Evidently, my family, the people I live with or my wife have the same type of identity. Before starting this line of work, I had long conversations with them. Why I did what I did, what my goals were such as working with sex workers, transgender people. I had to explain to a group of people including my family and my close friends what LGBT meant. I mean I had the urge to explain myself. Since there was a possibility that my picture may end up in newspaper such as Yeni Akit [a news group, which frequently perpetuates hate crimes against LGBT+ people and activists] in a libelious manner. I wanted my family to be. Prepared such situations. “I am going to walk on this path, are you going to support me?” [I asked.] I mean, I told them that I will stop unless you support me either. At least, to show how determined I was... They always supported me. There are times when I go to police stations at two three am in the morning. You as well know it. It is not easy when you do not have support. There are also worries... Worries such as “Would something happen to him?” These are not easy. I did this to secure myself. Because I wanted to work comfortably.”

Siyah's his privileged position in terms of his socio-cultural belonging to a specific group does not necessarily provide a shield from being discriminated against, when he anticipated engaging in this field. Furthermore, his professional choices may also affect his family and friends Siyah asked for their support. Siyah's investment in gathering this support constituted a crucial source for him to maintain his endurance working in this field. In apprehending the challenges of working in this field as an *avukat*, *Siyah* told the processes in which he confronted with himself and was exposed to his colleagues' discrimination against himself in the following:

Şimdi tabi kendi cinsiyet kimliğimle alakalı olarak bu zamana kadar kendi içimde ürettiğim, arkadaşlarımda arasında ürettiğim tüm nefret söylemleri tüm nefret suçlarım... Tüm bunlar suyun üstüne çıktı. Ve en başta bunlarla (duraksıyor) yüzleşmek zorunda kaldım... Aslında benim için çok spiritüel bir yolculuktu... Kendimi dinlediğim sürekli eleştirdiğim sürekli düzeltmeye çalıştığım ama bunu böyle ezbere değil de içselleştirmeye çalıştığım bir süreç yaşadım ve hala yaşıyorum. Çünkü toplumun dilinde kemiğinde yani, her yerde bu nefret dili ayrımcılık dili her zaman üretiliyor. Çocukluktan bu yana sürekli üretiliyor ve bunun içindesin. Bu bir mazeret değil... Ama bir yandan şöyle de bir gerçek var: Mesela ayrımcılığa da maruz kaldım. Kendi müvekkillerim benimle görüşmek istemediler... Ufak tefek tacizler buna ilişkin şeyler de ben de yaşadım mesela. Taciz kısmi değil, o ayrımcılık meselesi değil, ama nefret söylemi üretme meselesini zamanla kendim de fail olarak deneyimlediğim için faili çok iyi anlayarak devam ettim. Kendi yaptığım yanlışlar bana yol gösterici oldu o anlamda. Avukat meslektaşlarımdan çok fazla şey gördüm. Çalıştığım alanla ilgili çok fazla şeyle karşılaştım. Alay ettiler, dalga geçtiler, güldüler vs.⁹³

Siyah also noticed in the court room that judges started smirking when they heard clerks calling the name of his client, the civil society organization working for

⁹³ "All hate speech and hate crimes that I committed within my mind, among my friends... All of these come to surface. And first and foremost (pauses for a while) I had to face with them... Actually, it as a quite spiritual journey for me... I went through a process in which I listened to myself, constant gave self-critique, tried to fix not remotely with an effort to internalize and I am still processing. Because the discriminatory language has always being produced everywhere in the society. It has been produced since childhood and you grew up in it. This is no excuse... However, there is also a reality: For instance, I was exposed to discrimination, as well. My clients did not want to meet with me... I also went through some things such as minor harassments. Not the harassments, they are not a matter of discrimination, but I processed the issues of producing hate speech through my apprehension of who the perpetrator is since I experienced being a perpetrator. In that sense, my mistakes guided me. I have seen many things that my avukat colleagues did. I encountered many things about the field I worked in. They made fun of me, mocked me, laugh at me ect."

transgender rights, and that people looked at you with a smirk on their face. Realizing how such encounters made him stronger at some point and reinforced how he worked for the right thing, Siyah apprehend the extent to which people turned away from, marginalized, and discarded his clients. For Siyah, this cause represented the things he wanted to defend since his childhood, convincing him that he was in the right place. Despite the support he receives, he also told that his professional work was held against him during a fight in his personal life. Siyah's narrative on his professional experiences demonstrated professional autonomy is gained through not only having access to socio-cultural sources or acquiring some distinct skills and languages, but also an effort to accept and deal with affective and emotional processes at the intersection of the distinction between the personal and the professional.

Similarly, Doğa told that she was motivated to invest her professional time in representing people, whom even the right defenders did not want to defend. Doğa told that her story concerning how she started working on the issues concerning gender and sexuality revolves around the publications she had accessed through following the articles of one of her favorite authors, as well as the traumatic socio-political events and personal experiences that affected her personal and professional choices. Doğa recalled having a curiosity towards all sorts of magazines during her law school years at the beginning of 2000s. In having access to an author's article, who made a significant impression in her life, she started following a magazine which was focused predominantly on the topics concerning male homosexuality. Having an interest in politics, Doğa initially told me that the murder of a well-respected Armenian journalist, Hrant Dink, was a turning point in her life that led her to move to another city and

become detached from reading and following everyday politics. Doğa started working in corporate law, representing a foreign law firm for a year. It was not until another socio-political event in 2009, an arrest of a well-known journalist being arrested for the book he published, Doğa realized the extent of her detachment as she found herself asking what has been happening in the county. For Doğa, her realization was like awakening from a deep sleep that lasted five years.

At this point of her narrative, Doğa also recalls her reckoning of a personal trauma from her previous intimate relationship during which she was exposed to physical and psychological violence, added up to her decision to leave her ordinary life back in her hometown behind in recovering from the intense physical and psychological trauma that she was exposed. However, in the wake of such reckoning, Doğa shares what led her to make a decision to return to her hometown and make a fresh start:

Yani o dönemden çıkmak bu ülkenin var olan koşulları böyle bir şey yarattı bende, bir öfke. Çok öfkeliyim. Bir şeye öfkeliyim ama ne olduğunu bilmiyorum. Ben her şeyi bırakacağım. Türkiye'deki en savunucuların bile savunmak istemediği gruplar hangileri ise onlarla bir görüşmek istiyorum. Kapılarını çalayım. Bu insanlar kimler?⁹⁴

Doğa's reckoning with her range led her to realize that she was an impasse during which she tried to reconcile with her personal trauma, which came to the surface of the ordinary life though her reaction towards a political trauma. The emotional pain the personal and political events inflicted on her body generated an urge to take a flight through recreating a potentiality for living an alternative ordinary life where she could avoid the objects and subjects that brought back her traumatic memories. However, the

⁹⁴ "Getting over such process and the conditions of this country created something within me, an anger. I am very angry. I am angry at something, but I do not know what it is yet. I will leave everything behind. I want to talk to whichever groups whom the rights defenders do not want to defend. I should knock on their door. Who are these people?"

political crisis in the ordinary life coupled with her experience in dealing with her trauma made her realize to reorient herself towards a new path on which she could confront with the social and political pressures through her professional knowledge and skills. Thus, Doğa contacted to the civil society organizations working for LGBT+ rights, one of which returned her phone call, which was appealing to her. Before knocking on their door one day, Doğa said that she had no idea what “transgender” or “LGBT” meant. However, Doğa described how she engaged with the people and relations in this social space as follows:

... Hikayem böyle başladı yani. Şöyle kimse.... Kimse beni alanda tutmadı. Ama ben de gitmedim. Öğrenmeye çok açtım. Her gün gidiyordum derneğe. Ne oluyor? Kimler var? Ne yapıyorsunuz? Olay ne iste? Sağ olsun X’in bana hakikatten emeği var. Bir anlamda hocalık yaptı. O dönemde bir büroda çalışmaya başlamıştım bir hocanın yanında ama bir ayağım dışarıda. Gideceğim yani, çok kalmayacağım belli.... Ben tamamen gönüllü bir şekilde sivil toplum içinde LGBT haklarıyla başlamış oldum

In Doğa’s narrative it is possible to observe how personal autonomy is distinguished from individual agency or professional independence. Doğa worked towards creating the potentialities stay in this field. In that sense, Doğa’s efforts were informed neither for fighting for the oppressed as a bare witness of or attaining independence from socio-political pressures, but her everyday interactions in becoming familiar with the LGBT+ bodies, as she allowed herself to learn from her personal encounters with from others’ experiences.

Similarly, Usagi tried to find her sense of direction after completing her mandatory legal training. Usagi told that she realized that she did not want to work as an employee of a law firm since she wanted to have more autonomy in picking the legal issues. Establishing her own law office, Usagi stated that she had a hard time adjusting to the conditions of the legal market, which led her to be involved in legal aid services

through which she was assigned to random criminal cases by the Istanbul Bar Associations. Through this particular experience, Usagi gained knowledge and skills in dealing with the proceedings in police stations. Usagi also started to work with the women's center and the center which specifically focused on legal issues concerning violence against women at Ankara Bar Association. Usagi gained access to this field as follows: "Az buçuk feminist camiadaydık. Kadın çalışmalarında özel öğrencilikler yaptım. Sürekli feminist okumalar yapıyordum yani bir şekilde. Çok küçüktüm. On sekizden itibaren yavaş yavaş alana girişim feminizmle oldu. Kendimi o anlamda çok yetiştirdim çok kafamı açtı."⁹⁵

Despite her prior knowledge on gender identity and sexual orientation and familiarity with the transgender subjects in this field, Usagi became attracted to dealing with the legal issues concerning sex work, rather than violation of the rights of LGBT+ subjects. Usagi described the sources that informed her interest on sex work as follows:

Seks işçiliği bana daha şey geldi... Yani hem boşluk hukukta yasal kısmı var. Bir yandan suç değil. Ama inanılmaz kriminalize edilen bir alan... Hepimizin varlığını asla reddedemeyeceğimiz de bir alan. Politik görüşümüz duruşumuz muhafazakarlık seviyemiz ne olursa olsun reddedemeyeceğimiz bir alan. O sebeple seks işçiliği, evet, ilgimi çekti diyebilirim.⁹⁶

Usagi's previous experience in this field provided her insight to the extent that women were exploited in sex work and porn sectors; however, sex work as an ambiguous issue of the legal practice particularly attracted Usagi's attention. In addition to the legal aspect of seks work, professional relations with her clients also brought about a new

⁹⁵ "Somewhat I was a member of feminist community. I took special classes in gender studies. I was constantly doing feminist readings. I was very young. Since I was 18, I slowly entered into this field via feminism. I invested a lot in this field in improving myself [this experience] really opened my mind."

⁹⁶ "Sex work was rather something appealing to me since... I mean on the one hand there is a legal gap [concerning this issue]. On the other hand, it is a field that is incredibly criminalized. It is a field the existence of which we all cannot deny. Regardless of our political view or the level of our conservatism, this is a field which we cannot deny. Therefore, I indeed became attracted to [working on the] sex work field."

perspective to Usagi's apprehension of the distinction between subjects of gendered based exploitation, subjects of the law, and client bodies, seeking for legal counseling.

Usagi narrates her insights from her encounters with sex worker clients as follows:

Yani danışanla görüşme esnasında kendini ajite etme işte... O hukuki danışılacak konunun sınırlarını aşıp ardındaki hikâyeyi öğrenme gibi bir çabaya girmeden, çok teknik bir görüşme yaptım aslında. İlk girdiğim andan itibaren öyle... O bakışım da yaklaşımım da baya değişti. Tabi ki de bu inanılmaz derecede şiddet ve sömürü içeren bir alan. Ama bir yandan bunu meslek edinmiş olan ve sadece çalışma koşullarının iyileştirmesini isteyen inanılmaz bir kite var. O baya bir benim şeyimi değiştirdi. Normalde biri bana seks işçiliği yapıyorum desin ve bir şey izletse ben ağlamaya başlardım yani.⁹⁷

As she started giving voluntary legal counseling through civil society organizations, Usagi told the stories to which she was exposed became ordinary things, enabling a protentional for professional legal practice. Usagi also recalls the challenges she encountered while working at different positions within several commissions concerning legal issues centered around gender at the Bar Association. For Usagi, the professional conventions in the social spaces of these commissions were very limited and insufficient for her professional attractions. For instance, Usagi told me that they barely provided legal services for sex workers. In addition, the generational gap between *avukats* made it harder for younger *avukats* like Usagi to transform the conventional approaches to gender and sexuality. As Usagi realized her dissatisfaction with this socio-cultural environment of the professional space, she decided to fully invest in working with the rights of sex workers contacted to the civil society organizations. However, the

⁹⁷ "I mean things like self-agitation while holding an interview with a client ... I actually hold the interviews [with clients] without having an effort to learn about the story behind the legal issue at hand and hold [these interviews] in a strictly technical manner. It was like that since day one. This view and approach also fundamentally changed. Of course, this is a field in which there are incredible levels of violence and exploitation. However, there is an incredibly large mass of people, whom adopted [sex work] as a professional occupation and who just want to have better working conditions. This really changed something in me. Normally, I use to start crying when someone told me that they do sex work or made me watch something [related to sex work]."

pressure on civil society organizations through random inspections posed another challenge to Usagi, who refers to her at this point as “an *avukat* dedicated to work on human rights,” as she was required to allocate her professional time in providing legal assistance to the civil society organizations to secure their legal existence.

Oya, who also was inspired by feminist legal thought and practices, was concerned about such pressures on feminist organizations so much so that she asked a couple of times about confidentiality procedures as most civil society organizations feel a pressure due to the threat of being randomly closed down. Oya’s encounter with feminism, first shaped by the concepts of women’s rights, as well as the practice of “helping women” about which she became critical throughout her feminist journey and which she has paid attention not to engage with. Oya explained the difference between feminist practices and the practice of “helping women” as follows:

Bence birçok feministin bile feminizmle tanışması toplumsal cinsiyet üzerine düşünmeye başlaması birazcık böyle kadın hakları ve tırnak içerisinde şu an çok uzak hissettiğim ve asla kullanmadığım yardım üzerinden başlıyor. Nüveleri var işte, biz küçüklükte ailede bunu görmüşüz. Ama asıl yükseldiğimiz nokta, bir kadının şiddet gördüğü ve haklarının ihlal edildiği noktada bir şeyler yapmalıyım oluyor. ‘Güya bir başkasına yardım ediyoruz ama kendimizi dönüştürüyoruz’ meselesi için içerisine girince ortaya çıkıyor. Ben de tırnak içerisinde yardım etmek için girdim ama sonrasında feminist oldum ve yardım etme düşüncesinin ne kadar hastalıklı bir şey olduğunu da fark ettim aslında... Bir kere yardım ettiğim tırnak içerisinde kadınların benden farklı olmadığını gördüm. Onları şiddete maruz kalan kadın olarak tanımlıyorum ama ben de her gün hayatımda otobüste evde işte şiddete maruz kalıyorum. Aynı olduğumu gördüğüm noktada, “Ben kimseye yardım etmiyorum” [dedim.] “Birlikte güçleniyoruz, birbirimizi destekliyoruz” gibi bir şey ortaya çıktı. Kimi zaman ben ona hukuki bilgi sağlıyorum. Örneğin bir başvuru alırken ama kadının bana verdiği cevap benim bir şeyleri dönüp düşünmeme sebep olabiliyor. Yani çok farklı şeyler gözlemliyorum [bu karşılaşmalar esnasında]. Dolayısıyla birbirimizden

beslendiğimizi anladığım noktada “Evet bu yardım değilmiş aslında. Ben kendim de güçleniyordum” fikri geldi.⁹⁸

Oya’s narrative highlighted the socio-political effects of acts of compassion through her critique on the practice of ‘helping others.’ Oya’s experience concerning this practice made her realized that these acts, which were directed towards bringing forward women’s agency or independence, were rather informed by situating oneself as a savior rather than addressing the material and political conditions through which the women were subjected to different forms of gender-based violence. For Oya, gender was something learned through experience. Oya’s insight concerning the practices of ‘helping others’ also shed a light to how the socio-political norms and hierarchies created through looking at other’s pain. For Oya, the encounters with women clients became a practice of learning from each other and sharing different experiences concerning the gender-based discrimination and violence.

Identifying herself as a feminist, Ferzan built on her professional path through her engagement with the women’s branch of a political party. This social environment allowed her to meet with a mentor with whom she started to work later, establish networks, and receive professional training. This social place became Ferzan’s diving force in bringing together forty women’s organization, they established a cooperative that

⁹⁸ “I think most feminist meet and start to think about gender through women’s rights and [the practices of “help” from which I currently feel distant and which I never use. We observe the core of such things within family while we were kids. But the moment when we raise up saying I should do something is usually when a woman is subjected to violence and her rights are violated. Engaging in these practices, it becomes clear that the issue is ‘as if we are helping women, but we actually transforming ourselves’. I also involved in [these practices] to “help” [others] but I became a feminist and came to realize how sick the idea of “helping” was. First, I observe that “the women I helped” are not different from me. I refer to them as women who are exposed to violence; however, I also exposed to violence in my everyday life, in public buses, at home, and at my workplace. When I noticed that we are all the same, [I said] “I do not help anyone.” Something such as “We are stronger together; we are supporting each other” came up. Sometimes I provide legal information to her. For instance, when I receive an application, the answers the woman gives makes me stop and think about somethings. I mean, I observe many different issues [during these encounters]. Therefore, when I realized that we nourish each other, the idea of “Yes, this is not help. I also became stronger” became apparent [to me].”

worked to combat violence against women, which they ran for six years. This place also paved the way for establishing collaborations among women's and LGBT organizations. Ferzan recalls recognizing how prevalent homophobia was in their cooperative when the members of a LGBT organization had their lunch to support Kurdish women's labor. Thus, some women working in their cooperative to having LGBT customers and told that they did not want them in the cooperative. Upon this incident, along with the LGBT organization the cooperative organized a training to discuss what homophobia was? During this training, the trainer asked: "How would you react if your child opens up to you about their homosexuality?" Ferzan narrates how this question led her build her current conception of democracy as follows:

Dedim ki, "Yani hani... onu reddetmek filan gibi bir şey asla söz konusu olmaz ama hani üzülürüm bu toplum onu çok hırpalayacak diye dedim. Üzülürüm dedim. Hırpalanacak dedim. Hırpalanacak diye üzülürüm," dedim. "Bu da homofobik," dedi. Bunu üzerine çok düşündüm biraz okumaya başladım filan. Sonra iş hayatında... Yani bu en baştan beri düşüncemdi, benim demokratik bakış açım bu: insanlar yasayamadıkları üretmedikleri ekonomik anlamda kendi yaşamlarını idame ettirmeleri için gerekli olan ekonomik güce sahip olmadıkları sürece, marjinalleştirir ve topluma da acı katarlar. Bunun önüne geçmek için iş hayatı içerisinde kendi kimlikleri ile var olmalarını sağlamak lazım. Zaten benim etnik kimlik açısından onlarla özdeşleşmiş bir var oluş mücadelem vardır doğduğum günden bu yana. Hem kadın hem de Kürt kimliğimi LGBT kimliği ile özdeşleştirdim. Aslında aynı şeyleri yaşadığımı hissettim. İkisi de bir var oluş mücadelesiydi.⁹⁹

In Ferzan's narrative, it is possible to observe that personal memory unfolds affective attachments to certain experiences more so than the sequential events. Thus, as

⁹⁹ "I said... "I mean... Disowning my child [for asking such a question] is something out of the question, but I would be upset because I would be concerned that this society was going to ill-treat her. I would be sad. She is going to be battered. I would be sad because she would be ill-treated. She [the trainer] said "This is also homophobic." Upon her answer, I started thinking and started doing some readings. Later in professional life, I mean this was my thought process from the beginning, my democratic perspective: as long as people cannot live [their life], produce, attain the economic power they need to live on, they are marginalized and they add more suffering on the society. Avoiding this requires ensuring their existence with their identities in work life. Since I was born, I have already had my own struggle concerning my ethnic identity through which I identify with them. I associated my women and Kurdish identities with LGBT identity. Actually, I thought I had similar life experiences. Both were struggles to exist."

Ferzan tries to answer the trainer's question, animating a scenario in which her child comes out as lesbian/bisexual to her, her thought processes become disoriented, which reflects on her repetitive expression of her emotions. Imagining such future, Ferzan zeros in on a potentiality which depends on a possibility of her child having a particular sexual orientation and in which her child may face life-threatening situations in which the LGBT+ bodies are victimized. In this potential future, the child's body appears as an object that belongs to Ferzan, the potential loss of which instigate an imminent fear that becomes attached to LGBT+ bodies. In that sense, the future present potentialities associated with LGBT+ bodies are objectified through the past present situations of the ordinary life in shaping the personal and public filters in the ongoing present. Thus, reckoned with her homophobia, Ferzan was prompted to think about creating the potentialities in which bodies did not have to go through a struggle to belong to the society in the ongoing present rather than in-between past and future present.

Most narratives of my respondents, who engaged in the civil society organizations working on LGBT+ rights during their legal education and professional training, underscored the events that were carved in the collective memory of the LGBT+ community. Evren, who gained access to LGBT+ rights activism through his personal networks, recalls how the legislative processes in amending the criminal law prompted the activist to address the gendered and discriminatory language of the body of law. Started through the discussions on specific terms such as 'manslaughter', Evren shared that the activist attempts centered on forming an association and working towards making the term sexual orientation included in the provisions regulating hate crimes. While the former turned this social network into a legally visible political and cultural environment

for LGBT+ community, the latter made the term ‘sexual orientation’ visible as a category of human rights for the first time despite the fact that this term was not included in the final draft of the proposed legislation. Evren’s first concrete participation in the activities concerning the rights of and the rights violations against LGBT+ people were geared towards providing legal aid for the transgender sex workers, who were exposed to police violence and torture in Istanbul. Evren narrates his witnessing of these events in the following:

Trans seks işçileri o dönem çok fazla gözaltına alıyordu. İşte karakollarda Hortum Süleyman vakası vardı. Başka vakalar da vardı. Onlara yardımcı olamıyorduk. Onları nezarethanede ziyarette gitmek istediğimizde enteresan durumlarla karşılaşılıyorduk. Ondan sonra trans seks işçilerine nasıl faydalı olabiliriz diye bir hukuki metin yazmıştık. Gözaltına alındığında hakları neler en azından bunları bilsinler diye. Ve o dönem gece geç saatlere kadar Tarlabası’nda İstiklal’de dolanıyorduk seks işçilerinin mesai saatlerinde. O broşürleri onlara dağıtıyorduk. Ondan sonra enteresan bir şey oldu. Dernekte trans birey yokken, biz o broşürleri dağıttıktan sonra çok fazla trans birey gelmeye başladı. Ama şöyle geldiler: “Biz bunları anlamadık. Bu ne demek?” Hani öyle olumsuz bir eleştiri ile geri dönüt yaptılar. Öyle olunca da dernekteki bazı arkadaşlar, “Biz bunları lubunca yazalım.” Onların kendi aralarında kullandıkları bir dil. Ve tüm o metni onların anlayacağı bir dile getirdik ve tekrar dağıttıktan sonra hani hak mücadelesi konusunda da olumlu şeyler olmaya başladı. Fakat tabi gözaltına alındıkları için derneğe haber ediyordular. Avukat yoktu. Biz aktivist olarak yapmaya çalışılıyorduk. Gelen avukatlar da kendi homofobileri ile bir şey yapmıyorlar vs. Öyle bir süreçti.¹⁰⁰

¹⁰⁰ Trans sex workers were frequently taken into police custody. There was Hortum Süleyman event in police stations. There were other events as well. But we could not help them. When we tried to visit them in the jail, we encountered intriguing situations. Then, we drafted a document thinking how we can be beneficial for sex workers. So that they would know what their rights are when they were taken under police custody. And we spent time in Tarlabası and İstiklal during the working hours of sex workers. We disseminate the brochures that we created. After that something fascinating happened. While there were no transgender people in the association, but many they started to come after we disseminated the brochures. But this is how they came: “We did not understand this. What does this mean?” They gave us a negative feedback. Then, some friends from the association offered, “Lets rewrite these in lubun language. A language they created among themselves. After we edited the entire text to make it more accessible for them, positive things started to happen as well. But, [the sex workers] informed the association when they were taken into custody. There were no avukat. We tried to do something as an activist. The lawyers assigned to by the bar association did not do anything based on their homophobia ect. This was that kind of a process.

In Evren's narrative first event that appears is 'Hose Süleyman', which is the nickname given to the chief of police, Süleyman Ulusoy, in early 1990s İstanbul based on his use of hose as an object for the physiological and physical beatings and torture. However, the systematic torture against transgender people was not new as a massive ill-treatment practice by the state institutions in Turkey. Thus, in 1980s transgender people were hunted on the streets by the police, then packed into trains to be sent out of İstanbul¹⁰¹. The gendered nature of torture practices, as experimented on particular bodies, can also be observed in the testimonies of women political prisoners during and after the 1980s military coup¹⁰². Especially during 1990s, the torture and state killings against the members of the leftist and Kurdish political movements became a part of the collective memory and a common practice of the ordinary life. The transgender community and Kurdish movement specifically became a common target of the mainstream media. While the bodies of transgender sex workers were referred to as "terror on streets," the Kurdish bodies is associated with political terror in the mass media discourse.

Growing up in 1980s and 1990s Turkey, Evren was familiar with the ordinary life shaped after the political trauma of 1980s military coup. Evren endeavored to channel his legal knowledge in creating potentialities for transgender sex workers to protect themselves after becoming familiar with ill treatment against them. Evren's effort also unfolds the double barrier for transgender sex workers' access to law and justice through the technical language of law and the effect of prevalent homophobia among *avukats*, who had access to the language and practices of law. The activist bodies, including Evren as an *avukat* in the making, effort to translate the body of law into the specific language,

¹⁰¹ See Siyah Pembe Üçgen. 2012. *80'lerde Lubunya Olmak*. İzmir: Siyah Pembe Üçgen.

¹⁰² Mamaklı Kadınlar Kitap Grubu. 2011. *Kaktüsler Susuz da Yaşar: Kadınlar Mamak Cezaevini Anlatıyor*. Ankara: Dipnot.

lubunca, which transgender sex workers developed among themselves in surviving the police attacks and torture. In that sense, the activist bodies, as intermediaries, in-between everyday life and the knowledge and practices of law, played a key role for the bodies of transgender sex workers to gain access to the language of law in creating the potentialities for their survival in the face of a brutal social and institutional attack against them.

Fırat, who worked as a partner with a colleague in his law office, played an active role in the legal case concerning the annulment of Lambda İstanbul association, an event in which LGBT rights became visible through a legal struggle for the first time.¹⁰³ Engaged in the activities of the LGBT association in İstanbul in mid 2000s, he recalled putting an intensive effort in addressing hate crimes against trans women and the police attacks against transgender sex workers. Fırat spent his weekend in the shuttling back and forth between the courthouse and the police stations in Beyoğlu and Şişli, the neighborhoods that were common workplaces for the transgender sex worker community. Referring to the collaborative efforts of activists and *avukats* as “good days,” Fırat narrated the changes they made as an outcome of such efforts as follows:

Çok güzel günlerdi. O mücadele neticesinde işte günün birinde Beyoğlu emniyet müdürü davet etti bizi. Dernek olarak gittik, görüştük işte biz ne yapabiliriz, onlar ne yapabilirler. Karşılıklı görüşmelerimiz oldu. Ve bir süre boyunca bir sessizlik

¹⁰³ Within a couple of months after its establishment as an association in 2006, Lambda İstanbul faced with a series of administrative challenges and criminal lawsuit. In its response to Lambda İstanbul’s application, the Ministry of Interior alleged that the establishment of this association was against the law and the public morals, as well as incomplete since the term Lambda was required to be clearly stated in Turkish. The directorate of associations under İstanbul governor’s office requested the public prosecutor of İstanbul to file a criminal lawsuit to annul Lambda İstanbul. While the public prosecutor office decided on non-prosecution concerning this petition, a local court pressured the public prosecutor’s office on the procedural grounds that such decision should be given by a judge and the legal merits that the constitutional freedoms can be restricted based the national law and jurisprudence. The criminal case concerning annulment of Lambda İstanbul, which was filed in 2007, was concluded with a decision against Lambda İstanbul in less than a year. However, the Supreme court reversed this decision in 2009 when Lambda İstanbul LGTT Dayanışma Derneği (Lambda İstanbul LGTT Solidarity Association) was officially established.

oldu Beyoğlu çevresinde. Tabi ki sonrasında İstanbul il emniyet müdürünün değişmesiyle durum da değişti. 2009 -2010 döneminde Hüseyin Çapkın bonus sistemini getirdi. Ne kadar gözaltı olursa ne kadar işlem olursa o kadar bonus kazanılması söz konusu oluyordu. Bütün bunları dernekteki arkadaşlarla beraber raporlamıştık. O raporlamalar neticesinde il insan haklarına başvurduk. İl insan haklarından geldiler. Görüşmeler oldu. Biz gittik. Karşılıklı 2011, 2012'ye kadar devletle iyi bir mesafe kat etmiştik. Çalışma ve Sosyal Güvenlik Bakanlığı'nın kimi etkinliklerine davet alıyorduk çalışma hayatı ile ilgili. Öbür taraftan trans bireylerin çalışma koşullarıyla ilgili iyileştirmeler yapmak üzere o dönemde vali yardımcısı bizi davet ediyordu. İl insan hakları kurumu sorumlusu oydu. Onla ne yapabiliriz konuşuyorduk. Atölyelerin kurulması, büyük şehir belediyesinin yürüttüğü ISMEK benzer atölyelerin kurulması ve trans bireylerin farklı alanlarda istihdam edilmesi konusunda projelerimiz söz konusu oldu.¹⁰⁴

Fırat described how this situation changed when the deputy governor was reassigned to a different city and the mutual interactions between the grassroots community and the state institutions had fully ceased to end when Gezi Part Uprising happened in 2013. Fırat's narrative clearly introduces that the legal struggle for transgender bodies constitutes a historical present of LGBT+ activism through which the grassroots efforts paved the way for the potentialities to change the political and material conditions that defined the transgender bodies and determined their livelihoods. While grassroots efforts paved the way for the potentialities to change the political and material conditions that defined the transgender bodies and determined their livelihoods, the relationship between transgender bodies, the body of the law, and the state bodies was shaped by who represented these bodies. On the one hand, Fırat's avukat body and the

¹⁰⁴ "These were good days. As a result of this struggle, the police chief of Beyoğlu district invited us for a meeting. We, as the [representatives] of the association, went and talked with him about what we could do, what they could do. We hold several meetings. And for a while Beyoğlu district became a quiet place. However, this situation has changed after a new İstanbul chief of police force was assigned. Between 2009 and 2010 [newly assigned] Hüseyin Çapkın bought about the bonus system. The more the police arrested and took action [against transgender sex workers] the more bonus they gained. We created reports on these incidents together with my friends in the association. As a result of the reporting process, we applied to the human rights commission in İstanbul. They came to visit us. We held meetings. We also went to talk to them. The reciprocal efforts continued until 2011 and 2012. On the one hand, we were invited to the events regarding work life organized by the Ministry of Labor and Social Security. On the other hand, we received invitations concerning betterment of working conditions of the transgender individuals, from the deputy governor of İstanbul, who was also in charge of the human rights commission in İstanbul. We created projects including establishing workshops and employment of transgender individuals in different sectors."

activist bodies such as Evren created a potentiality to gain access to the body of law and provided protection against right violations. On the other hand, the frequent changes in the state bodies led to impasse in the ordinary life in which the *avukat* and the activist bodies were forced to readjust themselves to these changes.

Conclusion: (Un)becoming Avukat Before/After the Law

Kafka's parable "Before the Law" in his famous book *Trial*, became of intellectual interest for several prominent names of political philosophy. The parable simply depicts the encounter between a country man and the gate keeper of law presenting law as an attractive object for a body who is unfamiliar with this object but drawn to become familiar with it based on what he heard about it. However, having access to the gate of law becomes impossible for the countryman as he ceases to die while standing before the law. In his essay *Force of Law: The Mystical Foundation of Authority*, Derrida (2001) refers to a paradox inherent in the premise of law, which he describes as this follows:

the inaccessible transcendence of the law [loi], before which and prior to which "man" stands fast, only appears infinitely transcendent and thus theological to the extent that, nearest to him, it depends only on him, on the performative act by which he institutes it: the law [loi] is transcendent, violent and nonviolent, because it depends only on who is before it (and so prior to it), on who produces it, founds it, authorizes it in an absolute performative whose presence always escapes him. (p. 270)

In Derrida's account the paradox of law is inherent in its ontology, which appears to be both transcendental and performative. While Derrida's insight on Kafka's parable provides an invaluable source for critically engaging with the ontology of law and its

subject, in this chapter I worked towards addressing whether and how this source may inspire critical questions of social theories concerning the law.

As Bourdieu (1987) demonstrates in his article, *The Force of Law: Toward a Sociology of the Juridical Field*, Bourdieu provides an insightful critique of both the idealist and the instrumentalist approaches to the internal and external pressures that shape the social universe in which the relations among legal scholars and professionals take place. According to Bourdieu (1987), this universe, to which he refers as “juridical field”, is neither a fully independent epistemic authority, nor relatively dependent on socio-political authority. For Bourdieu (1987), the juridical field is “in practice relatively independent of external determinations and pressures.” (p. 815)

Through presenting my respondents’ narratives, I discussed that the distinction between internal and external forces becomes blurred in everyday experiences and encounters. Building on Berlant’s discussions concerning the historical of present and Ahmed’s theoretical model of sociality of emotions, I demonstrated that my respondents invested in receiving legal education based on various reasons, one of which is based on the historical function and premises of law. While having access to the knowledge of law and legal practice is considered to be an opportunity, the narratives of my respondents presented that having access to such position does not lead them to choose their clients that have similar political and economic interests. I further presented that legal education and professional training constituted social spaces of law through which emotional attachments to the bodies are disseminated by the narratives of professors in which both aesthetics attributions to professional bodies are negotiated by both the historical and the contemporary knowledges and practices of law.

Chapter 4

(Un)Becoming *Avukat*: Inhabiting Law as A Queer Space

I started my professional training in international business law at a ‘boutique’ law office in İstanbul. Taking the route to working in an international business law office was a “bewildering” experience in my professional journey. Thus, the knowledge and the practices of legal such field, which were predominantly informed by the Common law tradition. However, this tradition is completely unfamiliar to those, who were trained in the national law education in Turkey that is predominantly influenced by the Continental European Law tradition. Considering the conditions of living comfortably that such a position offered, I was initially attracted to the average salary offered by these law offices, which was higher than any job position I came across in the legal market in 2008. What made me eligible for this position was having a ‘sufficient level’ of English language skills, as well as the rarity of such skill among law school graduates. However, I was unfamiliar with not only the Common Law tradition but also to what extent and how such tradition was practiced in the context of the international business market and the national legal system in Turkey. In addition to adjusting to the spaces, relations, and practices of working in a boutique law office, I also tried both to learn about the language and practices of such a ‘foreign’ field of law and to understand what was expected from me in terms of the everyday practices in the law office¹⁰⁵.

¹⁰⁵ The former task required me to acquire a set of skills, which varied from writing a memorandum note to a client to preparing a draft contract in both legal English and Turkish through base on a template my boss provided. The latter task required me to acquire a specific legal research and writing skill in which I was expected to provide an answer to the questions of clients through reviewing the case law and legal opinions concerning the national body of corporate law.

While juggling these tasks in my everyday professional practice, I often found myself wondering where I was going and how I would find my way in this uncharted territory of law. In one of these instances, I remember the extent to which I felt completely lost. I recall my first time translating a contract from English to Turkish during which I spent several days at my desk which was located in the darkest back room of the law office as I worked with the thickest legal dictionary I have ever seen in my life. Sending the draft translation to my boss was such a relief. But it lasted only a couple of hours as my boss appeared at my desk with a printed copy of my draft, covered with her hand-made corrections and notes. As she handed me the copy, she advised me not to rediscover America, an idiom used in colloquial Turkish to refer to reinventing the wheel.

I remember feeling completely lost as I was looking at the copy and thinking that I was back to where I started. Thus, I knew that the terms, ‘rediscovering America’ and ‘invention the wheel’ signified what should already be known to the person occupying a specific professional body. However, in this case, these idioms also referred to a gesture, which assumed that anything related to a professional task can and should be known ‘here and now’ to a professional body occupying a specific professional position. While this assumption informed by a potentiality that a professional body is considered to have based on their educational background, as well as professional experience and skill sets, it disregards both the temporal proximity of a professional body to the knowledge and practices of how to perform certain tasks and the material conditions under which a professional body performed each and every task required by the “here and now” situations of ordinary work life.

The retrospective structure of these idioms introduces a paradox in which professional bodies were required to work towards and within an ‘unknown,’ which has already become impossible particularly because of the assumed imminent access to the professional knowledge and practices required to perform professional tasks. In other words, a professional body is set up for both performing certain tasks based on their potentiality in dealing with an unfamiliar situation and failing to deal with such situations depending on the level of their familiarity with these tasks. In her book, *Queer Phenomenology*, Sarah Ahmed (2006) articulates this perplexing situation as follows:

We could say that history “happens” in the very repetition of gestures, which is what gives bodies their tendencies. We might note here that the labor of such repetition disappears through labor: if we work hard at something, then it seems “effortless.” This paradox with effort it becomes effortless-is precisely what makes history disappear in the moment of its enactment. The repetition of the work is what makes the work disappear. (p.56)

Building on phenomenological works, social theories, and feminist critique concerning how bodies are historically shaped, Ahmed shows that the enactment of a gesture ‘here and now’ is a product of history and labor that is taken for granted as it is repeated in everyday life. Thus, my boss’s advice located my performance at both the base line, which is associated with an event as old as the discovery of America or invention the wheel, and the finish line, where I would have known how this task should be performed.

Located in-between these temporal lines, I was at an unfamiliar but yet to become familiar place, which unfolded an imminent potentiality and impossibility of becoming a professional body of international business law field. The professional body, which is attracted to such potentiality, work towards repeating certain gestures in making her/his/their labor to seem effortless; however, the moment in which such labor seems effortless, the history of such labor disappears as the potentiality of becoming becomes

impossible. If the repetition generates an effect through which both history and labor disappear in shaping how we act, as well as who we become, what effect does history have on how bodies act in the ongoing present? To what extent and how repetitive gestures required for professional work shapes who we become? How does the absence or presence of the history of labor affect where, how, and for how long we occupy professional positions?

In this chapter, I address these questions to comprehend how legal professional bodies travel in-between what is familiar and unfamiliar to them as they move within various space of law. Following the body of *avukat*, I investigate how bodies move around various spaces of law such as courts, law offices, bar associations, and civil society, but also connect with various professional and non-professional bodies in their everyday professional practices. Considering that the issues concerning gender and sexuality were historically situated at the intersection of public/private dichotomy, which constitute the main axes both dividing the body of law, I focus on the bodily experiences of *avukat* bodies in addressing these issues as part of their professional practice. Building on queer theory, I address law as a queer space which circumvents both the objects and bodies around which the juridical and professional relations are shaped, as well as everyday actions taken in shaping these objects and bodies. I examine to what extent and how *avukat* bodies, who invest their professional labor in addressing these issues, find a way or their own way through their everyday personal and professional practices in maintaining to shape their professional path within and through the law. I argue that while legal professional bodies become an object of law as they perform their specific function based on historically determined juridical positioning, including prosecution,

defense/claim, and judgement, they also become subjects of law through taking action in shaping their professional encounters, experiences, and practices.

Through addressing law as a queer space, I intend to shed a light to how possibilities of legal change are negotiated and the relations between persons, communities, civil society organizations, and the state institutions are mediated within the gap between these juridical positions and everyday experiences of legal practice in shaping ordinary life. While legal professional bodies are a product of a common educational background in which they become familiar with the distinct knowledge, processes, practices, and languages of law, their professional experiences diverge from each other in terms of both their position in the division of juridical labor, as well as the physical and social spaces in which they practice law. The contemporary *avukatlık* practices concerning the issues concerning gender and sexuality, involve physical and emotional labor in shaping the contingent histories of law, as well as the histories of gendered and sexualized bodies in-between the public and private division of the body of law.

The professional practices of *avukats* concerning legal issues of gender and sexuality in contemporary Turkey amplify the ambiguities surrounding socio-cultural belonging in terms of public/private distinction in informing the norms and hierarchies informing the contemporary bodies of law and legal profession. For instance, in the physical setting of the court environment in Turkey, *avukat* bodies occupy the defense position, which is located next to their clients, facing the bench that is shared by both the judge and the prosecutor. Also, *avukat* bodies were exposed to gender and sexuality based discriminatory practices as much as they are associated with who their clients are,

while the position of judges and public prosecutors as state employees plays a key role in locating them closer to the state. In that sense, the distinct and diverse professional practices and experiences of *avukat* bodies in Turkey, are oriented towards legal change as they encounter the effects of the personal and professional pressures gender and sexuality norms and hierarchies more so than other legal professionals.

The narratives of my respondents presented different meanings they attributed to the professional practice of law and their personal and professional encounters in orienting themselves towards working on the legal issues of gender and sexuality as part of their everyday legal practices. The narratives concerning professional practice of law addressed different articulations of the distinctions between and conventions concerning the terms *hukukçu* (lawyer) and *avukat* (attorney) in unpacking various aesthetic attributions to legal professional practices and dispositions, which involved how legal professional engage in the subject of law in a legal issue, the distinction between theory and practice of law, and the distinct skills and practices in shaping the body of law. My respondents' narratives on personal and professional encounters uncovered how *avukats* negotiate the borders between the personal and the professional in everyday practice, how the issues, situations, and life events involving the questions of gender and sexuality affect their professional actions and dispositions, and how they create strategies in different professional and juridical spaces of law. Through analyzing these narratives, I demonstrate different temporal and spatial dimensions of the law, which is shaped by not only the historical division of the juridical labor, but also personal experiences and encounters as part of everyday professional practice. I discuss how *avukats* become (re-, dis-)oriented within various spaces of law while they listen to personal stories of their

clients, apprehend the subject of law based on the situation and events in ordinary life, negotiate the form and content of the body of law in transforming or reinforcing the norms and hierarchies of gender and sexuality, and work towards generating the possibilities of legal change, while sustaining their potentialities in realizing legal change, as well as the personal and professional challenges that they encounter in their everyday practices.

Through discussing law as a queer space, I intend to discuss how *avukats* shape their actions and dispositions in-between crises of and changes in the ordinary life and how crises and changes unfold as *avukats* orient towards practicing law through the recognition of particular bodies as the subjects before the law. Sarah Ahmed's queer phenomenology provides a critical theoretical ground in discussing the physical and emotional labor in transforming matters and forms in shaping objects towards which the laboring bodies orient in everyday life. Situating the concept of orientation at the center of her phenomenological attempt, Ahmed (2006) refers to the concept of space as "dependent of bodily inhabitation." (p. 6) For Ahmed (2006), "bodies as well as objects take shape through being orientated toward each other, as an orientation that may be experienced" (p. 56) depending on how they reside in inhabiting a space. In addressing the effect of histories of labor in transforming objects and bodies, Ahmed synthesizes Marxian and Derridean critique on value and function of commodity in contributing to theories of practice through building about the critical insights of queer theory, theories of affect. Ahmed contributes to what theories of practice refer to as discourse, disposition, or strategies/tactics through underscoring a theoretical connection between

the effects of presence/absence of the histories of labor and repetition in shaping everyday life.

Through my analysis on the meanings and practices of *avukat* bodies, I open a critical discussion on how the disappearance of the historical and everyday labor in the ongoing the present affect what happens to bodies and objects as they labor towards shaping everyday spaces. In doing so, in addition Ahmed's phenomenological work, I benefit from Laurent Berlant and Michael Warner's critical insights on the role of law and political ideology in promoting the discourses, objects, and practices concerning marriage, family, and child, which are set in motion in organizing "a hegemonic national public around sex." (1998, 550) I demonstrate the act of sex provided a basis for legal culpability of bodies that introduce not only socio-cultural but also material implications for those who fail to comply with the heteronormative practices. Through unpacking the historical role of law in separating the public and private zones and shaping the norms and practices of gender and sexualities, I attempt to provide a wider perspective of law, which goes beyond its contemporary history and function in mediating everyday life through legal knowledges, languages, and practices of professional bodies. Instead, I discuss how the professional practices of law transform the situations and events in ordinary life, as well as ordinary bodies, through inscribing both into an object, which travel around various spaces of law in-between the personal and the professional, the public and the private, and the familiar and the unfamiliar.

In the following sections, I first provide a theoretical road map through underscoring the critical links between Marxist, post-modern, feminist, and queer theories of law. I demonstrate how the traces of the historical informs the contemporary

functions of juridical positions and aesthetics of practice of law. Later, I discuss the meanings attributed to legal professional identities through analyzing my respondents' narratives concerning the terms *hukukçu* and *avukat*. I present that the distinctions between these terms underscore various ethical and aesthetic dimensions of legal professional practices and dispositions. Finally, I analyze how my respondents' experiences in various professional and juridical settings and encounters in the queer space of law. I demonstrate how both professional and lay bodies are entangled in constituting both objects and subjects of law depending on their position and how they position themselves. I also show how *avukat* bodies are oriented towards their client bodies, which offer a potentiality in affecting both the bodies of law and legal and generating the possibilities of legal change.

A Queer Approach to Spaces of Law

The significance of contemporary law in shaping everyday life can be discussed as a reflection of the historical processes of modernity in shaping the relations between the state and the society. Though these processes, the techniques of transforming bodies and objects established the institutional knowledge and practices that inform how everyday actions could/should be shaped in maintaining order based on the promise of security and prosperity for both the individual and the society. Thus, Michael Foucault introduces how the techniques of the law along with other sources of governmentality played a gatekeeping role in shaping the sources regulating everyday life, such as institutional discourses. Indeed, the law not only accommodated but also formed institutional

discourses in categorizing bodies based on identity categories race, ethnicity, religion, gender, and sexuality and in regulating the actions of these bodies based on the aesthetics forms of formal and informal, as well as public and private.

As Judith Butler (1990) presents, the languages and practices of law constituted a performative space for bodies to be socially and politically to be recognized. In her insightful critique on the tightly knit connections between gender and sexuality, Butler (1990), further addresses identity as an effect of such history, which established a border between what is internal and external to a body, while bodily performance transcends such border in everyday life. Building on Ahmed's critique on disappearing effect of history and labor from the repetitive actions of everyday life, I investigate how bodily performances are shaped in the gap between 'the historical' function and everyday practices of law. I further ask to what extent and how the practice of law can inform temporal and spatial differences concerning gender and sexuality performances; how does the issues of gender and sexuality unfold the historical that disappeared in the repetitive acts of everyday life; what is the historical that disappeared in informing the issues concerning gender and sexuality in the ongoing present?

In discussing how 'the historical' were situated the law at the center of everyday life, I first turn to Marxist critique on identity and ideology in which he discussed the conception of history and labor in detaching the bodies from actions and emotions through empirical abstractions. In his famous work *The German Ideology*, Karl Marx (1998) observes a historical change in how civil society organized around individual property and morality in the eighteenth century, which continued to develop through formation of national histories, as well as the world history. For Marx (1998), these

historical developments created a significant effect in creating a gap between history and ordinary life, which he articulates in his following quote:

In the whole conception of history up to the present this real basis of history has either been totally neglected or else considered as a minor matter quite irrelevant to the course of history. History must, therefore, always be written according to an extraneous standard; the real production of life seems to be primeval history, while the truly historical appears to be separated from ordinary life, something extra-superterrestrial. (p. 62)

“The real basis of history” in Marx’s statement refers to the “sum of productive forces, capital funds, and social forms of intercourse.” (1998, p.62) For Marx (1998), such outcome has been generated by critiques of Hegelian system, who discarded the histories of production by concentrating on an essentialist conception of “man” as ‘self-conscious’ and ‘unique’. Marx further expands this critique through discussing the theses of Feuerbach and highlights the issues brought about by the idealist empiricism in explaining the reasons for the gap opened by the removal of histories of production from the ordinary life. Marx identifies two main problems in Feuerbach’s discussions, one of which is his goal to establish a “a correct consciousness” for the ‘common man’ as it disregards the material conditions under which everyday life are shaped. Second, Marx (1998) grapples with Feuerbach’s conception of “sensuous world” (p. 44) in which objects considered external to consciousness and feeling and which is perceived in both a profane and a higher fashion. Marx argues that the present conditions of life, which was shaped by both the history of industrial development and commercial activity, as well as the everyday practices and labor is displaced from the sensuous world of Feuerbach.

Here, Marx shows how the idealist ideologues’ emphasis on self-consciousness and their disregard for material conditions of life creates a specific conception of historical epoch in generating the gap between the history and ordinary life. Marx further

discusses the ramifications of historical representation of the state and civil society through the idealist lenses of philosophers, one of which is the function of law in representing the general will, more specifically civil law in legitimizing the relations of property emerged in the eighteenth century. Despite that Marx comes up with an essentialized view of ruling and working classes, his critique on idealism and modernity has influenced the succeeding critical theories on ideology and identity. Thus, Louis Althusser extends Marxist critique through discussing how cultural institutions, such as church, school, and law, play a role in reproducing power relations. The structuralist approach inherent in Marx's and Althusser's works, situates law as dependent to the State in the service of ruling classes; however, the successors of structural Marxist critique, which I will refer to as theories of practice, focuses on knowledges, discourses, practices, strategies, and tactics in demonstrating how power runs through bodies and objects through the encounters and interactions in everyday life.

In his socio-cultural inquiry, Pierre Bourdieu (1987), a well-known theorist of everyday practices, discussed how the law is constituted by a symbolic order that relies on its specific language and transforms through the competition among legal professional interests in determining the law. Bourdieu (1987) presents that the body of law constitutes "rules and procedures with a claim to universality is the product of a division of labor resulting from the competition among different forms of competence, at once hostile and complementary." (p. 821) Bourdieu (1987) discusses how the juridical positions require different forms of professional competence, which are transformed into specific forms of capital in shaping the competition between legal professional bodies within hierarchies, categories, and classifications of legal profession depending on

temporally specific national traditions of law, as well as based on areas of specialization within the fundamental division between public and private law. Bourdieu (1987) further claims that these bodies hold divergent interests based on their position within the internal hierarchy of the body of their profession, which draws parallel to the social position of the bodies they represent. In that sense, the relative independence of law depends on the historically constituted symbolic language and knowledge of law as well as everyday legal practices that are shaped by the juridical and professional relations.

For Bourdieu (1987), legal professional body constitute an intermediary, that is independent from other social formations, which transforms social conflicts into rational arguments in organizing the public representations of social conflict. Bourdieu defines how such body functions in shaping judicial space of law as follows:

The juridical field is a social space organized around the conversion of direct conflict between directly concerned parties into juridically regulated debate between professionals acting by proxy. It is also the space in which such debate functions. These professionals have in common their knowledge and their acceptance of the rules of the legal game, that is, the written and unwritten laws of the field itself, even those required to achieve victory over the letter of the law. (p. 830)

In his description, Bourdieu uses the term legal game to underscore that organization of this social space depends on a competition between legal professionals that requires to have a command of legal language in winning the debate, as well as how to appeal to formal and informal ways of approaching the conflict at hand. For Bourdieu, it is the common educational background and professional experience that inform professionals' dispositions, to which he refers as "legal habitus" (p. 833) in perceiving and assessing ordinary conflicts, as they become oriented towards transforming legal aspirations into the legal language during juridical debates. Bourdieu further discusses how such distinct disposition makes their services required, which allows them wield

power over whether or not to transform legal aspirations into legal actions. In that sense, Bourdieu points out to law education and professional experience as sources of cultural and social capital which are transformed into a symbolic power as long as legal services are needed. Bourdieu narrowly defines such need as “impression of an injustice.” (p. 833) While most appeals to legal services are made based on a feeling of justice, some are made to clarify ones’ position or official recognition of a status before the law. The need for legal services is a broader implication of the significance that law historically gained in everyday life.

It is possible to observe in a similar approach in Bourdieu’s attributions to professional motivations. For Bourdieu, professionals are either motivated by “financial gain,” “their ethical and political inclinations,” or “their objective relations with other professionals.” (Bourdieu 1987, p. 834) Thus, Bourdieu (1987) further argues that “the field transforms their pre-judicial interests into legal cases and transforms into social capital the professional qualifications that guarantees the mastery of the juridical resources required by the field’s own logic.” (p. 834) In Bourdieu’s depiction, while legal professionals’ motivations are purely informed by reason of advancing their position in their professional practice, the juridical field transforms through accommodating the historical determined juridical positionalities and professional dispositions, as well as professional interests and practices of professional bodies.

Through his discussion, Bourdieu (1987) brings forth a socio-cultural critique of law and legal profession, which were considered either seen as abstract ethical and aesthetics forms or instruments of power per se by both foundational philosophers and Marxist critiques of modernity. However, as Alan Pottage (2004) points out, Bourdieu’s

socio-cultural theories both recognize Saussurian structuralism, yet still entertains a great deal of its traces. Pottage (2004) explains that while Bourdieu observes that the world of the theorist does not pay attention to the practical demands, which obscures how bodies participate into social relations, his emphasis on “objective relations” draws parallel to Saussure’s attribution meaning making in which relations precede objects. However, Pottage (2004) argues that law does more than just naming things, in fact it constructs things such as “subjectivity and subjection”. Thus, in a latter discussion, Pottage (2004) claims that the distinction between persons and object are informed by their visibility and functionality, while this distinction disappears within the ontological formation of the world.

Marilyn Strathearn (2004) contributes to this discussion through addressing to what extent a body is considered a thing or a person and whether and how one has ownership over one’s own or another’s body through her anthropological case study on offering a woman’s body as a compensation for a blood feud in-between social obligation based on tradition and Euro-American fabrication of wholeness of body. Strathearn (2004) discusses that Euro-American legal fabrication of wholeness appears in a double sight of “a functioning (or once functioning organism” and “the individual person as subject and agent.” (p. 210) Like Pottage (2004), Strathearn (2004) further argues that it is through taking action in claiming rights the abstraction of single person unfolds as having multiple origins, embedded in particular histories and history of particular bodies. Despite the symbolic distinction between professional and lay bodies, they become entangled in as both bodies, subjects, and objects of the law through everyday practice of law. Furthermore, what Bourdieu refers to as “social conflicts,” which are central to the

transformation of juridical field, include individual and collective histories of bodies and objects that inform both the historical and the present of legal practice. Thus, as professional bodies become familiar with unfamiliar histories, they may also become (re-, dis-) oriented towards taking legal action, which depends on how they related to these histories, rather than professional interest or political inclinations.

In unpacking the effect of these histories, as well as the interactions between bodies and objects, I turn back to Sarah Ahmed's queer phenomenology, which offers an analytical ground to discuss how bodies become oriented in everyday life. For Ahmed, "orientations shape not only how we inhabit space, but how we apprehend this world of shared inhabitation as well as "who" or "what" we direct our energy and attention towards." (Ahmed 2006, p. 3) Ahmed (2006) defines queer phenomenology as a paying attention to objects and bodies "that deviate or are deviant." (p. 3) However, how then the legal professionals, who make public the social conflicts in translating them into the language of law and transforming them into legal debates, as Bourdieu discussed, oriented towards those, who are not within reach?

Berlant and Warner (1998) provides an answer to how some bodies are made into deviant through "a tacit sense of rightness and norm" (pp. 554) which reduces apprehension of a complex set of sexual practices and social relations based on heterosexuality and privatized sexual culture. For, Berlant and Warner (1998), "the sense of rightness" is what they refer to as heteronormativity, which is reinforced by discourses and practices depending on a conventional conception of familial and romantic relationships "signifies belonging to society in a deep and normal way." (p. 554) Berlant

and Warner (1998) further explains further the effect of heteronormativity in encompassing the zones of ordinary as follows:

Heteronormativity is more than ideology, or prejudice, or phobia against gays and lesbians; it is produced in almost every aspect of the forms and arrangements of social life: nationality, the state, and the law; commerce; medicine; and education; as well as in the conventions and affects of narrativity and romance, and other protected spaces of culture. It is hard to see these fields as heteronormative because the sexual culture straight people inhabit is so diffuse, a mix of languages they are just developing with premodern notions of sexuality so ancient that their material conditions feel hard-wired into personhood. (p. 554)

In that sense, heteronormativity not only establishes hierarchies between gendered and sexualized bodies, but also imposes forms through institutional knowledge and practices, in affecting how to enact intimacy in everyday life. As Berlant and Warner (1998) points out while heteronormative norms and hierarchies materialize in marriage and family law in shaping everyday domestic spaces and zoning the political economy of ordinary life, queer culture does not rely on an “institutional matrix for its counter intimacies.” (p. 562) Then, to what extent and how the practice of law provide an insight to the contestation between conventional and counter intimacies? What does such contestation unfold about professional and juridical positionalities that were shaped by different formations of law as an institution, a language, and a practice? How both professional and non-professional bodies, as well as bodies and objects, inhabit the queer space of law?

I suggest that the historical link between the critiques of contemporary history and everyday practices sheds a light to the reciprocal relationship between professional positionalities and personal experiences in shaping both personal and collective histories of the ordinary. Thus, the idealist conception of historical epoch came to inform institutional and professional ethics and aesthetics, while Marxist critique underscored that idealist empiricism allowed a positionality through which everyday life was

apprehended through abstractions of bodies and practices particularly because it disregarded and because it was detached from material conditions of bodily existence in shaping relations of production. However, such critique, which was also driven to apprehending ‘the real’ essence of bodies ended up positioning bodies based on what they considered ‘the real’ was. The critiques that were oriented towards a post-structural understanding of the theory and practice of law effort to go beyond the essentialism inherent in the idealist and functionalist approaches through discussing how the material and cultural conditions of everyday life is mediated by the theory, language, and practice of law. As this critique was driven to apprehend the reciprocal relationship between the symbolic language of law and the historical and ‘objective’ relations between juridical division of labor, it positioned everyday encounters between bodies in terms of the extent to which they have access to and how they were oriented towards professional and political interests. However, as post-modern critiques discussed the symbolic language of law that distinguishes persons from objects is far from the ‘objective’ as it is shaped by an author, who is oriented towards a specific audience. Finally, queer theory allows us to not go beyond the distinctions between bodies and objects as well as public and private conceptions of political, legal and social institutions.

Inspired by these critical queer theories, I focus on the bodily experience through addressing law as a queer space. Through discussing personal experiences of *avukats* in practicing law as they situate themselves in their respective professional and juridical positioning, I offer a critical discussion on the ethical and aesthetical distinctions that inform legal professional identities. I further examine personal narratives in discussing how particularized bodies arrive at a proximity within the reach of *avukats*, what matters

in the histories of these bodies that orients *avukats* towards taking legal action, and how these *avukats* inhabit the space of law along with other legal bodies. Through these discussions, I demonstrate that the bodily movements and dispositions *avukat*, who situate them in-between the personal and the professional through their professional practices concerning gender and sexuality, unfolds how everyday experiences and practices is mediated and negotiated between public and private law and the personal and the political, as well as the familiar and the unfamiliar spaces, bodies, and objects.

Queer Bodies/Orientations in Legal Practice: Hukukçu vs. Avukat

Avukat as a body represents both a juridical subjectivity and a category of legal professional identities depending on its positionality within the spaces of law. The body of an *avukat*, as a juridical subject, represents the judicial positionality of ‘defense’ against the positionalities of ‘judgement’ and ‘prosecution’, while *avukat* as a professional body is distinguished from judge and public prosecutor based on its location in private practice. These differences between the juridical positionalities and professional practices conflate the concept of *hukukçu* (lawyer), which forms a discursive body and space through which legal professional bodies are defined and identified, as well as distinguished from one and other.

Like every lawyer in Turkey, I heard and used the term *hukukçu* several times; however, I cannot recall any moment in which I witnessed or engaged in a discussion on this term during my legal or professional education. That is why, in my previous study on *everyday* practices of *avukats* I included the question of what *hukukçu* means as I was

convinced that this term was related to the professional H/history and C/culture of legal practice in Turkey. The narratives of *hukukçu* in the interviews that I held back in 2011, drew somewhat of a similar picture with those I collected as part of this dissertation. Thus, my respondents recognized that the notion of *hukukçu* is something that adds a specific value to the professional practice of law rather than something that is directly acquired through legal education or practice; however, most of them had difficulty giving a straightforward answer to the question of what *hukukçu* means.

In the colloquial language, the term *hukukçu* is used to refer to those who hold a law degree. However, however, among legal scholars and professionals, *hukukçu* refers to those who have a distinct approach to the theory and practice of law. While the former establishes an ontological ground based the knowledge of legal theory and practice, the latter is an orientation towards shaping the body of law based on a specific ethics and aesthetics. In that sense, the double sight of *hukukçu* establishes both a playful boundary in defining and refining who belongs to the scholarly and professional community of the law and a form through which scholar and professional bodies reside in this community.

The body of *hukukçu* is definitely an abstraction, the meanings of which are negotiated in both everyday spaces of law, as well as scholarly discussions on legal education¹⁰⁶. Thus, different meanings attributed to the terms *hukukçu* allows us to observe how professional bodies as an object of the law is shaped through the juridical and professional practices and how bodies become a matter of professional community of law through mass legal education, while they take different forms in terms of their function and value for this community. In discussing the historical background of objects,

¹⁰⁶ See Schlosser, Hans, Cihangirođlu, Celal. 1976. "Hukukçunun Yetiştirilmesi Ve Modern Toplum (Hukukçu Mu Yoksa Sosyal Düzenleyici Mi?)". *Ankara Üniversitesi Hukuk Fakültesi Dergisi* 33: 105-123.

Ahmed (2006) refers to the Marxian theory of commodity fetishism, which distinguishes between the use value of matter and the exchange value of matter brought about by the form. For Ahmed, the orientation of the object is informed by both “the history of ‘what appears’ and how it is shaped by histories of work.” (p. 43) In other words, the orientation of an object depends on multiple histories of labor that transform matter into form, as well as that is shaped around the everyday function of the object.

I discuss *hukukçu* as an orientation of *avukat* through analyzing the narratives of my respondents concerning what informs the notion of *hukukçu*. The narratives of *hukukçu* introduced some ethical questions concerning ways of seeing the body of a client and of listening to the narratives of experiencing the situations and events taking place in the ordinary life. These narratives also unfolded the aesthetic attributions to the distinction between the theory and practice of law in shaping distinct ways in which between professional dispositions. Through analyzing these narratives, I present an overview of the sources that inform the ethical and the aesthetic practice of law in shedding a light to the specific value the practices of *hukukçu* adds to apprehension of social and political implications of law beyond personal and professional interests.

The narratives on the term *hukukçu* reveals its ambiguous and performative character through my respondent’s references to exemplary situations rather than giving descriptive definitions. For instance, Avatar started her answer by giving an example of how she used the term in her daily interactions: “... *hukukçu* kimliğinle soruyorum bana öyle cevap ver diyorum avukat kimliğine soruyorum demiyorum mesela.”¹⁰⁷ For Avatar, *hukukçu* is someone, who has practical intelligence and who is capable of identifying and

¹⁰⁷ “I want you to give an answer [to my question] based on your *hukukçu* identity not as an *avukat*.”

interpreting legal rights without becoming detached from its subject in bringing forward a specific way of defining and interpreting these rights.

In Avatar's description, *hukukçu* is oriented towards apprehending who their/her/his client are in addition to what legal issue(s) needs to be addressed. In that sense, *hukukçu* as an orientation requires having the former as a professional capacity in addition to the latter that is the prevalent pragmatic approach to the formal practices of law. Similarly, for Siyah, who defined *avukat* as an intermediary between the court and the legal subject, there is distinction between an *avukat* and an *avukat* who is also a *hukukçu*. Siyah explained this distinction as follows:

İş olarak baktığınız zaman, bunu şöyle matematiksel olarak değerlendirebilirsiniz.... Yargıtay kararlarını önünüze açarsınız, makaleler okursunuz, kanun hükümlerine bakarsınız. Olur veya olmaz dersiniz. Ve bir şekilde ona bir yön çizmiş olursunuz. Duruşmaları takip edersiniz, zaptları alır çıkarsınız. Ama hukukçu olan bir avukat şu noktada şöyle devreye girebilir bence: Şimdi özellikle mesela çocuk davası üzerinden örnek vermek istiyorum... Davanın iki tarafı da çocuk diyelim mesela. Çocuk koruma kanunda suça sürüklenen çocuklara ilişkin tedbir alınması gerekiyor. Kanunda mağdur çocuk diğer çocuk diye bir ayırım yok. Ama mesela suça sürüklenen çocuk da bir fail olarak görülüyor Türkiye'de. Yetişkin gibi yargılanıyor. Mağdur avukatı olarak da bir psikolojik veya sağlık tedbiri talep ediyorsanız iste bu avukatın hukukçu olmaya başladığı hukukçu olduğu noktadır. Çünkü burada aslında evrensel bir şey var, bakış açısı var, 'çocuğun üstün yararı' diye. Uluslararası sözleşmeler var vs... Bir hukukçu olarak o inisiyatifi avukat almıyorsa bunu ısıktıyorsa o çocuk o psikolojik tedbirleri almayacak belki... Bu toplumsal bir şey aynı zamanda. Hukukçu olmak avukatın da perspektifini ve bakış açını geliştiren bir şey... Hukukçu bence bunları da arar. Müvekkilinin kim olduğunu da arar aslında, suçu arar, suçu tanımlamaya çalışır. Suçu işleyen kişiyi tanımaya çalışır. Ama onu nasıl tanımlamaya nasıl çalışır? Faruk Erem'in söylediği gibi suçu kazıyan altından insan çıkar düsturu ile... Suçun altındaki insanı tanımaya çalışır. Çalışma koşullarının yaşam koşullarını anlayama çalışır... Hukukçu nosyonunu edinmiş bir avukat bence idealize edilmiş bir avukatlık.¹⁰⁸

¹⁰⁸ "When you consider it as a business, you can make the following mathematical consideration... You look at judicial decisions, read articles, and review the laws. You determine whether it [the success in a legal case] is possible or not possible. And at that point you shape the direction of the case. You attend the court hearings receive the court decision and leave. However, an avukat who is also a hukukçu enters into the picture at this point as follows: I would like to give an example based on legal cases concerning children's rights. Let's assume both parties to the legal case is a child. There is a requirement in the Child

In Siyah’s narrative, it is possible to observe both qualities Avatar mentioned in her description. In addition, Siyah emphasized that *hukukçu avukat* is someone who is capable of apprehending the socio-cultural background behind how bodies become criminalized objects. Referring to *hukukçu* as perspective, Siyah’s narrative also presents *hukukçu* as an orientation that brings about an added value to the orientation of *avukat* as it allows *avukat* body to apprehend multiple aspects of life events and socio-cultural conditions that shape these events.

Fırat draws a parallel distinction between *avukat* and *hukukçu* emphasizing the differences in terms of professional goals and skills in the following: “Avukat belli alanlarda çalışan oradan bir geçim sağlamaya çalışan kişiyi tanımlar; *hukukçu* dediğimiz biraz daha geniş düşünebilen her alanda çalışabilen bir insan.” For Fırat, if *avukat* does not empathize with their/her/his client and focus on addressing a certain clientele, they are no different than a shopkeeper; however, if *avukat* attain a wider perspective as *hukukçu* then their work transforms into a struggle for legal rights. Fırat provides an example of the latter attribution through his experience as follows:

Yıllar öncesinde cinsiyet geçiş sürecinde yazdığımız dilekçeyle bugünkü bir yazdığımız dilekçe arasında fark var. Bir şeyler ekliyorsun, bir şeyler öğreniyorsun, onu eklemliyorsun... Bir yere getirmeye çalışıyorsun ya da başka bir konu üzerinden belli bir seviyeye geliyorsun. Sadece avukatlık yapacak olsak on yıl öncesinde kullandığımız dilekçeyi isimleri ve tarihleri değiştirerek ver.

Protection Law. The law does not distinguish between the child who is the victim or the other child. But, for instance, the children were led to crime is considered a perpetrator in Turkey. They are tried as adults. If you request a psychological and medical measures as the attorney of the victim, this is when an *avukat* started to become a *hukukçu*. Because there is something such as a universal, a point of view called ‘the best interest of the child’. There are international conventions etc. If *avukat* does not take such an initiative as a *hukukçu*, if they/she/he misses that, this child would receive [the benefits of] such psychological measure... This is also a social issue. Being *hukukçu* improves *avukat*’s perspective and point of view... I believe *hukukçu* [is someone who] also seek to find these: whom their/her/his client is and what the crime is. [Hukukçu] tries to recognize the person who committed the crime. But how? With the motto that if you scratch the crime, you will find human beneath it, as Faruk Erem said... [Hukukçu] tries to recognize the human beneath the crime and the conditions under which this person lived and worked... An *avukat* who attained the notion of *hukukçu* is an idealized version of *avukatlık*.”

Öyle düşünmüyorsun. Bunu yaparken de mahkeme kâtibi, en alt derecedeki mübaşirin, kalem müdürünü sonrasında hâkimi etkilemeye çalışıyorsun. Yani bir avukatlık yapacak olsan gidersin iki dakikada kararını almaya çalışırsın ama biz aksine bir hukukçu olarak olaya bakmaya çalışıyoruz, hâkime de anlatmaya çalışıyoruz. Hastaneye yazılması gereken bir dilekçenin nasıl olması gerektiğini ben anlatıyorum. Çünkü bilmeyebilir bildikleri şey yanlış da olabiliyor. Hakimlerin de tensip tutarken emniyete yazı yazılmasını istediklerinde kriminalize etme söz konusu. Bunun olmaması için gayret ediyorsun. Yargılanıyorsa veya hüküm almışsa o trans kadın veya erkek cinsiyet geçişi engel mi değil mi. Yüzlerce dosyadan aranıyor olabilir. Onun da engel olmaması gerekiyor onu anlatmaya çalışıyoruz her bir defasında.¹⁰⁹

In Fırat's narrative, *hukukçu* appears as someone, who is not only oriented towards updating and advancing her/his/ their legal knowledge and practice, but also educates other professionals through her/his/ their insights. However, the practices of an *avukat* may be informed by just getting the job done as quick and practical as possible.

Like Fırat, Doğa described the practices of *hukukçu* is oriented towards intellectual production concerning the knowledge and practices of law as opposed to judges and public prosecutors, whom Doğa associated with professional practice of the law. However, for Doğa *avukat* is oriented towards both the intellectual and the practical aspect of law. While Doğa listed *avukat* among the specific group including legal academics and authors, she also described *avukat* as a professional who has to manage their financial and emotional relationship with their client. In Doğa's narrative, *avukats*

¹⁰⁹ "There is a difference between the petition that I wrote today and the one I wrote years ago. You add something, you learn something, you integrate that... You try to carry it further or you attain a different level [of knowledge/understanding]. If you do [an ordinary] avukatlık, then you [can] submit the same petition you wrote years ago after you change the names and the dates. This is not how you think. While you do that [acting like a hukukçu] you try to make an impression on the court clerks, the court officers, and then the judge. I mean you will do [an ordinary] avukatlık then you try to receive the court's decision as soon as possible but on the contrary, we try to see through the perspective of hukukçu and explain the situation to the judge. I tell them [the judges] how they should write a petition to the hospitals [in gender reassignment cases]. Because they may not know, because they would know it wrong. They can criminalize [the transgender people], when they are making request to collect sources about the case. You try to prevent that. [For instance, if the client] is being tried or prosecuted, [you should] ask whether this situation impedes transgender woman or man to go through their gender reassignment processes. They may be indicted in a thousand legal cases. Even this should not impede this process, this is what we are trying to tell [the judges] every single time."

engage in both the intellectual world of law which is usually associated with scholarly activities, and everyday financial and emotional aspects of their professional work, which is associated with the experience of practicing law.

Yasemin, who considered herself as both *avukat* and *hukukçu*, laughed before giving and answer to the question of who is a *hukukçu*. Yasemin explained why she laughed telling, “Bence çok ciddi bir ayırım var da o yüzden gülüyorum. Ben bunu kullanıyorum da o yüzden güldüm. “Bunlar avukatlar, hukukçu değil” derim mesela.”¹¹⁰ Yasemin’s first reaction towards this distinction underscores the ambiguity immanent to the this double sight of *hukukçu*. Thus, as Yasemin presented, it is only through observing the performance of bodies, one distinguishes whether a legal professional body is a *hukukçu* or not. Yasemin provided descriptions of *hukukçu* and *avukat* based on how one performs the law as follows:

Hukukçu aynı zamanda hukuku yaratan; hani davayı kazanmak kazanmamak değil, hukukun performe edilmesine, hukuktaki boşluğu ortaya çıkarmaya, hukukun yaratılmasına da odaklanan; yalnızca davasına değil davadaki fayda zarara, tabi müvekkilin aleyhine olmamak kaydıyla... Avukatlığı şöyle görüyorum avukatlık çok ciddi bir sorumluluk ve sen müvekkilinin en yararına ne varsa yapmak zorundasın ve bunu bilmek de zorundasın bence. Dolayısıyla ben bilmediğim davaları almayan bir avukatım.¹¹¹

In Yasemin’s narrative *hukukçu* is oriented towards shaping the form and content of the law, while *avukats* are rather oriented towards their clients based on their professional ethics concerning knowing and doing what is best for the client. In that sense, professional practice of the law is situated in-between public and private interests, which

¹¹⁰ “I am laughing because there is a significant difference between *hukukçu* and *avukat*. I use this distinction this is why I am laughing. I say, “these are *avukats*, not *hukukçu*” for instance.”

¹¹¹ “*Hukukçu* is someone who creates the law [in addition to the professional practice] and who focuses on not whether s/he/they win the case, but on performing of the law, revealing legal gaps, and creating the law, as well as focuses on the benefit or harm in not only her/his/their case but in any case, on the condition that her/his/their client does not receive any harm [based on such activity].”

becomes materialized in the body of the client. Yasemin narrates the distinction between *hukukçu* and *avukat* bodies as follows:

Herkes hukukçu değil. Avukat olanlar var. Mesela bu hukukçu olanlar akademide olmasalar bile makale yazıyorlar hukuk üretilmesine katkıda bulunuyorlar. Böyle bloglar, avukat siteleri var. Orda birileri bir alanda makale yazıyor. Bunlar da avukat. Bir de bütün bu işlerle hiç ilgilenmeyip al gülüm ver gülüm. Onlar da esnaf bence... Felsefi boyutu var, siyasi, politik ideolojik boyutları var hukukçu olmanın. Avukat olmak bütün bunlardan ari olabilir. Senin için fark etmeyebilir ideolojik olarak orada ne döndüğü, felsefik olarak nerede bir hata olup olmadığı, yaklaşımın nasıl benimsendiği. Ben piyasada çok insan görüyorum. Önemli olan davanın onun istediği gibi sonuçlanması. Derinleşmeyen, düşünmeyen ve öyle performe eden çok fazla insan var... [Avukat] çözüm üretme işi almıştır ve işi tamamlamaktır onun için mesele. Yani insana dokunmayan bir şekilde de yapar o işi. O insanın psikolojisini hayatına edeceği etkileri çok önemsemeyebilir, profesyonel bakabilir ama hukukçu soruna çözüm üretendir bence. Hukuk bunun için getirilmiştir: Toplumsal yaşamdaki hayatı düzenlemek, sorunları çözmek ve çözüm üretmek.¹¹²

Like Doğa, Yasemin's narrative underscored the intellectual labor and contributions to law as a fundamental factor in distinguishing between *hukukçu* and *avukat*. However, Yasemin further highlighted *hukukçu*'s specific interest in ideological and political implications of legal practice, as well as the philosophy of law, which may or may not be a part of an *avukat*'s professional practices. Yasemin's account on the distinction between *hukukçu* and *avukat* also pointed out a striking difference in addressing the

¹¹² "Not everyone is hukukçu. There are those that are [only]avukats. For instance, [those avukats] who are hukukçu but do not work in academia, contribute the process of creating the law through their publications. There are blogs, websites crated by avukats. Some publishes an article concerning a specific field. These are avukats, as well. [However,] there are also those, who do not engage in such practices, but are interested in practices such as "you scratch my back, and I will scratch yours" ... There is a philosophical and political aspect to being a hukukçu. Being an avukat may be completely free from these aspects. What is happening in terms of ideology, whether there is a philosophical mistake or not, how a specific approach is adopted may not make a difference [for those avukats]. I see a lot of people working in the legal market. For those, what matters is that the case is closed in favor of them. There are so many people who perform law without completing on [these issues] [Avukat] undertakes the job of solving problems and what matters for her/him/them is to get this job done. I mean s/he/they can get this job done without touching upon the human. S/he/they may not care much about the psychology of the human and how the life of such human would be affected [by her/his/their actions], may considered it as a professional matter; however, I think hukukçu is the one who creates solutions. This is the reason why the [institution of] law established: to regulate the social relations, solving problems, and creating solutions to problems."

historical function attributed to the professional bodies in solving problems through everyday practice of the law. Yasemin's narrative not only presented two visions of problem-solving function, which was oriented towards either the problem abstracted from an existing case or the problem that affects the personal interests involved in this case, but also marked such distinction through addressing how the effects on the practice of law reflects the 'human'. Considering that human came to signify both the abstract and material forms of a body, especially thought the historical development of law, Yasemin's reference to 'human' instead of the terms 'person' or 'client' is far from coincidental.

Yasemin's reference, not only connects different meanings attributed to the historical function of legal profession, but also underscores the historical function of the term human in signifying both the abstract and material forms of bodies, as well as establishing a link between both universal and local meanings attributed to the subject of rights. Thus, Wendy Brown (1995) discusses the paradoxes brought about rights as "an ahistorical, acultural, acontextual idiom" (p. 97). For Brown (1995), while rights become politically efficient as much as they are formed in a historically and socially specific fashion, they are employed as a political discourse that belongs to "the general, the generic and universal." (p. 97) While Brown focuses on the political implications on the discourse of rights in North America, such paradox have also significant impressions on the Historical and Cultural development of the contemporary legal profession in shaping the ethical and aesthetic dispositions, which were assessed through the practice of law. In that sense, the linguistic form of human becomes an affective object in shaping the professional orientations and dispositions. Thus, it could be argued that the work of

hukukçu is oriented towards the universal, while *avukat*'s work dwells on the local. Thus, Yasemin following narrative emphasizes the link between the culturally specific meanings attributed to the practices of *avukat* in Turkey in terms of the extent to which these practices are oriented towards the competition on in the legal market in comparison to those of Northern Europe in the following:

Aslında bence onlar avukat da değiller. Aslında yaptığı bir nevi esnaflık, hizmet sektörü. Yani avukatlık da o değil bence. Avukatlığın saygınlığı kriterleri var Batı Avrupa'da falan. Onlara uygun hareket edildiğini düşünmüyorum. Türkiye'de bir nevi ticarete dönüşmüş durumda avukatlık. Bazısı büyük esnaf, iş adamı. Bazısı bakkal hesabı esnaf.¹¹³

In Yasemin's narrative, the forms of *avukatlık* that are oriented towards the competition over legal market in Turkey is something that is less than what *avukatlık* is or ought to be. While the historically and culturally specific development of legal profession and market in Turkey is assessed based on the universalized apprehension of European ethics and aesthetics of the practice of law rather than addressed as part of the cultural and material effects of neoliberal restructuring of the law. In that sense, the distinctions between professional orientations of *hukukçu* and *avukat* unfolds the Historical, which is manifested in the discourse of human as the subject of rights and the market competition. As the Historical/historical informs the ethical and aesthetical assessment of temporally and spatially specific practices in everyday life, it disappears from the apprehension of the cultural and material transformation of law and legal profession in the ongoing present.

¹¹³ "Actually, I think they are not avukat either. In fact, what they do is a type of craftsmanship, a service sector. I mean, I think this is not avukatlık. Avukatlık has reputable criteria in Northern Europe. I think, [these criteria] are not followed. Avukatlık has turned into some kind of trade in Turkey. Some of them are big craftsmen, [like] a businessman. Some of them are handicraftsmen that are similar to a shopkeeper."

Another manifestation of the historical concerning future aspirations of law and legal profession can be observed in Hazan's narrative. Like Yasemin, Hazan had an apparent reaction to the question on the definition of *hukukçu*. First, Hazan made a gesture that means "Here we go!" Followingly, she sighed and said that this was the hardest question in my questionnaire. For Hazan, *avukatlık* was the profession through which she made a living for herself. Hazan described what *hukukçu* meant in the following:

Para kazandırсын ya da kazandırmasın, toplumsal ilişkileri ve toplumsal hayatı düzenleyen yasalar, yasa yapım süreçleri vs. bunlarla ilgili biraz daha kafa patlatmak.... İnsanlığa dair değerler ileriye giderken bu hukuki mekanizmalarını da nasıl buna paralel bir şekilde insan haklarını da koruyarak daha üst düzeye çıkarabiliriz, daha geliştirebiliriz, neler yapabiliriz diye düşünmek bence... Avukatlık içerisinde bazen bunu düşünüyoruz bunu gözetiyoruz bence. İşte kopuş savunmaları yaptığımız oluyor mahkemelere gidip.¹¹⁴

In Hazan' narrative, *hukukçu* is associated with an intellectual labor to which financial gain is irrelevant and in which legal professionals undertake the task of improving the legal mechanisms to protect 'human' rights in parallel to the progress of 'humanity'. In addition, Hazan's narrative presents that *avukat* occasionally adopts *hukukçu* practices, which for her becomes manifested in what she referred to as *kopuş savunması* (opening defense or an opening during the defense). I asked Hazan to explain what *kopuş savunması* mean, as I was hearing this term for the first time. Hazan described this term through giving two examples, one of which is the criminal case related to defamation that the President of Turkey filed against a LGBTQ+ rights activist in 2014. Hazan explained

¹¹⁴ "Regardless of whether we make money or not, it means to pondering over the rules and the legislative processes that regulate social relations and social life a little bit more... While the values regarding humanity moves forward, I think that it is the act of thinking on how we can enhance and develop legal mechanisms, what else we can do... I think we sometimes think about and pay regard to these issues during our avukatlık practices. Well, there are times when we make a *kopuş* during a trial."

how *avukats* created a defense strategy that does not conform to conventional practice of law in the following:

İbne kavramını sahiplenmek mesela bu kopuş savunmasıdır. Ben ibne demedim demek değil. İbne dedim evet, ama niye dedim. İbne niye bir hakaret değil. İbne dedim evet ama niye dedim, ibne ne demek, ibne niye bir hakaret değil bunu sahiplenmek. Bu bence hukukçuluk.¹¹⁵

In this exemplary case¹¹⁶, Hazan explained how *avukats*' tried to make an opening through highlighting the difference between conventional and queer attributions to the term *ibne*. While this term historically deployed as an insult to discriminate against LGBTQ+ people in eliminating sexualities and sexual cultures other than the hegemonic sexual relations and practices of heterosexuality, most LGBTQ+ and queer movements in Turkey embraced the term as a way of resisting to the social and political pressures based on the conventions of heteronormativity. Hazan's narrative presents that in shaping their defense, *avukats*' were oriented to towards on the latter meaning, which is informed by their professional experience in becoming familiar with their clients' personal experiences concerning stigmatization and discrimination. In that sense, the practices such as making an opening in a legal case may pave the way for the experience of the particularized bodies to become a part of both the body law and the history of law.

Hazan's second example underscored the juridical position of defending individual bodies against the state also informed *avukat*'s professional orientations towards creative strategies, even in cases concerning state security. Hazan narrates such creative approach in the high-profile criminal case, known as Fetullah Terrorist

¹¹⁵ For instance, owning up *ibne* is an opening case. [The opening case] is not telling that I did not say *ibne*. It is to tell that yes, I did say *ibne*, but let me explain why I did. [Here, *avukat* explains that] *ibne* is not an insult and why it is not an insult. I think this is a [example of] practice of *hukukçu*.

¹¹⁶ See <https://lgbtnewsturkey.com/2015/05/08/whoever-criticizes-erdogan-finds-themselves-in-court-here-are-the-court-cases/>

Organization (FETO), which was alleged to plot a military coup attempt in 2016. Hazan described how the position of *avukat* as relatively independent from the state compared to a judge or a public prosecutor allowed these professional bodies to affect the course of some present and future cases, which would have significant political and social implications in the following:

Bu bylock’la ilgili yani önce herkesi alıyorlardı. Sonra işte bir avukatla bir bilirkişi oturup beraber çalışarak şunu ortaya çıkardılar: Bir kişinin telefonunda bylock’un yüklü olmuş olması ya da bir dönem yüklenip sonra kaldırılmış olması o kişinin bylock üzerinden bu sadece terör örgütü üyeliğine delil sayılamaz. Çünkü telefonuna başkası tarafından yüklenmiş olabilir, yüklenmiş ama hiç kullanmamış olabilir. Bilişim alanında bununla ilgili uzman raporu hazırladılar ve patır patır tahliyeler. Bütün dosyaların yönü değişti. Yargıtay’ın içtihatları değişti. Bunu yapan hâkim değişti, savcı değişti. Alanında uzman yazılımcı biriyle oturup bir avukat tespit etti ve yaptı bunu o kopuşu avukat sağladı. Gerçekten FETO dosyalarının kaderini değiştiren bir gelişmeydi bu mesele. Niye? Çünkü avukat devlet memuru değil. Avukat şöyle demiyor: “Devletime zeval geldi. O zaman bunun için gerekeni yaptım demiyor.” Avukat gerçekten biraz daha hak temelli düşünmek zorunda olan ve bu düşünüşü diğer iki sac ayağına aktarmak zorunda olan kişi. Ve genelde böyle kopuşlarda avukat savunmalarıyla yaşıyor. Yani ben şimdiye kadar hiç duymadım bir hâkim savcı oturdu da söyle bir şey düşündü de sonra yargıda bilmem ne değişti. Hiç böyle bir şey olmuyor yani. Sürekli avukatların didinmeleri, debelenmeleri, ısrar ısrarla söylemeleri sonucu bir şeyler değişiyor.¹¹⁷

In Hazan’s narrative, *kopuş savunması* appears as an opening in a case in which the *avukat* is oriented to changing the conventional view of the Supreme Court on the use of

¹¹⁷ “At first, they would take everyone related to this bylock app into custody. However, later, an avukat and an information technologies (IT) expert worked together and has revealed this: the fact that the bylock app has been installed in a person’s cell phone or that a previously installed bylock app was removed from a person’s cell phone does not per se constitute an evidence of being a member of a terrorist organization. Because this app may be installed to this person’s phone by someone else or it could have been installed but not used at all. They created an IT report after which the suspects were started to be released one after the other. The direction of each [related] case has entirely changed. The supreme court case law practices have changed. It was not the judge or the prosecutor that made it possible. An IT expert and an avukat that identified this problem, and it was avukat who made an opening in this case possible. This issue changed the course of all FETO cases. Why? Because avukat is not a state official. An avukat does not say something like, “My state has been harmed. That is why I did what needed to be done.” Avukat is the person who needs to think from a rights-based a perspective and to transfer such thinking to other two trivets [of the juridical space]. Such openings usually occur through avukats’ defense. I mean, I have never heard of any incident in which a judge or a prosecutor thought something as such that paved the way for a juridical change based. This never happens. Things change based on avukats constantly foundering, toiling, moiling, and insistently discussing [such things].”

a technological object as a means for committing terror crimes. For Hazan, such opening is not inherent to but more likely to occur through *avukatlık* practices based on *avukat*'s juridical positioning and functioning of legal professional bodies before the state. Hazan's narrative also demonstrated that the reciprocal relationship between historically determined normative position and function of legal professional bodies and the personal experiences of professional practices of law. On the one hand, *avukat* is required to think beyond the stakes of the state as they engage in the legal case to defend the interests of her/his/their client before the state in making an opening in the body of law based on how they apprehend her/his/their client's interest in a legal case. On the other hand, the positions of judge and public were oriented towards to what extent and how individual situations fit in with the current body of law as they were required to pay regard to the stakes of the state as state officials. In that sense, these distinct positions function together to affect the Supreme Court's opinion which constitutes a gateway to making an opening within the body of law beyond the statutory form and content of laws and legislations. However, it is through *hukukçu* practices, which signify a professional skill to think above and beyond the current form and content of the body of law, the potentiality of legal change becomes possibility in a legal case.

The reflection of *hukukçu* practices in affecting the Supreme Court decisions paves the way for thinking on the possibilities of social and political change through and within the body of law. In Hazan's experience, occupying the position of defense, *avukats* are more likely to act upon such potentiality more so than the positions of prosecution and judgement, as they develop a distinct apprehension of each case through assessing the extent and the ways in which legal change is possible and ought to be

realized. However, as Hazan stated, not all professional practices of *avukats* draw parallel to those of *hukukçu*. Some *avukatlık* practices, such as enforcement of a bill of exchange, are oriented towards earning a living. Hazan presented the areas of law in which *hukukçu* practices are more likely to become manifested in the following:

Biraz daha kamu... Özel hukukun da tabi ki kamuyu ilgilendiren aile hukuku gibi bir sürü alanı var. Miras hukuk keza öyle. Ama biraz daha kamu hukuku yani idareyle ilişkilerimizi düzenleyen devletin pozitif ve negatif yükümlülüklerini mahkeme salonlarında hatırlattığımız işlerde hukukçuluğumuz biraz daha ön plana çıkıyor gibi hissediyorum.¹¹⁸

Hazan's narrative on *hukukçu* practices reveal that the borders between public and private law becomes blurred when the interest of an individual are positioned vis-à-vis those of the state. In such cases, the skills of *hukukçu* are manifested in reorienting the state's responsibility towards preventing the individual bodies from being harmed and providing protection for the bodies against an ongoing or possible harm. Thus, as Berlant and Warner presents, the areas of private law such as marriage and divorce law perpetuate heteronormative hierarchies of belonging in relation to sexual cultures and gender identities. In Hazan's narrative, *hukukçu* her/his/their professional skills in reminding the responsibilities of states are oriented towards making visible the counter sexualities, which were obscured by heteronormative conceptions of gender and sexuality.

Avukats are oriented towards an opening case or an opening in the course of a legal case, particularly because they embody what is required to act as a *hukukçu*. What makes such opening intelligible to other legal professional bodies? How does such opening enables

¹¹⁸“It is the public [law]... Of course, the private law has several areas, such as family law, which cut across the public [issues]. The inheritance law is likewise [such an area of law]. But I feel like, our *hukukçu* practices stands out during our works in which we remind in court rooms about the positive and negative responsibilities of the state through which our relationship with the state administration is regulated.”

and convinces the legal professional bodies in terms of the necessity of change in the established juridical opinion?

Usagi provides an insight the sources of such aspiration towards which the professional bodies are oriented. Like Yasemin and Hazan, Usagi made a gesture before providing her answer to the question of *hukukçu*. Usagi commented, “Good question!” before sharing the following description:

Çok avukat var ama çok hukukçu yok. Avukat biraz daha meslek pratiğinin karşılığı gibi. Hukukçu daha geniş bir kavram tabi ki. Avukatı, hâkimi, akademisyeni de kapsayan ama sadece meslek özelinde değil de biraz daha... Nasıl anlatabilirim ki bunu? ... Düşünme biçimi hukukçu yapıyor. Yani bir olaya yaklaşımı, olayı analiz etme, şekli yorumlama şekli... Daha böyle geniş bir kavram hukukçu gibi düşünebilmek, analiz edebilmek... Avukat tabi ki de hukukçudur, eğer bu bakış açısına veya düşünceye yaklaşma sahipse ama hepsinin sahip olabildiğini söyleyemeyiz.¹¹⁹

In Usagi’s narrative, *hukukçu* signifies all professional bodies, as well as a distinct way of thinking that includes analytical and interpretive skills, which is contingent to apprehension of events concerning a legal issue, while *avukat* appears as a category of legal professional. However, like other legal professional bodies, an *avukat* body may become a *hukukçu* as much as they master and apply these skills in everyday practice of law. In that sense, Usagi’s narrative unfolds an important distinction between theory and practice of law that is shaped by and that shapes everyday legal professional dispositions. In the following section, I will take a closer look at how such distinction is situated in informing the discursive space of *hukukçu*.

¹¹⁹ There are a lot of avukats but not many hukukçu. Avukat corresponds to more of a professional practice. Hukukçu is of course a broader term. It encompasses avukat, judge, legal scholar but not just in terms of legal profession but more like... How can I express that? ... [It is] the style of thinking that makes [one] a hukukçu. I mean, the way in which [one] approaches and analyzes an event, how [one] interprets... Thinking and making an analysis like a hukukçu seems [to me] like a broader concept. An avukat is doubtless a hukukçu if they have such perspective or style of thinking, but we cannot assume all [avukats] have that.

So far, my respondents' narrative presented *hukukçu* as an embodiment of a distinct professional disposition that is oriented towards shifting the conventions of law and legal profession through using a specific skill set of legal analysis and interpretation in transforming the ordinary events into the language and practice of law. The following narratives was focused on the descriptions of *hukukçu* in relation to the distinction between theory and practice of law. Through analyzing these narratives, I will present how the distinction between theory and practice of law is apprehended in shaping the meanings attributed to the professional dispositions of *hukukçu* and *avukat* in discussing how the intelligibility of the ordinary life events is mediated and negotiated in-between the theory and practice of law.

The narratives of my respondents' in general associated the theory of law with the labor of a *hukukçu* and the practice of law with the labor of an *avukat*. For Ferzan, "Avukatlık bir iddianın ve savunmanın pratik yaşamıdır... Hukukçu materyalleri bilir ama kullanamaz. Avukatlık bunları pratik anlamda kullanabilmektir. Hukukçu bir bilgiye sahiptir ama o bilgiyi o nasıl ve ne zaman kullanacağı nasıl yorumlayacağı nerde nasıl davranacağını avukatlıkta anlayabilir ancak."¹²⁰ In Ferzan's narrative, *avukat* embodies the distinct knowledge of practice, while *hukukçu* holds an in-depth knowledge on sources of the law. In Ferzan's description, *hukukçu* is associated with the disciplinary sources of legal knowledge, whereas *avukat* holds the knowledge of everyday legal practice in addition to the knowledge that s/he/they acquired through legal education. Contrary to the narratives on *hukukçu* as a broader practice compared to other categories

¹²⁰ "Avukatlık is the practical life of claiming and defending... Hukukçu know the sources but cannot use them. Avukatlık is the practice of using these sources. Hukukçu holds a knowledge but they can only apprehend how and when they will use it, how to interpret it, how to act where through practicing avukatlık."

of legal profession, Ferzan's narrative situates the practices of *avukat* as a distinct form of legal knowledge, as well as an epistemological source of the theory of law.

What struck me in Ferzan's description was her insight that the theory of law become intelligible through its practice. Thus, while the knowledge of law is interlaced between theory and practice, *avukat* body occupies an insider positionality within the processes in which such distinct knowledge on the practice of law is generated. In his narrative, Evren also underscores the difference between *avukat* and *hukukçu* in terms of the insider/outsider positionalities in creating the law as follows:

Hukuk teorisi üretir hukukçu. Olaylara çok dışarıdan yaklaşır ve hukuk sınırları içerisinde hareket eder. Yani hukukun koyduğu kurallar içerisinde değerlendirir ya da buna ilişkin yeni bir hukuk düzeni yaratmaya çalışır, yani kanundaki maddeleri yorumlayarak. Avukatsa kanunları mümkün olduğunca geriye atıp menfaati korumaya çalışır. Delil yaratır delilleri saklayabilir. Ondan sonra belli bir kanun maddesini kanunun yazılış amacına aykırı yorumlayabilir.¹²¹

Evren's narrative unpacks the ambiguity surrounding the function and the position of *hukukçu* in creating the theory of law, as well as a legal order. For Evren, in creating a theory of law or a legal order, *hukukçu* is situated as an outsider to the ontological formation of the law, while operating within the boundaries established by the law through her/his/their assessment and interpretation of laws and regulations. In Evren's narrative, *avukat*, who is oriented towards the interest of her/his/their client, may transgress the ethical and the epistemological boundaries of law in their professional practices. In that sense, *avukat*, who is positioned as an insider to the ontological formation of the law, may operate both inside and outside of the boundaries of the law

¹²¹ A *hukukçu* produces a legal theory, considers the legal issues from outside, while remaining within the boundaries of law. I mean, considers these issues according to the principles established by the law or tries to create a new legal system based on their/her/his interpretation of these issues. Avukats try to protect the interest of their client as they push back the legal rules and principles. They can create or hide evidence or make false interpretations.

depending on her/his/their professional strategies/tactics in practicing law. Evren's depiction of the function and position of *hukukçu* and *avukat* are not only distinguished based on their orientations towards the theory and practice of law, but also informed by their ontological insider/outsider position, as well as their ethical and epistemological approaches in negotiating everyday knowledges and practices of the law.

Similarly, Rengin defines the positions of *hukukçu* and *avukat* in relation to their proximity towards the theory and practice of the law.

Hukukçu için teorik alanını daha iyi hazmedebilen, biraz daha vizyona ve ön görüye sahip, adalet ve hukuk kavramlarını birbiri içerisine iyice yedirmiş hem ulusal hem uluslararası ulusal üstü dediğimiz hukuk kurallarının hem toplumsal hem de diğer toplumların nabızlarını ölçerek o şeye karar verebilen, biraz da karar mekanizması güçlü, karar verme yetisi, vizyon ve nosyona sahip... Ama teorik alanı daha güçlü bir yerden görüyorum. Ve güncel şeyi takip etmeyi de biliyor. Avukat daha pratik alanda. Ama daha dar bir bakış açısına sahip. Ve biraz daha yerelde kalmış. Hani kendini dava dosyalarına göre şekillendiren. İlerleyen ya da geliştirilen hukuk sistemine göre değil de aldığı dava dosyaları ve müvekkil portföyüne göre geliştiren bir meslek. Hukukçuluk aslında bir kimlik ama avukatlık onun bir mesleği yani. Hakimlik de benim için hukukçu. Savcılar da hukukçular olabilirler. Ve akademisyen de hukukçudur ama işte burada meslek dediğimde daha çok avukatlık, hakimlik, savcılık biraz daha hukukçuluktan uzak hani. En azından benim yaşadığım ülkede ben böyle görüyorum.¹²²

In Rengin's narrative, the ontology of *hukukçu* appears as a transcendental body, which apprehending both universal, regional, national, and local forms of law without dismissing the differences within a society and between societies through a priory conception of situations and distinct capabilities and skills sets. Rengin's narrative

¹²² "Hukukçu is [someone, who] is capable of digesting the theoretical field [of law], who has vision and foresight, combined the concepts of justice and law; who makes decisions through examining both the national, international, and supranational laws, as well as the social rules and the rules of other societies; who has a strong judgment mechanism, an ability to decide, a vision and a notion [of law]. But I think [hukukçu] has a strong [foot] in theoretical field. And [hukukçu] knows how to pursue the actual things [events]. Avukat falls under the practical field [of law]. [Avukat] has rather a limited perspective. And situated in the local. I mean [avukat] is someone who] shapes their [practices] based on the legal cases that they work on. It is a profession that develops based on the legal cases and the client profile that they have, not in accordance with the progressing or developing legal system. Hukukçuluk (lawyering) is an identity, [while] avukatlık is one of its professions. For me, judges are also hukukçu. Public prosecutors may be hukukçu. And legal scholars are hukukçu as well; however, we I refer to professions, avukatlık, judgeship, prosecutorship, these are rather distant from hukukçuluk. At least, it is my understanding, this is what I observe in the country in which I live."

distinguished *hukukçu*, which she associated with the realm of theory from the legal professional bodies, which she identified with practice of law. Rengin not only situates *hukukçu* as above and beyond the limits of practices of law and legal profession. Nevertheless, Rengin stated that legal professionals may be considered a *hukukçu*, while she did not explain how and when. In that sense, it could be argued that *hukukçu* is an idealized form, which both distinguishes and establishes hierarchies between theory and practice of the law.

The narratives of my respondents concerning who a *hukukçu* is presented that the discursive space of *hukukçu* involves the following practices: identifying the social position and identities of a client body in determining the personal interests are involved in a legal case; communicating the effects of social and political changes on the knowledge and practices of law through intellectual labor, as well as everyday interactions among legal professionals; generating possibilities of legal change through an opening case or making an opening in a case; and addressing the socio-cultural norms and hierarchies through negotiating the personal and the political interests in-between public and private laws. Despite the fact that the practices summarized here may be a partial view of the discursive space of *hukukçu*, it provides an insight to the apprehension of the historical concerning professional practice of law, the distinction between the personal and the professional, as well as the distinction between person and object.

The questions regarding client and client's interest requires *hukukçu* to pay attention to not only the social, cultural, and political positioning of a body but also apprehending how everyday experiences in ordinary life informs the conception of Law/law and the professional practices of law. In addition to these concerns in the

ongoing present, *hukukçu*'s apprehension of the cultural and material changes affecting the practice of law is also informed by the historical concerning the law and the legal practice, which becomes materialized through in-between universal and local conceptions of human, rights, and progress. While human signifies both the body of client personhood, rights constitute a catalogue through which the interests and benefits are identified and negotiated in a legal dispute. These discourses constitute the traces of the historical of the contemporary Law/law and legal profession as they accommodate both the abstract and the material forms of bodies and interests, which can be deployed in representing them as both unified and separate from each other. In that sense, both human and rights historically laid the ontological and epistemological grounds of bodies as subject of rights and personhood and of objects that would be subjected to the claims of ownership.

Hukukçu appeared as an a-historical and a-cultural figure, which mediates and negotiates these discursive forms in (re-)orienting the body of law towards the 'progress', which is contingent upon what *hukukçu* considers such progress to be. What distinguishes such figure from the ordinary legal professionals becomes materialized through the practices and approaches to the knowledge and practices of the law through in opening up the possibilities of making a shift in the established juridical conventions. *Hukukçu* was also situated closer to the theory of law, manifestations of which varies across a positionality in generating the theory of law, as well as a transcendental form, which constitute idealized disposition of legal professional bodies.

(Un)Becoming *Avukat* in-between Juridical and Professional Spaces of Law

(Un)Familiar Bodies/Stories

The daily work of my respondents includes various tasks such as meeting with clients, preparing documents concerning legal procedures, responding to the calls and messages asking for their counseling, visiting courts in following up with their cases, and showing up in police stations in dealing with an instant situation. Siyah describes how he spends his time as follows:

Tabi avukatın mesaisi yoktur. Ne olursa olsun bunun farkındayız. Tam bir mesai saati işte... Genelde duruşmalar, müvekkil görüşmeleri, arayıp soran danışanlar. Bir de müvekkillerin “Ne oldu bizim dava?” soruları. Hak temelli çalıştığınız zaman, biri sizi duyduğu zaman... Facebooktan, sosyal medyadan, herkes bir konuda yakınıyor. İşte, farklı illerden arayanlar olabiliyor. Bunun duygusal yükünü alıyorsunuz ama yapabileceğiniz bir şey yok ama en azından yönlendiriyorsunuz. Böyle yaptığınız işin dışında ekstra şeyler çıkıyor. Hiç boş geçmiyor vakit. Telefonlar susmuyor. Genelde böyle bir koşturmaca, sürekli sorun çözme hali.¹²³

Siyah’s daily practice involves routine tasks, which revolves around specific legal processes concerning their clients’ legal problems, and situations, brought about by his specific ‘rights-based work’ including right violations against children, transgender individuals, and steelworkers. Like most of my respondents, Siyah’s professional work on transgender rights appeared on the interviews he gave, which were spread through the internet, allowing those who seek to gain access to justice bringing in their legal issues to approach him via different sources of social media. Facing a work overload, Siyah distinguishes between the emotional and physical labor required in addressing such instant requests brought to his attention, take the emotional labor upon himself as he

¹²³ “Avukat does not have fixed working hours. No matter what, we are aware of that. In a full workday... There are court hearings, client meetings, legal counseling via phone. Also, clients’ questions, “What has happened in our case?” If you are doing rights-based legal practice, when people hear about your work... People complain via facebook or social media. Sometimes, people call from different cities. You can take the emotional burden [of these people], however, there is nothing else you can do, but to direct them to somewhere else. Something other than your own work may come up. You have no free time. The phone keeps ringing. It is such a hustle, such a constant state of problem solving.

listens the legal question and channels it to another source. Siyah further explains how this practice spread through his personal life as he becomes oriented to solving problems:

Bu herhalde insanın hayatında bir noktada baktığın her şeyde bir sorun arayıp o sorunu çözme gibi bir şey yaratıyor. Bu kötü bir alışkanlık. Tüm sorunu biz çözemeyiz yani. Bu Atlas var ya işte. Yani Atlas dünyayı sırtında taşır. Avukat da Atlas değildir. Atlas olmaması gerekir bence. Atlas olma iddiası olan bir avukat veya hukukçunun bence sürdürülebilir bir iş yaşantısı olmayabilir. Çok da net de konuşuyorum bu konuda. Sürdürülebilir olacağını da zannetmiyorum. Bu boşa hayal kurmak gibi geliyor bana.¹²⁴

In Siyah's response, the image of Atlas appears as what he became rather than what he is now, an *avukat*. Siyah realizes that his constant orientation towards solving problems in his professional practice, became how he inhabits his ordinary life. Siyah refers to this situation as a lost cause as he anticipates how his inhabitation in the present might affected his professional life.

For my respondents, who work with immigrants, sex workers and transgender clients, the biggest difficulty in their professional practice is drawing the line in terms of the extent to which they want to be informed about their client's life events. Avatar, who routinely hold in-depth interviews with immigrant LGBT+ clients, told me that she receives frequent psychological supervision to avoid discriminatory and triggering actions and to be able to find the right approach for intervening and channeling while listening to her clients' traumatic experiences. For Avatar, an *avukat*, who works with

¹²⁴ "Avukat does not have fixed working hours. No matter what, we are aware of that. In a full workday... There are court hearings, client meetings, legal counseling via phone. Also, clients' questions, "What has happened in our case?" If you are doing rights-based legal practice, when people hear about your work... People complain via facebook or social media. Sometimes, people call from different cities. You can take the emotional burden [of these people], however, there is nothing else you can do, but to direct them to somewhere else. Something other than your own work may come up. You have no free time. The phone keeps ringing. It is such a hustle, such a constant state of problem solving. At some point, this probably leads to that you look for problems and how to resolve them at everywhere you look. It is like being Atlas, you know. Atlas carries the world on his shoulders. But a lawyer is not Atlas. I think they should not be Atlas. An avukat or a hukukçu, who claims to be Atlas, may not have a sustainable work life. I speak very clearly about this issue. I do not think that it would be sustainable. For me, it is a lost cause."

specific clients such as LGBT+ people, needs to know the specific dynamics pertaining to this group. Avatar narrates the challenges encountered during the interview as follows:

Karşılaşılan zorluklardan bir de... sınır çizmenin kendisi çok zor olabiliyor. Özellikle belli haklar alanında çalışan bir dernekle çalışıyorum. O güvenli alanı sağladığın zaman hani yapabileceklerinin sınırını çizmek gerekiyor. Her şeyi yapamayacağını belirtmek gerekiyor. Neleri yapabileceğini, neyin sonucunun nasıl olabileceğinin bilgilendirip o sınırı çizmek gerekiyor. Kimse kimsenin kurtarıcısı, kimse kimsenin kahramanı da değil. O yüzden, han bu sınırın kendisi gerçekten çok zorlaşabiliyor. Ya da işte çok derine giden çok derin travmaları anlatmak isteyebiliyorlar. Sadece benim danışmanlığı verebilmem için bu travmalar gereklidir. Ya travmaları duymam gerekmiyor değil benim söylemeye çalıştığım o açıldığı zaman onun bir hani iyileşme sürecinin de olması gerekiyor. O sınırı çizmek onu durdurma... Çok fazla iş de düşüyor aslında... Bir yandan umursamaz gibi görünmemeye çalışarak bir yandan o profesyonelliği de korumak gerekiyor. Ama diğer taraftan aynı zamanda kendinle de özdeşleştirebiliyorsun. Aynı zamanda öznesin. Kendi hayatından da çakışan şeyler oluyor falan. Sınır çizmek kendinde de sınır çizmek... “Ben bu kadarını yapabilirim, bu kadarını yapamam.” O vicdan muhasebesi falan. Aynı zamanda müvekkille görüşürken o sınırın kendisini çizebilmek çok zor. Çok zor bir şey. En çok zorlandığım şeylerden biri bu.¹²⁵

Here Avatar defines two conditions essential to her professional practice, learning about her client’s traumatic experience and drawing a line between the client’s experience and the legal issue in the clients’ narrative, as well as within herself, concerning her capacity and capabilities in addressing the issues brought to her attention. While Avatar professional practice is oriented towards the traumatic experience, she constantly reminds

¹²⁵ “One of the challenges is... Drawing a line may become a challenge. I am working with an organization that works on certain rights. When you create a safe space, you also need to draw a line at what you can do. You need to underline that you cannot do everything. You draw a line through informing [the client] about what you can do and what may result under what conditions. Nobody is a savior of another person; nobody is a hero. Therefore, drawing the line may become very difficult. They [the clients] may want to talk about the deep traumas that they went through. I need to know about these traumas to be able to give counseling to them. What I meant to say is not that I do not need to hear about client’s traumas. [I mean] there needs to be a healing process when it [the trauma] opens up. Drawing that line, stopping it... Actually, it requires a lot... It requires, on the one hand, not to seem indifferent, on the other hand, to maintain a professional disposition. However, you may also identify yourself in this situation. You are also a subject [in these situations]. You realize things [in this situation] that cuts across your life as well. Drawing the line is also drawing the line to yourself. “I can do this much; I cannot do that much” That kind of soul-searching and so on... At the same time, it becomes very difficult to draw a line during a meeting with the client. This is one of the things with which I had difficulty the most.”

herself of her function and capabilities, keeping her attention on the client's emotional state and how the legal issue in question can be handled.

Another respondent, Oya also underscored the importance of receiving psychological supervision especially in providing legal counseling to the clients, who were subjected to gender-based violence. For Oya, the boundaries of *avukatlık* practices and the practice of showing feminist solidarity differ. Oya started to explain the differences between these practices as follows:

Kendi mesleki sınırimi aştığım yerler oluyor. Feminist dayanışma bunu gerektirir diye aşmamı kendimce gerekçelendirdiğim yerler oluyor. Ama feminist dayanışmanın da bu yüzden... Birçok feminist beni şey yapabilir. Feminist dayanışmanın da bir sınırı var. Orda bir ... Tabi ki bana iyi gelen kısmı var ama benden götüren çok kısmı var.¹²⁶

As I observed that Oya paused her thought process several times, I realized that she was having a hard time expressing her thoughts. Thus, as soon as I asked her if she needed a break, Oya immediately accepted my offer confirming my observations concerning her emotional state.

What seemed to be challenging for Oya in expressing her thoughts my position as outsider to the feminist community. During the break we exchanged personal experiences concerning the interference between professional practice of *avukatlık* and showing solidarity with the bodies who were exposed to gender-based violence. As Oya came to understand my familiarity with the situations that shaped her own experience, she seemed to feel more comfortable in expressing her personal thoughts. Thus, after our short break,

¹²⁶ “There are times at which I cross over my professional boundaries. I justify my action telling myself, this is what it takes to show feminist solidarity. That is why, showing feminist solidarity... Most feminist may [criticize] me [for saying that]... There needs to be a boundary to showing feminist solidarity as well. There is a ... Of course, it [feminist solidarity] is good for me, but there is a lot it takes from me, as well.”

Oya continued to narrate what impeded her to (re-)orient herself towards showing solidarity through using her professional practices in the following:

Şöyle söyleyeyim, feda etme kelimesi çok yanlış da feda etmeni bekleyen feminist çevreler var mesela. Ama... sürdürülebilir bir şey değil, beni güçlendiren bir şey değil. En başta hem benim düşüncem hem feministlerin düşüncesi ‘yardım etme’ meselesi var ya. Ona dönüyor artık o noktada yeterince dayanışmıyorsun deniyor ama yeterince dayanışmama gibi bir şey yok aslında. O zaman yardım oluyor. Dayanışma benim de beslendiğim bir şeydir ya. Onun bir ölçüsü olması gerekir.¹²⁷

In Oya’s narrative, making sacrifices appears to be an indicator of the extent to which as well as how a body is oriented towards the feminist cause of showing solidarity with the victims of gender-based violence. However, for Oya, such an emphasis is not only a reminder of ‘helping women’ from which she tried to distance herself as she became familiar with feminism, but a challenge for her in bringing in her professional practice in showing feminist solidarity.

Like Oya, Usagi’s professional orientation towards working with sex workers was informed by her feminist background. For Usagi, who predominantly works with transgender sex workers, the challenge of drawing boundaries between her professional practice and her clients has encompassed her entire life. Usagi stated that as she became more involved in her work, she found herself constantly thinking about it and that she was compelled to take the calls from clients in the middle of her sleep or spending time on her own. Usagi narrated her experience with the effect of the extent to which she became oriented towards responding to her clients’ needs in the following:

¹²⁷ “Let me put it that way, sacrificing is a very wrong term but some feminist circles expects you to make sacrifices. But... It is not sustainable, not something that makes me stronger. First and foremost, the issues of ‘helping’ in my thinking and feminist thinking. It [sacrificing] becomes something like that [helping]. At that point, they say that you do not show solidarity enough, but there is nothing such as not showing solidarity enough. Then, it becomes help. Solidarity is something that I nourish me. It should not be a yard stick to measure it.”

Biz sadece avukat olamıyoruz. Yani psikoloğu arkadaşı derdini anlatabileceği ne anlatabilecek tek insan, sinirini öfkesini atabileceği tek insan oluyoruz. Ve o telefon kapatılmıyor. O şeyi alanı anlatabilmek kolay değil. Danışmanlığın sınırını konu olarak bile ayıramıyoruz. Normal şartlarda benim seks işçiliğinden dolayı hak ihlaline maruz kalan bir konuda danışmanlık vermem gerekirken icrasından miras davasına kadar işte iki akranın birbiriyle olan sözlü çatışması ya da işte piyasadaki rekabetinden kaynaklı problemine kadar gidebiliyor... Moral diye bir şey kalmıyor. Danışanlara yansıttığım bir şey değil. Hiçbir şekilde ajite olmamaya olabildiğince özen gösteriyorum. Bu soğuk davranarak değil, doğru bilgi ve doğru danışmanlık vererek... Ama benim üstümdeki etkisi öyle olamıyor maalesef.¹²⁸

Usagi shows that it becomes harder to draw boundaries between professional and personal life as one's professional orientation is informed by the background of the clients' life. Usagi's professional body is (re-)oriented toward a potentiality in which one of her clients may be in danger based on her familiarity with the knowledge of what happens and can happen to the sex worker bodies. On the one hand, the effect of her familiarity keeps her attention to the emotional state of the client, on the other hand, Usagi starts to disappear from the background of her ordinary life based on the extent of her attention to the client's bodies. Thus, Usagi later told that she might be one of those who was happy about the pandemic as it allowed her to work from her home during which she realized that she stopped investing in? herself.

Avukat's professional orientation is to listen their clients' life stories, identify how the client body is related to the body of law based on this story, and start transforming this story into a legal form through which the matter of the story travels around the queer space of the law. While the arrival of the client body creates a potential for *avukat* to

¹²⁸ "We cannot just be avukat. I mean we became the only person, they can talk about their problems, the only person on whom they can vent their anger. And the phone call never ends. It is not easy to talk about that thing, that field. We cannot establish boundaries between subjects of counseling. While I am normally supposed to give counseling, services based right violations concerning sex work, [these boundaries] extent towards giving counseling on an inheritance case or a verbal dispute between colleagues or an issue regarding competition within [sex work] market... I completely lost my morale. It is not something I reflect on clients. I try not to become agitated whatsoever. Not by keeping myself at a distance, but giving the right information and counseling... But unfortunately, it affects me differently."

reach out the body of law, the transformation of what matters in a client's story occupies a space within the juridical bodies of law. Ahmed (2006) suggests "that objects not only are shaped by work, but that they also take the shape of the work they do." (p. 440) In that sense, a legal case opened by an *avukat* bring forth the story of the client to the attention of the bodies occupying the juridical space, while the case works towards shaping this story as it travels around the queer space of the law.

Doing Sex/Gender

Ahmed (2006) further discusses the objects bringing forth a potential for the bodies to extend the extent of their actions as these bodies become me occupied with them. For Ahmed (2006), occupation with an object is not a random action, but related to the "tendencies of the bodies," so much so that the objects "may even take the shape of the bodies for whom they are "intended," in what it is that they allow a body to do." (p. 51) The relationship between *avukat* and client bodies provides a paramount example of such relationship. Often *avukat* bodies is closely associated with their client bodies. Thus, most of my respondents stated that they caught some judging looks of their colleagues, judges and public prosecutors on them, as they appeared with their LGBT+ clients in the court room. However, Ahmed (2006) also addresses what happens when the object fails to work, elaborating on the stakes involved in the failure of the object as follows: "what is at stake in moments of failure is not so much access to properties but attributions of properties, which become a matter of how we approach the object." (p. 49) Thus, the legal actions *avukats* take through filing a lawsuit reflect on not only the bodies of their client but also how their bodies are considered to fit in the body of law, as they are

brought into the view of the juridical field. The narratives of my respondents, Ferzan and Hazan, concerning two divorce cases exemplifies how gendered and sexualized bodies were considered at fault in failing a marriage and to what extent the juridical decision reflected how *avukats* reach to the body of law through legal case as an object.

Ferzan, a seasoned feminist lawyer of more than two decades of professional experiences, told that she needs to see ‘the tears’ coming out of her clients as she is oriented towards occupying herself with a legal case. As Ferzan defines the practice of *avukatlık* as an art of expressing oneself, she gives the following example through narrating how she made her client entitled to indemnity in a divorce case:

17 senelik evlilikte cinsel birliktelik yaşanmamış. Adamda cinsel bir problem var. Burada hak ihlali var aslında... Kadının cinsel hayatının ihlali var. Kadının çocuk sahibi olma hakkının ihlali var. Kadının yaşamı üzerinden kendi iradesi ve bilgisi dahilinde hareket edebilme hakkının ihlali var. Kendi tercihinin engel olma var. Kendisi bilerek yapmış olsaydı, kendi tercihi olacaktı. Tabi anlaşmayla oldu. Peki bunu nasıl ifade edersin müvekkile? Sen adamla bunun pazarlığını yapacaksın. Nasıl diyeceksin bunu? Hukuki anlamda nasıl söyleyeceksin? Bu evlilik birliği gerçekleşmemiş. Şartları oluşmamış. Siz bu şartları yerine getirememişsiniz. Adam anlıyor, gözünün içine bakıyor. Herkesin görevi var diyorum. İlişki içinde birtakım görevler var. Herkes kendi görevini yapmalı. Siz bunun için bir çaba sarf etmemişsiniz. Tedavi olma sürecine girmemişsiniz, müvekkilime bunun bilgisini vermemişsiniz. O isteyerek ve bilerek bu evliliği başlatmamış.¹²⁹

In Ferzan’s narrative, what happened between the couple is hidden from my view, while the man’s bodily sexual performance, which he tried to keep hidden for seventeen years, is what has been made visible thorough this legal case. For Ferzan, this case is a success

¹²⁹ “During a seventeen-year long marriage, there was no sexual intercourse. The man had a sexual problem. There is a right violation. A violation of the woman’s sexual rights. A violation of the woman’s right to childbearing. A violation of the woman’s right to shape [her life] based on her willpower and knowledge. An obstruction of one’s own choice. If she knew that, it would have been her choice. Well, [the case] was resolved through an agreement. But how would you express this to the client? You are required to negotiate with the man. How would you tell this to him? How would you put it in a legal form? This marriage has not happened. Its conditions have not happened. You failed to fulfill these conditions. The man understands, looks right into your eyes. I tell him that everyone has a duty. There are duties when you are in a relationship. Everyone should fulfill their duties. You have not made any effort for that. You have not received any medical treatment; you did not inform my client [about this situation]. She did not intentionally start this marriage.”

based on her legal strategy in expressing the story in this case. Thus, Ferzan can easily identify with the experience of her client in shaping the object to reach out to the body of law. However, it is also evident that the sexualized male body was attributed with the legal term “kusur” (fault) as it is only considered a failed object for the functioning of heterosexual marriage.

Hazan, a queer feminist *avukat* with more than five years of experience, told me that she brings her LGBT+ clients to make an impression on the judge in terms of who the subject of rights is and how they appear and to make her clients and to allow them to establish a direct connection with the juridical bodies. For Hazan, being able to tell their story has a healing effect on her clients regardless of what the verdict may become. Hazan provides another striking example of a divorce case in which a transgender woman was considered to be at fault based on having a transgender body and not having a cisgender male body. Hazan’s client, a transgender woman, who lived in a village was forced to get married with another woman, who was fifteen years older than her. Within the fourth month of her marriage, her wife found out the gender identity of Hazan’s client relieved it to her brothers, who started threatening and chasing. As Hazan’s client escaped her village and fled to İstanbul, she stayed locked at the basement of her friend as she feared for her life. Hazan recalls that her client refused to meet with her outside of her home as she feared that Hazan might get hurt had her brothers found her outside. Hazan referred to this case as one of the most important and upsetting experiences of her professional life, narrating her legal arguments in the following:

Kusur. Boşanma davalarında kim kusurlu tartışması yapılıyor ya. Karşı tarafın savunması şunun üzerine kuruluydu: Bu ilişki o çünkü o trans olduğu için bitti. Ve nafaka istiyor. Ben de savunmamı şunun üzerine kurdum. Translık bir kusur değildir. Ya buna ilişkin bilimsel makaleler de sundum. Translık sonradan olunan

bir şey değildir... Burada kusur varsa bu iki kişiyi zorla evlendiren ailededir kusur. Bizim kanunumuza ilişkin bir şey düzenlemiyor. Müvekkilime nafaka kararı vermek maddi manevi tazminat kararı vermek hukuka uygun değildir. Bizimki ailesiyle tüm bağı kopardığı için tanık yok hiçbir şey yok nihayetinde hiçbir şey yok. Aleyhimize boşanma kararı verildi. Tazminat ve maddi manevi tazminat ve nafakayla karar verdi.¹³⁰

Hazan further stated that she also supports women's right to alimony, but that there were two women in this case, one of whose life has been threatened. Thus, Hazan, who was influenced to work with transgender clients after witnessing everyday life experiences her transgender partner, told that transgender body did not have a right to be forgotten in this country. In that sense, Hazan was drawn to represent this client as the attribution of fault on a transgender body is a reminder of how transgender people is seen unfit objects of society.

Inhabiting Everyday Spaces of Law

Sara Ahmed asks: "How do bodies matter in what objects do?" Considering that the legal action is mostly taken in creating objects, namely petitions or documents in determining, I consider reformulating this question as follows: how bodies that became subject to this particular legal relation matter in how they are represented in the case files? Thus, the main domain of actions reflects on legal cases, which constitutes a common place for representing the client-body. Physically, these files, which are kept in court clerk's office, only becomes available to those when they not only enter into the

¹³⁰ "Fault. Well, you know they discuss who is the faulty part to the marriage. The argument of the other part to the divorce case was based on the following argument: This relationship is ended because of her being transgender. And they asked for indemnity and alimony. I based my argument based on the following argument: Being transgender is not a fault I submitted scientific articles. [I explained that] being transgender is not something one becomes later in life. If there is a fault in this case, it is the fault of the family who forced my client to get married. Such situations are not regulated by the law. The juridical decisions granting alimony and indemnity based on such situation legally is not appropriate. Because [my client] cut off her ties with her family, there is no witness to support our story. The court decided against us, granting alimony and indictment to the other party to the case."

clerk's office but granted permission to access these files. In theory the *avukat* as an element of judiciary does not need permission; however, in practice, it is through court clerks *avukats* gain access to at least the physical copies of the case files created by the judge or the public prosecutor or other institutions through the clerks' office. In that sense, *avukat* is not at home when they are in the court offices. As Ahmed discusses, "spatial relations between subjects and others are produced through actions, which make some things available to be reached." *Avukat*-body takes actions that are oriented towards how the body of their client is represented in the juridical spaces, including case files, court hearings, and clerk's office. How then *avukat* is considered by the other judicial bodies?

Ahmed (2006) suggests "what makes bodies different is how they inhabit space" and further elaborates on what inhabitation do on bodies as follows:

Rather bodies are submerged, such that they become the space they inhabit; in taking up space, bodies move through space and are affected by the "where" of that movement. It is through this movement that the surface of spaces as well as bodies takes shape. (p. 53)

Avukat bodies also becomes an object upon which the juridical bodies take action, and which are associated with the representations of their clients in the juridical space. In that sense, the representation of client body determines how *avukats*' bodies would matter. In overcoming these challenges *avukats* create some strategies and tactics in the juridical spaces. For instance, *avukats* fashion themselves and their clients to leave a specific impression on the judge and court clerks. Rengin, who has been working on the legal issues concerning gender and sexuality for almost a decade, stated that she observed a change in the way she interacts with the court clerks. Rengin told that she used to be marginalized the court clerks' office. Describing her younger self as a belligerent *avukat*,

Rengin used to react towards homophobic and transphobic demeanors in the court clerks' office, in the same manner, to perform political correctness. While Rengin stated that things have changes now, she also described the change in her actions towards the court clerk. Rengin told she communicated with the court clerks in self-confidence and in a professional manner and tried to explain them that the case files were a part of business and there is not difference between these files. Rengin presented two examples concerning how she manages the biases of judges and public prosecutors and observes the change in how court clerks considered her legal cases. In the following, Rengin narrates how she overcome the challenges that she faced when she made a request to obtain a legal document regarding her client's gender reassignment proceedings:

Dava hastane boyutunda takıldı. Biz davayı açtık ama tıp fakültesinden raporu bir türlü vermiyorlar... Hâkim hanımın yazması gerekiyor... Suratı bir düşük...Eli kirleniyormuş gibi... [Dedi ki] "Biz onu aldık, müvekkiliniz gelmesi gerekiyor imzası ve gönderilmesi için" Ertesi sabah saat 9'da orda olduk. O kadar şık giydim ki. Müvekkilim o kadar şık giyindi ki. Yani onu da ona hazırladım. Ve biz kaleme bir girdik, bu sefer adamın ağzı açık kaldı. Giyimimizden dolayı değil tavrımızdan dolayı da aynı zamanda. Ben profesyonel bir iş yapıyorum. Bu da benim müvekkilim. Ben müvekkilimi orda ihya ettim. Yani [müvekkilime] şunu söyledim: "İmzanız gerekiyor." Oradaki dostluk ilişkisi içerisinde inanılmaz profesyonellik [gösterdim]. Ağız burun kıvrıracak bir hale giremedi. Tekrar okudu ve [yazıyı] bize verdi. Bunlar ufacık da görünse çok ciddi kazanım.¹³¹

In Rengin's narrative, the simultaneous performance of professionalism and friendship, disorients the court clerks, who acted in a biased manner based on gender identity of her client. As the clerk observed both *client* and *avukat* bodies looked and

¹³¹ "The case proceedings came to a halt at the stage of medical procedures. We filed the legal case but the medical school does not issue the document. The judge needs to write a petition to the medical school. She put on a sour face.... As if her hands gets dirty.... [She said] "We received the file, but your client needs to be present to obtain her signature so that the document would be sent." We were present at the clerk's office by 9:00 am. I dressed up so chick. My client dressed up so chick. I mean I prepared her [for that]. As we entered into the clerk's office, the clerk gaped with astonishment. Not only because of how we were dressed, but also because of the way we acted. I am doing a professional job. And this is my client. I rallied round my client. I said to [my client]: "Please, put your signature here." I demonstrated a professional performance in such a friendly manner. He could not' turn his nose up. He read [the document] and gave it to us. This is a seemingly small but a serious gain."

acted in harmony with each other, as well as the professional decorum, the clerk required to (re-)oriented towards recognizing them as not marginal but legitimate bodies. Regin narrates her second example in which she observed a change in the way clerks reacted towards her case files involving the issues concerning gender and sexuality as follows:

Lezbiyen taciz olmuş ama [müvekkilim] lezbiyen değil. “Bir dosya var,” dedim sadece dosyayla ilgili, bir de dosya numarasını söyledim. [Kâtip], “Haa, bu iki kadın meselesi mi?” [, dedi], suratını bozmadan. Ama aklında tutmuş. Son zamanlarda eskisinden çok daha az fobik tutumlarla ve yaklaşımlarla karşılaşıyorum.¹³²

Regin’s narrative reflect that *avukats* are first and foremost oriented towards the gestures of their bodies in juridical spaces, as *avukats* expect that the emotional attachments towards the content of their case file potentially reflect on the other bodies inhabiting the court space and disseminated within this space. What is striking in Rengin’s narrative is how she inspected the clerk’s gestures in this brief interaction between her and the clerk. Thus, Rengin noted that he kept a straight face, while he not only kept this file number, which superficially disguises the content of the file, in his mind, but he read its content, which left a mark in his memory.

Similarly, Yasemin, an experienced litigator, observed a change in the way court clerks reacted towards her. Like Regin she was exposed to marginalization and discrimination several times based on who her client was. Yasemin shared her personal experience in the court clerk’s office as the legal representative of her transgender clients in the following:

Türkiye’de avukatlar kimi savunuyorsa onunla eş tutuluyor. Öyleyiz de... Sokaktaki bir avukat bir transı savunamaz. O yapıştırma, ötekileştirme eşit oranda gidiyor. Sanki

¹³² “The case was about lesbian sexual harassment about but [my client] is not a lesbian. I just said, “I have a case file” and the file number. [The clerk] said, “Oh! Is that case involving two women?” without changing his demeanor. But he kept it in his mind. I come across with significantly less homophobic or transphobic behavior and treatment.”

o sanığın yakın akrabası, bir parçasıymışsın gibi bir tavır vardı. Şimdi onun yavaş yavaş azaldığının farkındayım. Mesleki şeyleri soruyorlar. Eskiden cinsiyetimi sorarlardı. Anlamaya çalışıyorlar. Aslında olumlu bir dönüşüm olduğunun farkındayım.¹³³

Yasemin's narrative makes a striking point about representing transgender clients. Thus, an *avukat* embodies the experience of representing a client in juridical spaces. If the client body is particularized within and excluded from the body of law, *avukat* not only witnesses but also exposed to symbolic violence that their clients are subjected to everyday. So, the knowledge of representing these clients is related to how they matter in what the body of law does. In that sense, how *avukat* bodies reside in the juridical spaces is also shaped by how their client matter to other juridical subjects. The change observed in both the narratives of Yasemin and Regin brings about the question of temporality in the way *avukat* bodies becomes a matter in the juridical space as they become a familiar object of everyday spaces of juridical space, as well as the extent to which other juridical bodies becomes within their reach. Thus, Ahmet writes,

Bodies are hence shaped by contact with objects and with others, with "what" is near enough to be reached. Bodies may even take shape through such contact or take the shape of that contact. What gets near is both shaped by what bodies do, which in turn affects what bodies can do.

In that sense, *avukats* actions also depends to what extent their clients want to get in contact with the other juridical bodies.

Hâkim ve savcıların konuşmaları inanılmaz ayrımcı. İnanılmaz nefret söylemleri var. Duruşmada da söylüyor, rencide ediyor. Bir yandan müvekkil de korktuğu için avukatın çok fazla müdahale etmesini de istemiyor. Müvekkile de bunun neden önemli olduğunu anlatmaya çalışıyoruz bir yandan. Herhangi bir adli vakıa söz

¹³³ "Avukats are considered to be equal to their clients in Turkey. [Referring to herself and her colleagues]. We are indeed... An average avukat cannot defend a transgender client. The sort of attributions, othering are being made on an equal basis. There used to be specific attitude in which [you were treated] as if you are a relative of the defendant, a part of it. I became aware that this started to abate. They [now] ask about professional things. They used to ask about my gender identity. They tried to apprehend. I am aware that an affirmative transformation is taking place.

konusu olduğunda ikna edemiyoruz. Adaletin de koruyucu olmaması sebebiyle ekonomik güçlük olmaması sebebiyle çoğu dava aslında çok böyle hatta bu davayı açalım çok güzel yakaladık dediğimiz davalarda en büyük bariyer o oldu.¹³⁴

In Siyah's narrative it is possible to observe that the *avukat* bodies are not only associated with their clients, but they are in close contact with them. In that sense, the client bodies may affect avukat bodies in taking or not taking action in the juridical spaces. Siyah further elaborated on the juridical bodies such as judges, public prosecutors, and court clerks act towards their clients' bodies add to the physical, emotional, and mental conditions of their transgender clients as follows:

Bu alanda hak öznesi olan özellikle işte seks işçisi olanların çoğunlukla karşılaştıkları şey yoksunluk. Aynı zamanda sağlık durumları da çok iyi değil, sosyal güvence adalet mekanizması karşısında sosyal ve toplumsal olarak da çok üst sınıflarda sayılmazlar. Önem verilen bir durumda değiller. Ötekileştirildikleri için ve bunu kanıksamışlar. Ve adalete karşı da inanılmaz bir güvensizlikleri var. Aslında oraya gelene kadar en büyük engelimiz onların bu kendi ruhsal psikolojik bariyerleri oluyor. Kendi psikolojik bariyerleri kazanmayacağı dava üzerinde niye çalışa... Partnerleri tarafından çok ciddi şiddet vakıaları ile karşılaşıyorlar öldürmeye teşebbüsler, cinayetler. Onların sömürsüne karşı ekonomik sömürsüyle karşı karşıya kalıyorlar. Hem duygusal anlamda hayatlarından birinin olması güvenlik gerekçesiyle gerçi öyle bir bağlantıları var. Ama bu şiddet vakıalarında o kadar fazla şikâyet geri çekme olayı ile karşılaşıyoruz ki biz barıştık diyerek. Bıçaklanıp pencereden dışarıya atmış, yoğun bakımda kalmış... Ağır cezada davası görülüyor. Biz bir şekilde kabul ettirmişiz ağır cezalı olduğunu meselenin. Şikâyetini çekti. Bir yandan bu var.¹³⁵

¹³⁴ “The speeches of judges and public prosecutors are incredibly discriminatory. There are unbelievable examples on hate speech. They speak [those kind of things] in trials, they hurt [people]. The client does not want avukat to intervene because they got scared. We are trying to explain why it is important. We cannot convince them when the court is involved. Because the justice does not protect and because of economic difficulties, we face with barriers, even in cases which we thought we were on to something.”

¹³⁵ The subject of law especially sex workers mostly go thorough deprivation. Their health conditions are also not well. They are not at the top of the social hierarchy when it comes to social security and access to justice. They do not hold a position where they are cared for. They got used to being treated as the Other. They highly distrust justice system. But even before that our biggest challenge is their psychological barriers. They are exposed to a serious violence, such as serious bodily injuries and murder. They are also exploited by them. They have such a connection for their emotional needs and need for security. But [we witnessed that] they many times withdraw their cases or complaints, telling us that they made up [with their partner]. She was stabbed and thrown out from a window, stayed in intensive care unit... Her case is being tried at the high criminal court. Somewhat we convinced her to pursue this case. She withdraws her complaint. There is that kind of things as well.

Siyah's narrative, it is possible to observe that how the bodies, who are considered the subject of rights, are shaped by reside in a space. In return, the conditions in which they reside in the ordinary life affect whether, to what extent, and how they take action in other spaces. Ahmet (2006) explains the how bodily movements are shaped by certain tendencies depend on the extend and the ways in which they relate to particular spaces as follows:

The field of positive action, of what this or that body does do, also defines a field of inaction, of actions that are possible but that are not taken up, or even actions that are not possible because of what has been taken up. Such histories of action or "take up" shape the bodily horizon of bodies. Spaces are not only inhabited by bodies that "do things," but what bodies "do" leads them to inhabit some spaces more than others. If spaces extend bodies, then we could say that spaces also extend the shape of the bodies that "tend" to inhabit them. (p.58)

Through this discussion, Ahmed brings forth an insight to the connections between bodies shaping a bodily horizon, which points to both a potentiality beyond and a boundary within a space.

Chapter 5:

The Promise of Transforming Gender and Sexuality in Turkey

“How do you find somebody, who was last seen being taken into custody by the police?” I heard this question in a criminal law course during my mandatory professional training. I clearly remember the chilling sense of being disoriented as our training lawyer, who was also my criminal law professor, asked this question. As my professor walked us through the steps of tracing the paper trail left behind a missing body, I was stunned by both my professor’s phlegmatic account and his excessive effort to keep it that way. Growing up in 90s Turkey, I was familiar with the situations in which people (were) disappeared under police custody; however, I did not know what ‘it’ meant for the collective political memory in Turkey. ‘It’ only occurred to me that this question was coming from a place of professional memory in which lawyers witness their clients disappear. It also was a marker of criminal law practice for me to (re-)consider where I am going as an avukat.

Finding a missing client requires avukat to put their body as a double of their client’s body and interact with other bodies inhabiting juridical spaces in following and seeking for the traces the client body left behind. In that class, we discussed what legal documents to look for and ask and what places to visit in collecting absence or presence of police paperwork; however, the practices concerning investigating the missing body of/for a client required much more than that, an inhabitation, brought about by the personal experience of witnessing what might have happened to the client-body. As avukat body moves between juridical spaces, they become (dis-/re-) oriented towards the objects such as police reports and the places such as police stations, residing at the in-

between space of the personal and the political. The experience of such witnessing also reflects on both the courtroom and the legal case in creating a place of professional memory. In her phenomenological work Sara Ahmet brilliantly depicts impression as the marker of presence in absence the object as follows:

Phenomenology hence shows how objects and others have already left their impressions on the skin surface. The tactile object is what is near me, or what is within my reach. In being touched, the object does not "stand apart"; it is felt "by" the skin and even "on" the skin. In other words, we perceive the object as an object, as something that "has" integrity, and is "in" space, only by haunting that very space; that is, by co-inhabiting space such that the boundary between the co-inhabitants of space does not hold.

The impression of missing body affects the legal professional bodies differently. While this difference is informed by their historically determined positions; it also varies across how the body of legal professional engages with the event through which bodies become missing or which informs that a body is missing. How then the bodily experience of occupying these positions creates a difference in shaping the body of law? What holds legal professionals together in belonging to the law as a space and makes function differently in shaping the body of law? How does the positions of these bodies are situated matter for the personal bodies that stand before the law? The institutional and physical setting of a court provides an insight to apprehending how historically determined positions tend to act in the specific temporal and spatial context in which they were shaped.

In court rooms in Turkey, the positions of judge and public prosecutor are situated as state employees. In that sense, these bodies are oriented towards apprehending the events that brought a person before the court in relation to public interest. Thus, in the physical setting of a court room in Turkey, judges and public prosecutors are seated right next to each other at the bench. However, the position of avukat is situated as the represented of the person who stands before the court. Avukat bodies are oriented towards apprehending both who their clients are and how the events in a legal case unfolds an interest that is beneficial to both the person and the public as they are seated right next to their clients during court hearings. These positionalities also inform how the personal experiences of different professional practices shape how these bodies inhabiting the juridical spaces engage in and relate to the personal experience of who stands before the court.

In this dissertation, I pursued the question of how legal professionals find their way in the constantly changing body and spaces of contemporary law in Turkey. Through discussing as contemporary history of Turkey as a specific socio-cultural context, I argued that the contemporary body of law constituted a site of socio-cultural belonging, as its form and content, which was collectively shaped by political figures, intellectual and political communities, as well as socio-political movements in determining a normative aesthetics through which the ordinary life will be regulated. Through presenting how the constant transformation of the body of law has been discussed among legal scholars, I demonstrated that the contemporary body of law compartmentalized based on for whom and how this body would work, which situated the case of Turkey in between traditional and European, Islamist and secular, as well as Eastern and Western

cultural divides. I discussed that the issues concerning gender and sexuality constituted a threshold in performing codification practices, which were negotiated between generating an Islamic technology based on authentic sources of law and adapting the secular technologies of foreign countries. I effort to demonstrate that this particular historical event has still been shaping the present tensions and contestations about to what extent Turkey becomes a part of European legal culture or is capable of generating its ‘own’ laws.

In addressing the contemporary law as a space, I intended to go beyond the prevalent effects of the history of ideological distinctions in Turkey, which has been dominating the scholarly discussions and worlds in Turkey. In chapter 3, I discussed that law as an object worked towards both attracting and distracting bodies to itself. I suggested that law is not just a performative language, but also an affective space in which the historical attributions to professional and lay bodies are transmitted from one body to another and from one generation of legal professionals to another, while avukat bodies worked towards changing the discriminatory gestures and violent policies against queer bodies in-between their personal and professional life.

In my continued discussion on law as a social space, I benefit from Sarah Ahmed’s Queer Phenomenology in unpacking that the histories and technologies through which objects and bodies are transformed to fulfill certain duties and functions more relevant to the everyday legal practices and the discussions on the ongoing crises in the ordinary life in Turkey. Referring to queer space, I basically followed Ahmed’s discussion on how orientations toward subjects are shaped and changed through analyzing avukat’s everyday encounters in the juridical and professional spaces of their private practices. I

demonstrated that clients as both bodies and object bring forth stories to be heard by avukat bodies. While these stories may disrupt the distinction between the personal and the professional, it may also orient avukat bodies to take action in reaching out to the body of law. I finally discussed how professional bodies inhabit the juridical space is shaped not only by their actions oriented towards objects such as legal cases, but also by how they connect to their client bodies and other bodies inhabiting the juridical space.

Through these discussions I intended to draw some theoretical and methodological contributions to the social inquiries of law and legal profession in Turkey. As part of my theoretical contributions, I effort to bring in the Deleuze's concept of becoming in providing a critique to the post-modern critiques of law. I also worked towards opening a discussion on Marx's discussion on history of the present in "German Ideology" and "Thesis on Feuerbach" through hputting into conversation the theories of practice by Foucault, Bourdieu, and De Certau and theories of affect by Sara Ahmed and Laurent Berlant. More specifically, I benefit from Ahmed's queer phenomenology, I discuss to what extent and how bodies as objects inhabit professional and juridical positionalities and how the objects inhabiting the law as a space are transformed through the actions they take in everyday life. Addressing Berlant's impasse, I show the extent to which bodies endure their professional occupation against the constant crises in their ordinary professional life, which partially reflect how the present of legal practice is perceived through their personal narratives.

My methodological contributions focused on narrative analysis and interviewing. I discussed historiography as a site of writing in which bodies, processes, relations, and languages of law were represented through the lenses of the legal scholars and historians.

Using a narrative analysis, I explore how historians depicted the historical figures and contemporary discussions concerning codification of civil law in Turkey. In doing so, I show how women bodies, as well as colonial histories are removed from the legal histories in Turkey as the focus of the discussion maintained on ideologies, elites, and methods in discussing the extent and the ways in which transformation of the body of law is discussed.

I also discussed interviewing as a queer space through addressing the issues such as familiarity of respondents and the interactive process of interview. I demonstrate how I was oriented towards conducting this study based on my life events as matter and interdisciplinary methods enabled me to design the form through which this project was conducted. I also demonstrate how I was required to re-orient myself to my interviewees based on the level of my familiarity with my respondents and their personal and professional narratives. Thus, I found that while having close relationship with my respondents allowed me to gain an easier access to my field, during the interviews they portrayed their professional life rather discreetly, which caused me to be disoriented at times. Also, my respondents who are my colleagues and friends, presented information including their childhood and daily practices which I was not familiar with which I was not familiar. During the interviews, I observed that my respondents' narratives had different effects on my body depending on the body it comes from. I showed rather dramatic reactions to the narratives of my friends compared to those whom I met via my field work. I also was able to address emotional concerns of my respondents whom I am not familiar with more discreetly compared to those whom I knew before.

In my final analysis, I provided some insights concerning the historical development of the body of contemporary law and avukatlık as a professional orientation in Turkey. I discussed that the development of and professional practices concerning the contemporary body of law in Turkey underscores how colonial histories including Ottoman Empire as a colonizer and colonized body was displaced from the historical consciousness of legal professionals. The history of the body of law have been highlighted through referring to the historical events in which various sources of law were shape. These events were selectively interpreted based the racial, ethnic, religious distinctions in the historical narratives of law in Turkey. Furthermore, the role of law in modernizing and secularizing bodies reflected on women's bodies as a matter through which the society would adopt to the modern and secular practices in shaping ordinary life. While the issues concerning gender and sexuality came to be explicit subjects in shaping the techniques of shaping the body of law, such as codification, interpretation, and legislation, such history also proved that particular subjects, such as women and LGBT+ communities were not only excluded in these processes but removed from the historical narratives of law and legal profession in Turkey. In that sense, the issues concerning gender and sexuality not only became a threshold of socio-cultural belonging to the emergent regional and international bodies, but also belonging to everyday socio-legal life in Turkey.

In discussing avukatlık as a professional orientation, I observed that my respondents were attracted to becoming an avukat based on various reasons; however, they were all oriented to towards becoming successful and occupying positionalities based on creating potentialities for their future aspirations. Also, most of them not only

considered to becoming an avukat and rejected the idea of becoming a judge or public prosecutor in shaping their carriers. Through their narrations of how they aspired to study law and gain access to legal education, I demonstrate law as a both a desire and a potentiality in shaping personal autonomy as opposed to a relatively independent field or a positionality reflecting one's personal and professional agency. I also discuss how affective attachments to becoming avukat creates personal and collective filters through which the legal professional practices would or should be performed during the legal and professional education.

I also demonstrate that the discursive form of the notion of hukukçu disrupts the functional categorization of professional bodies shaped around the juridical positionalities of prosecution, defense, and judgement in constituting the court. I argued that hukukçu, which in general constituted both a supra legal professional category, signifies a professional orientation based on the subjective aesthetic attributions to the professional dispositions and legal practices of law, shaping how avukats situate themselves within the legal professional community and take action in their professional practices. Their specific orientations also determine to what client bodies they would be oriented towards and how they shape legal objects the intend to create as part of the juridical processes.

I further demonstrate how avukats who were invested in addressing issues concerning gender and sexuality are objects that shape and that are shaped by the emotions attached to their bodies among their professional colleagues and their social circles. As they gain access to the intimate details of life events of their clients, these avukat bodies become accustomed to the experience of constantly being disoriented and

repetitively reorienting themselves. The constant crises happening in their clients' life led them to become oriented to the emotional needs of their clients, while their body succumb to matter less in their personal life. Despite that their attraction to becoming avukat is reinforced based on their professional satisfaction, they encounter challenges in making their professional work sustainable as they provide critique to or seek refuge from their personal and professional networks.

In conclusion, I effort to demonstrate avukats' aspiration and concerns in maintaining professional practices are not so much informed by an individual attachment to hope with the promise of having good life, but by a potentiality to shape the body of law, as the promise of law accommodates a potentiality for their clients to have access to the image of good life. However, there are many challenges in attaining these potentials for both avukat and client bodies as legal changes are predominantly realized through the legislative processes and informed by the prevalent political and economic crises in Turkey. Under such affective atmosphere of the present in Turkey, the issues concerning gender and sexuality becomes highlighted in reinforcing the preestablished norms and hierarchies of socio-cultural belonging in Turkey in parallel to the ethnic, religious, and racial tensions. I argue that avukats invest their hope on establishing horizontal personal and professional relationship and networks and informing the professional and juridical community about the emotional attachments to their clients' bodies, as well as the reflection of their affective experiences in witnessing how such emotions are transmitted in their everyday encounters.

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Appendix A

Interview Questionnaire

A. Educational and Professional Background

1. How were you inspired to study law?
2. Can you tell about the events, ideas or people that inspired you to work on the issues of gender, gender identity, and sexual orientation as part of your professional practice?
3. What type of occupational positions have you had as a lawyer?
4. If you have, can you tell me about your professional experience providing legal aid through the Istanbul Bar Association?

B. Personal and Professional Identifications

5. How do you describe the differences between a legal professional (hukukcu) and a lawyer (avukat)?
6. How do you identify your private practice when asked about your area of specialization (or the type of lawyering you practice)?
7. Do you think that your personal identifications provide advantages or create disadvantages in your professional life or vice versa? How?
8. Do you follow any principles or rules to distinguish your personal and professional life? How?

C. Relationships within personal, professional, and juridical spaces

9. Do you observe any differences in terms of lawyer's professional approach to legal issues concerning gender, gender identity, and sexual orientation? If you do, how would you describe the main differences?
10. How do clients get in touch with you concerning the legal cases concerning gender and sexuality?
11. Do you encounter any challenges during your communications and relations with these clients or during court hearings?

D. Everyday personal and professional practices

12. Can you tell me about how you spend your time during a typical workday?
13. Can you tell about how you prepare for the legal cases or issues related to concerning gender, gender identity, and sexual orientation?
14. Do you encounter any sort of social or political pressure in your daily practice? If you do, how do you cope with these pressures?

15. Can you tell about the strategies or tactics you use to overcome the challenges you encounter concerning your professional relations or encounters (with clients, colleagues, judges, public prosecutors, court clerks)?
16. Does your professional and personal life often fall into a dispute? If so, how do you resolve such disputes?

E. Personal and professional aspirations for future

17. Did you establish any personal or professional goals or make any plans for future? If you did, can you tell me about them?
18. Can you describe your feelings about your future life?
19. If you have any, what recommendations would you give to younger lawyers, who would like to work on similar topics and cases?
20. Is there any friend or colleague you would recommend as a potential participant to this study?