

Gender Discrimination in Workplaces in Turkey: The Gap between Legal Protections and Implementation

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ABSTRACT

This paper examines the extent to which International Human Rights Law and European Human Rights Law effectively address discrimination against women in Turkey, with an emphasis on the implementation of legal protections addressing workplace gender discrimination. Although Turkey has ratified various international treaties such as International Labour Organization (ILO) treaties The Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), as well as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), gender inequality remains prevalent. This study underscores the great gap between legal commitments and implementation of treaties by analyzing international treaties, domestic legislation, European human rights mechanisms, and case studies; notably Hülya Ebru Demirel v. Turkey with the European Court of Human Rights, and R.K.B. v. Turkey under CEDAW. These cases demonstrate how discriminatory acts persist due to the ineffective implementation and weak enforcement of laws, gender stereotypes, and social expectations. The non ratification and the results of Workers with Family Responsibilities Convention, 1981 (No. 156) are explored in the paper. Even though the European Convention of Human Rights provides a robust legal framework furthermore strengthened by the European Court of Human Rights, structural and cultural barriers obscure the implementation of such laws in Turkey. These findings suggest that a strong jurisprudential framework is insufficient without the elimination of social norms, weak enforcement and implementation of the treaties. The paper culminates with highlighting the importance of effective implementation of the laws into practice, and the alignment of domestic and international law.

Keywords: Gender discrimination, Turkey, ILO, CEDAW, ECHR, weak implementation, cultural and social norms.

INTRODUCTION

Gender based discrimination in workplaces can be defined as any unequal treatment that an employee or worker receives based on their gender (“Gender Discrimination at Work”). This paper examines the extent to which International Human Rights Law and European Human Rights Law effectively address

gender-based discrimination against women in Turkey, in terms of the implementation gaps that occur regardless of treaties and legal frameworks. This will be shown through an analysis of international treaties, domestic law, empirical evidence about workplace gender inequality in Turkey and court cases. Although Turkey has ratified significant legal instruments addressing gender discrimination, weak law enforcement mechanisms, institutional gaps and persistent gender norms limit their effectiveness in mitigating workplace discrimination. The following parts of the paper will explore how International Human Rights Law has not managed to fully tackle workplace discrimination in Turkey, as the case studies indicate that treaties alone are insufficient without the presence of effective domestic institutions, illustrating a broader challenge in translating international human rights commitments into practice. The case studies were selected for illustrating different forms of legal responses to workplace discrimination, and the statistics were chosen for establishing the prevalence and broader context of inequality. *R.K.B. v. Turkey* was selected because it showcases how social stereotypes and discrimination can remain unrecognized by domestic courts despite Turkey's obligations under CEDAW. *Hülya Ebru Demirel v. Turkey* was chosen because it illustrates how gender discrimination affects recruitment, and how the discrimination that was not addressed by the Turkish judicial system was identified adequately by the ECtHR. Both of these cases represent different types of discrimination -unequal treatment and unequal access to employment- that occurred in a country where International and European Human Rights Law instruments were both legally binding, underscoring the gap between existing legal protections and effective implementation in practice. The statistics and other data used throughout the paper were selected to provide evidence on the prevalence and the different dimensions of gender inequality, including workplace discrimination and women's labour-force participation. Sources were prioritized based on their credibility, with preference given to official government and international organization data, academic research, and other established professional resources rather than informal or unverified websites.

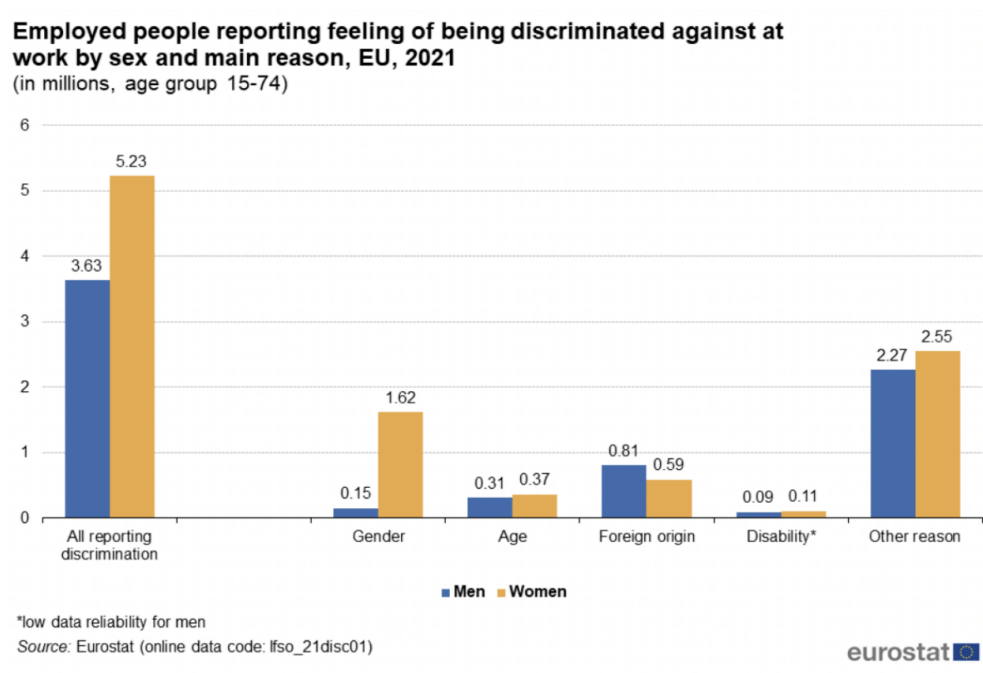
Gender Discrimination in Europe

Gender based discrimination is a significant problem all around the world, including Europe. While gender based discrimination remains a significant challenge in Europe, European law provides more robust enforcement mechanisms than Turkey. Therefore, information about gender discrimination in Europe provides a comparison that helps to assess Turkey's place in addressing workplace discrimination against women. By comparing discrimination in Turkey to that of other European countries, them being part of similar treaties addressing human rights violations, it becomes possible to evaluate whether Turkey has effectively put its legal commitments into practice for women in workplaces. This comparison underscores the existing legal commitments and their implementation into practice.

Although discrimination is an issue caused by many factors, gender discrimination is quite common and mostly women have reported experiencing it. In 2021, 5.23 million women in the European Union ("EU") reported feeling that they received discrimination at work, which is 6.1% of the employed women in the EU. Women face discrimination in workplaces more than men since only 3.63 million men reported workplace discrimination in the EU in 2021 (*Self-Perceived Discrimination at Work - Statistics*). Although the percentage of working women is increasing, women are paid less than men in Europe. These statistics illustrate that gender discrimination can still persist in regions where there are robust legal

protection mechanisms, suggesting that legal framework alone is insufficient to grapple with discrimination without broad social change and better enforcement. Discrimination can also be seen in pay disparities. Throughout Europe, the difference between the average gross hourly pay between men and women remains at 15%. According to the European Commission, the difference in the earnings of men and women results from non-respect of equal pay legislation and from a number of structural inequalities (The Gender Pay Gap Situation in the EU - European Commission). Gender based discrimination in workplaces is visible in other aspects as well: in the United Kingdom, a report by the Equal Opportunities Commission states that 30,000 women lose their jobs every year because of their pregnancy ("Pregnancy and Maternity Discrimination Research Findings").

Graph 1: Reported Workplace Discrimination in Europe



(Self-Perceived Discrimination at Work - Statistics)

Graph 1 demonstrates employed people that have reported feeling discriminated at work based on their gender, age, foreign origin, disability and other reasons. It can be seen that women have felt more discriminated against than men (5.23 million women and 3.63 million men reported feeling discriminated against). There is a significant difference between the number of women and men that felt discriminated against because of their gender. While 1.62 million women reported feeling discriminated against because of their gender, only 0.15 million men felt they were experiencing gender discrimination. This substantiates the significance of gender discrimination against women in workplaces living in Europe. Furthermore, the existence of gender discrimination despite legal instruments suggest that the adoption of

legal framework alone is insufficient to address gender discrimination and that it is necessary to examine how effectively legal protections are implemented.

Gender Discrimination in Turkey Compared to Europe

Gender discrimination against women seems to be even worse in Turkey compared to European countries. Even though Turkey has subscribed to the legal instruments that the western world is using such as the European Convention of Human Rights, Turkey seems to be behind on gender equality. This can be attributed to a myriad of factors including weak enforcement of law and treaties, persistent gender and social norms, the patriarchal social structure, implementation gaps and limited support for working women. Turkey is aspiring to make good on its international legal promises concerning European Human Rights Law, especially since it wanted to be a part of the European Union. However, it has not been able to successfully combat workplace discrimination, and fulfill its obligations and promises. This research simultaneously highlights the magnitude of this gap while foregrounding the solutions that already exist in International Human Rights Law (IHRL) and European Human Rights Law (EHRL), some of which Turkey has promised to follow, as well as examining the legal, institutional, and social factors for the gap.

Gender inequality and discrimination in workplaces in Turkey are substantial issues. Women's labor force participation rate is 18.5% in Turkey, while it ranges between 42.4% and 69.3% in Europe (Gender Inequality in Türkiye). This disparity suggests that gender equality reforms have not directly translated into improving women's labor force participation rate, indicating a gap between legal framework and practice. There have been quotas declared to increase women's labor force participation such as the Communiqué No. 57 issued by the Capital Markets Board (SPK), which declared a quota for women (of at least one female member in the five-member executive committees) for the firms trading on the Istanbul Stock Exchange (Acar Erdur). This shows that there have been policies that were established to increase women's participation in labor; however, the low labor participation rates in Turkey compared to those of Europe asserts that the economic independence of women is limited in Turkey. Low economic participation of women exacerbates discrimination against women by increasing the dependence of women on men -economically and socially- and reinforcing stereotypes suggesting that women should not have a large presence in the workforce. While women's economic independence is improving, equal opportunities to various services such as healthcare and education are not ensured. According to the Global Gender Report 2018 of the World Economic Forum, Turkey has taken the 130th place among 149 countries in terms of gender equality (*The Global Gender Gap Report 2018*). A CEDAW report asserts that, since Turkey has signed CEDAW, it has failed to make progress in fields relevant to gender discrimination against women and the implementation of social gender equality. Moreover, it was indicated that only 54% of the individuals from 39 countries surveyed believed that gender equality is ensured in workplaces in Turkey. This makes Turkey 31st out of 39 countries based on this metric (BAREM WIN Global Gender Equality Research).

SECTION 1: INTERNATIONAL LAW

International human rights law (IHRL) aims for all people to have equal protection under the law, and for people to be treated equally under the principles of the Universal Declaration of Human Rights (UDHR) (1948) and the nine core United Nations human rights treaties. IHRL has been striving to handle workplace discrimination by implementing ILO Conventions such as No. 156, 100 and 111 -which exhibit the basic steps for addressing discrimination and advancing equality in all workplaces- and CEDAW articles. These legal frameworks are substantial for analysis as it provides the legal promises and the approach to equality under IHRL, which will later be compared with the implementation of these laws and treaties in Turkey to identify the gaps between legal promises and legal practice.

The Aims and Ratifications of CEDAW and ILO

This section examines how key international treaties aim to address workplace discrimination. CEDAW helps women around the world bring change into daily life, and it aims to make up for a world where women receive equal treatment with men. For example in the case of V.P. v. Belarus, there was an inequality in employment and a violation of pension rights. V.P. was a woman who was working in the public sector, until she was dismissed from her job for reaching the mandatory retirement age for women, which was younger than men's retirement age. She claimed that this violated her right to receive equal employment. The CEDAW Committee came to a verdict that Belarus had violated Article 2 (a), (b), (d), (e), Article 11, Article 13 (b) and Article 14 of the treaty, which prohibit discrimination in employment and ensure social security. The committee recommended Belarus to make an amendment of its laws to achieve equal retirement ages for women and men and pay compensation to V.P. (Rangita de Silva de Alwis). Another case that exemplifies CEDAW's effects on life is the case of D.S. v. Slovakia. D.S., a female employee, has experienced discriminatory acts such as unequal pay and the denial of her pension benefits that her male colleagues did not endure. She asserted that there was a violation of her rights under CEDAW. The CEDAW Committee ruled that Slovakia has violated D.S. 's rights under Article 2 (a), (b), (d), (e) and Article 11 and 13 (b) of the treaty. The ruling elaborated on Slovakia's obligation to ensure social security and provide equal treatment in workplaces. As a result, the committee recommended that Slovakia rectifies the discriminatory practices and pays adequate compensation to D.S. (Rangita de Silva de Alwis). These cases illustrate a key limitation of CEDAW's law enforcement system as the decision to put the CEDAW Committee's suggestions into practice is determined by the state, indicating that legal recognition of discrimination and legal protections for inequality does not directly translate into practice and effective law implementation.

States that ratified CEDAW are obliged to eliminate discrimination towards women in all aspects of life, ensure that women have the opportunity to improve and thrive while having their rights in order in the same way as men, and have the CEDAW Committee scrutinize their behaviors and report the misdoings to the body for the treaty's full implementation ("Introduction to the Committee"). Turkey ratified CEDAW on 19 January 1985. With the CEDAW articles, NGOs use CEDAW reports to address

discrimination; the CEDAW committee pushes Turkey to improve equality in workplaces; and there are some legal reforms occurring. However, CEDAW is not explicitly applied by Turkish courts; although CEDAW can make recommendations, the Turkish courts are not legally bound to follow the recommendations and put them into practice. ILO conventions are legal instruments drawn up by the ILO's constituents and set the main principles for work adequacy. Countries that have ratified ILO Conventions apply the conventions in their national law and legal practices, and are obliged to report on their implementation regularly (Conventions, Protocols and Recommendations | International Labour Organization). ILO No. 156, 100 and 111 are conventions that are relevant to workplace discrimination. Although Turkey has not ratified ILO Convention 156, it has ratified ILO Conventions 111 and 100 in 1967.

CEDAW Articles Addressing Workplace Discrimination Against Women

CEDAW Articles 1, 2, 5, and 11 are related to workplace discrimination. Although Articles 1 and 2 are not explicitly about workplace discrimination against women, these articles define discrimination, aim to protect women from all kinds of discrimination, establish legal protection, and assert the obligations of state parties in case of discrimination. Articles 5 and 11 aim to alter the gender roles, stereotypes, sociocultural patterns that create and reinforce discrimination against women, as well as establishing equality in workplaces between men and women. These articles emphasize that both genders have equal family and social responsibilities and state that these following criteria should be followed: equal recruitment, equal treatment, the right to choose a profession and seek employment, promotions, job security, receiving equal respect and value, prohibiting termination in cases of pregnancy or maternity leave, and encouraging workers with family obligations. These articles are substantial for grappling with workplace discrimination since they aim to decrease the disparities between the experiences of women and men in workplaces (“Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979”).

ILO Conventions Addressing Workplace Discrimination Against Women

ILO Conventions 100, 111, and 156 are relevant to workplace discrimination as well. ILO Convention 100 and 111 require men and women to have equal remuneration for equal value of work and prohibit any type of discrimination in terms of employment and occupation based on gender, race, colour, religion, and public opinion. These conventions are important to adopt objective job evaluation systems that compare skills and the value of work, and to ensure that all people have equal opportunities and access to work. ILO Convention 156 asserts that workers who have family responsibilities should not face any kind of discrimination or lose opportunities. It is a consequential convention since women are generally affiliated with family, and they lose opportunities because of their close association with family responsibilities. This convention puts a further emphasis on workplace discrimination, stating that family responsibilities should not mitigate a person's right to work and improve while encouraging maternity and paternity leaves and aiming to ensure that men and women will still be treated equally despite their family responsibilities (“List of Conventions”).

SECTION 2: EUROPEAN CONVENTION ON HUMAN RIGHTS

The value of European Law

The European Convention of Human Rights (ECHR) is a part of European Law. The aim of ECHR is to secure the universal and effective recognition and observance of human rights, and to achieve greater unity between the member states (ECHR). Turkey is a member state of the ECHR and subject to it; therefore, it is obliged to follow the conventions and adopt the council's recommendations. If Turkey violated the ECHR and the case law of ECtHR (European Court of Human Rights), then it will have violated its international legal obligations.

While international human rights law mechanisms such as CEDAW and ILO provide normative protection standards, their implementation and effectiveness majorly rely on the willingness of the states to accept and implement the suggestions issued by their respective bodies, which decreases its enforceability for compliance. The importance of Turkey to implement ECHR when there is already CEDAW and ILO is that ECHR provides a stronger legal framework because of the ECtHR (ECtHR). The ECHR is constantly interpreted in ECtHR which gives a jurisprudential thought and an interpretation of what the convention means, thereby making it more robust. Hence, the conventions become a living document. It gets adapted to the necessities of the social realities of different countries. With a judicial body, ECtHR, the text is thoroughly clarified; there is a clear understanding of the provisions' meaning and the way they can be applied to domestic context. On the other hand, ILO and CEDAW have board declarations, but they are not interpreted much in court. Even though CEDAW and ILO are not interpreted by an international court, CEDAW is monitored by the CEDAW Committee which can consider individual complaints, and ILO Conventions are being supervised by ILO's own monitoring bodies ("Committee on the Elimination of Discrimination against Women")("International Labour Standards"). Consequently, ILO and CEDAW have not been interpreted by an international body to the same extent as the ECHR. There are not many judicial pronouncements that clarify what the provisions mean; without judicial pronouncements, it is compelling to put the provisions to practice. However, with the judicial pronouncements, how to actually apply the provisions into real world situations is known.

Relevant ECHR Articles on the Prohibition of Discrimination

Although there are no articles in ECHR that are explicitly relevant to workplace equality, Article 1 of Protocol 12 (General prohibition of discrimination), and Article 14 (Prohibition of Discrimination) are articles that aim for equality and the prohibition of discrimination. Article 14, and Article 1 Protocol 12 states that the rights and freedoms set in this convention are obliged to be ensured without discrimination based on sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status (European Convention on Human Rights).

The ECHR, especially with Article 14, the jurisprudence of the ECtHR and other European legal instruments, provide a rigid legal framework that precludes gender based discrimination, ensures equality

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in employment, protects women from stereotypes and biases, and provides solutions to the occurring discrimination. European law broadly aims for equality of men and women in workplaces, addresses workplace discrimination, and makes recommendations for the member states. Turkish domestic law has adopted some points that are similar to those of European law such as Article 10 of the Turkish constitution, which states that men and women have equal rights and that the state is obliged to ensure equality between men and women (“Gender Discrimination in Employment”). Similarly, the Turkish Labor Act prohibits discrimination in employment contracts, with “Law on Turkish Human Rights and Equality Institution” no. 6701 and “Code on Turkish Human Rights Institution” no. 6332 (“Turkey | New Law on Mobbing and Discrimination at Workplace Guide”). However, these legal norms are not adapted to practice. Discrimination in hiring, promotions, social stereotypes and unequal pay exist; many women face barriers. There are reasons for the insufficient implementation of laws into practice which can be grouped as institutional, cultural and political barriers: Institutional barriers include weak enforcement mechanisms; cultural barriers encompass social stereotypes that do not perceive gender inequality as an issue while normalizing it; political barriers such as political regression are evident which can be seen from Turkey’s withdrawal from the Istanbul Convention which was an international treaty that addressed violence against women and girls. It required states to provide support services to victims and to satisfy women and girls’ rights, as well as holding authorities accountable for fulfilling the treaty obligations. The withdrawal from this treaty denied women and girls’ access to specific monitoring and accountability mechanisms established under the Convention (*Turkey’s Withdrawal from Istanbul Convention a Setback for Women and Girls’ Human Rights* | ICJ). Another example of political regression can be the removal of the word “women” from the “Ministry of Women and Family Affairs” and replacement of it with the “Ministry of Family and Social Policies.” (Acar Erdur). These norms could be more effective in Turkey if accompanied by stronger enforcement and better implementation of laws with minor changes. There are a myriad of robust articles in the Turkish law, the Constitution, and international treaties, which provide a base for the articles of the ECHR to work. If Turkey strengthened legal enforcement and had an alteration of cultural and social norms and stereotypes, the articles of the ECHR could be implemented and translated into practice more effectively. Even though this may be a way for Turkey to incorporate European Law, there are still barriers that may hinder the articles from being implemented.

SECTION 3: TURKISH DOMESTIC LEGAL FRAMEWORK

Turkish Labor Act and Legal Protections

To understand how Turkey addresses these inequalities, it is substantial to examine its domestic law and legal framework. Discrimination against women in workplaces occurs in several different aspects, such as inequalities in recruitment, promotions, paychecks, mobbing, and harassment. In Turkey, equality among people is protected under the Constitution (1982) in the “General Principles” section that declares equality as one of the fundamental principles of the constitutional system.

Article 10 of the Constitution states that “everyone is equal before the law without distinction as to language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such grounds”

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(“Gender Discrimination in Employment”). Indeed, in 2004, it was amended by the Turkish Grand National Assembly as follows: “Women and men have equal rights. The State shall have the obligation to ensure that this equality exists in practice.” (Acar Erdur). This article also emphasizes the prohibition of different treatment based on pregnancy, and prohibits paying an employee less because of their gender. Article 5 of the Turkish Labour Act also covers similar dimensions to Article 10 of the Turkish Constitution, stating that discrimination on grounds of sex, language, race, political opinion, political belief, religion or disability is not permissible (Labour Act of Turkey (Law No. 4857)). Article 5 of the Turkish Labour Act forbids employers from rejecting applicants on grounds of pregnancy, maternity, and childcare. Also, the Law on the Turkish Human Rights and Equality Institution, adopted in 2016, prohibits direct, indirect and multiple discrimination, instructions to discriminate, discrimination by assumption, segregation, harassment and mobbing in the workplace. The Penal Code No. 5237 criminalizes “discriminatory behavior” and sets forth a penalty of imprisonment for such behavior in Article 122 as well (“Gender Discrimination in Employment”). Therefore, it can be understood that Turkey has laws against discrimination in the workplace. However, the existence of legal protection does not automatically result in effective implementation of laws into practice as weak enforcement mechanisms and limited sanctions reduce employer compliance to the law. Therefore, discrimination still persists despite the legal framework.

Challenges for Workplace Equality in Turkey

Workplace discrimination is a significant issue in Turkey and despite these legal protections, significant challenges remain in practice. There is a significant gap between the pay of women and men; women are taken less seriously in leadership roles; inequalities in recruitment processes, workplace harassment, and lack of equal promotions are prevalent (OECD, *Diversity at Work*); the labor force participation rate of women in Turkey is lower compared to the OECD average (OECD, *Ending Gender-Based Discrimination in G20 Countries*). There is a lack of effective complaint mechanisms and weak enforcement of equality laws. As it is indicated from the previous sections of this paper, Turkey has ratified CEDAW and some ILO Conventions relevant to workplace gender discrimination. Therefore, Turkey has a legal and ethical obligation to follow these conventions. Moreover, when there is an issue, it is first tried to be solved by domestic law. And if the issue has not been resolved by the domestic law, then international law is used. International law and the treaties that Turkey has ratified can be a chance for some people who want to protect their rights. Domestic law tends to reflect the cultural aspects of the country, while international law is more universal. The ECHR and the Universal Declaration of Human Rights are universal treaties that are relevant to many countries including Turkey. The UDHR Article 1 states that “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” (“Universal Declaration of Human Rights”), which asserts that it is for all people.

SECTION 4: CASES ON WORKPLACE DISCRIMINATION

Case Study: R.K.B. v. Turkey (CEDAW)

One of the examples that elaborates on Turkey's improper implementation of the CEDAW articles is *R.K.B. v. Turkey*. R.K.B.'s employer dismissed her but not her male colleague because of allegations that they were having an affair, as well as threatening her about spreading rumors if she did not sign the dismissal documents. R.K.B. filed a claim against her employer with the Kocaeli 3rd Labor Court, asserting an undue termination based on gender stereotypes. The court has come to a verdict that the termination of her contract was not excused, but stated that the male colleague's not getting dismissed was not discriminatory. R.K.B. appealed to the Court of Cassation, which dismissed the appeal without referring to gender stereotypes and discrimination. This showcases an institutional problem in the Turkish legal system, especially the judiciary's inability to recognize and apply gender stereotypes as a form of discrimination leading to inconsistent and weak protection against workplace discrimination, as well as the ineffective integration of international obligations Turkey has under CEDAW into domestic judicial rulings. Also, the 2005 Turkish Penal Code provisioned that "no discrimination shall be made between persons with respect of sex" to ensure gender equality (Articles 5 and 122)(EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION)). However, there had been discrimination made in this case which was overlooked by the judiciary, indicating that the Turkish legal system has not only failed to consider its international obligations to treaties it has ratified, but also its own domestic law. The CEDAW holds the Turkish Court accountable for the violation of CEDAW article 5(a), 11(1a), and 11(1d) by basing their decision on the toleration of the male colleague's private life, but not of R.K.B.'s private life. The CEDAW Committee recommended that R.K.B. get compensation, the state takes measures for the implementation of the articles and laws on gender equality in workplaces, and provides training to judges and lawyers. This decision elaborates on not just the adoption of laws, but also the substantiality of the implementation of laws. The decision stresses that the courts are responsible for the violation of rights ("R.K.B. v. Turkey"). Also, workplace discrimination is not straightforward, which means that an employer may claim that they did not hire a candidate because they are unqualified, when in reality, it was because of the candidate's gender. It is very compelling to understand the reality behind the claims that employers make. This case showcases how judicial actors and domestic courts fail to recognize discrimination from social stereotypes, thus limiting the effectiveness of Turkey's legal obligations. The differing treatment of the male and female employees, together with the court's failure to recognize this as discrimination, suggests that prevailing gender norms may have influenced the interpretation of equality protections.

Case Study: Hülya Ebru Demirel v. Turkey (ECHR)

The case of Hülya Ebru Demirel v. Turkey is one of the cases judged by the ECtHR, demonstrating the role of it in law enforcement. Hülya Ebru Demirel applied for a security officer position in the Kilis (a city in Turkey) branch of a state-run electricity distribution company. Initially, her application was accepted, but afterwards it was rejected due to regulations that stipulated that only men could work in that position, which Hülya Ebru Demirel did not meet. The government noted that the position was reserved for male candidates who had completed military service. The Gaziantep Administrative Court abolished the company's refusal to accept her application. Then, she worked in the company for a while before the

company appealed to the court. The Turkish Supreme Administrative Court overturned the Gaziantep Administrative Court's ruling, asserting that the job requirement excluded women validly. As a result of this ruling, she was dismissed from her job. Then, the case went to the ECtHR which came to a verdict that Article 14 (which stated that discrimination of any kind should not occur) of the ECHR was violated, coalescing with Article 8 (right to have respect for family and private life). The court also found that the reasons given were not sufficiently stated for the justification of discrimination. As a result, Turkey was ordered to pay compensation to Hülya Ebru Demirel for material and moral damage (*Hülya Ebru Demirel v. Turkey*). Turkey is not an EU member; therefore, EU regulations are not binding on Turkey. Although Turkey is obliged to follow the ECHR (since it ratified the ECHR) and the ECtHR case law, discrimination still persists despite these legal protections. Turkey has borrowed and adapted some Continental European Laws into its own legislation. In 1926, Turkey replaced the Turkish Islamic Family Law with the Swiss Civil Code, adopting most of its articles. That is the reason why Turkish family law is rooted in Swiss Law. Turkey, as it did with family law, can adopt Swiss Law for equality, labor law, and the protection of citizens. Some elements of German administrative law and the French penal model have also influenced the current Turkish Law. Therefore, Turkey may take a similar action with gender equality and the prohibition of discrimination in workplaces, being influenced by other countries' laws relevant to these topics. This showcases Turkey's ability to incorporate European Law relevant to workplace discrimination against women. Strengthening enforcement, providing better implementation of laws, addressing gender norms and stereotypes, and borrowing some elements from European Law can help Turkey to achieve gender equality in practice, not only in legal documents.

Having looked at both of these cases, these Turkish cases indicate that legal reforms alone are insufficient to handle gender discrimination in workplaces. International treaties can provide legal protection and obligations, however; their effectiveness depends on the domestic institutions that are responsible for enforcing the protections and obligations. Gender discrimination reports are underreported, and in some circumstances judicial actors fail to recognize gender stereotypes and discrimination while social norms persist on tolerating gender inequality, suggesting that legal practice remains inferior to the legal reforms. Therefore, the persistence of gender discrimination in Turkey does not mainly rely on the legal framework, but relies on the weak enforcement mechanisms, ineffective implementation of laws, and social norms and stereotypes.

SECTION 5: IMPLEMENTATION GAPS IN TURKEY

Implementation Gaps in Turkey

The implementation gaps in the Turkish legislature exacerbate discrimination against women in workplaces. As a result, according to the World Economic Forum's Global Gender Gap Report 2022, among 146 countries, Turkey ranks 124th in gender equality (*Global Gender Gap Report 2022*). This relatively low ranking suggests that the existence of legal protections and obligations has not translated into effective gender equality, reinforcing the paper's argument that implementation remains a significant gap for Turkey.

First, this gap can be observed at the legal level. Turkey has ratified the CEDAW treaty and ILO Conventions 100 and 111, which require the elimination of discrimination and the promotion of equal pay and equal treatment in employment, but it has not yet ratified ILO Convention 156 on workers with family responsibilities (*Conventions Ratified by Türkiye | International Labour Organization*). Although the Turkish legislation prohibits discrimination based on gender as it is stated in Turkish Labour Law (Law No. 4857, Article 5 – Principle of Equal Treatment) and guarantees equal pay for equal amount of work for people as it is stated in Article 10 (Equality Before the Law) and Article 55 (Provision of Fair Wage) of the Turkish Constitution, since Turkey has not ratified ILO Convention 156, Turkey is not legally bound to address discrimination related to family responsibilities. The ILO Conventions are not adequately implemented in Turkey, at least not in practice.

Second, implementation is limited by institutional issues. As an example, one of the reasons as to why ILO Convention 156 may not have been ratified is that countries might be more prepared to ratify conventions that entail lower economic and administrative costs. Introducing another ILO Convention into the legislature may place a heavy workload on the country's bureaucracy as well (Boockmann). Ratifying ILO Convention 156 may introduce obligations such as offering flexible working hours, childcare/elderlycare services, leave rights, and the preclusion of the adverse treatment that workers with family responsibilities face. For Turkey, public childcare is insufficient and early childhood education is weak. The literature on reconciliation policies assert that state support is limited (Nazlı Kazanoğlu).

Third, social and cultural factors reinforce the discrimination in Turkey, increasing the implementation gaps. ILO Conventions are very specific; they are not abstract -the conventions are written documents that are physically available. They are universal obligations of the member states. To exemplify, ILO Convention 156 aims for equality for workers with family responsibilities. Family is significantly influenced by culture, and there are a lot of differences in the familial structure of different states. The social structures of Western and Turkish families are not the same; they differ in many ways, such as family roles, conventions, activities, and familial relationships (Diane Sunar and Güler Okman Fişek). Therefore, this may result in differing applications of these laws in minor ways. Motherhood role, internalization of the glass ceiling, lack of role models, lack of confidence, social prejudices, and ignorance of qualifications were the main factors behind the persistence of the glass ceiling, according to a meta-synthesis study on the glass ceiling factors in Turkey published by Istanbul University (Akdeniz and Ergün Özler). Other reasons why these conventions and laws are not fully implemented is the unevenness of the enforcement of anti-discrimination laws in practice, the lack of efficiency of the legal provisions that result in harassments being either underreported or inadequately addressed, the cultural expectations that are prevalent in Turkey (women should stay at home, look after the house and children while men work and earn money) (Dedeoğlu), and the lack of work-life balance.

One of the factors that increases cultural expectations is maternity and paternity leave. While parental leave is up to 12 months in Norway (Parental Benefit and Parental Leave in Norway | Nordic Cooperation) and 480 days in Sweden (Försäkringskassan), maternity leave is a total of 16 weeks in Turkey -8 weeks before and after birth ("Maternity Leave In Turkey"). The comparatively shorter duration of maternity leave in Turkey may decrease women's motivation to work, as they will be dealing

with a 2 month old child while working. This may make it difficult for women who do not have access to a babysitter, or someone who can take care of the baby while they are at work. The paternal leave in Turkey is only 5 days, while maternity leave is 16 weeks, which puts the responsibility of taking care of the child on women. These parental leave policies may reinforce gendered caregiving responsibilities and create barriers to women's continued employment, intensifying the existing gender roles in Turkey. By these examples, it can be seen that the enforcement of laws in Turkey are weak and they are not properly enforced in practice most of the time.

Women's lack of access to legal help due to lack of awareness, fear of retribution, and the difficult process of addressing harassment or discrimination are other factors as to why this is a significant issue. Another perspective for the reasons these conventions and articles will not work as well as they aim to be in Turkey is that the CEDAW is very general. It addresses all kinds of gender discrimination, not just specifically about workplace discrimination; it has a few articles relevant to workplace discrimination. Therefore, these norms stated in CEDAW may not work in Turkey, since it handles all types of discrimination. Even though Turkey has ratified CEDAW and is obliged to follow the articles, it does not put all of the articles into practice.

Challenges Turkey faces in the Implementation of European Law

Turkey has not fully fulfilled what the treaties have stated. Many articles relevant to equality have been ratified by Turkey, but the implementation of the articles and conventions is weak. The ECHR, of which Turkey is a member state and is obliged to follow the articles, is not put into practice. Women's participation in the labour force remains low, and wage gaps and glass ceilings still exist. Even before the withdrawal from the Istanbul Convention, Turkey had weak legal mechanisms that made it challenging to make restraining orders or have police protection. After Turkey's withdrawal from the Istanbul Convention, the extent of protection of women from violence and perpetrators was mitigated. The binding obligations and legal mechanisms provided by the Constitution have not been replaced since the withdrawal. There are strong patriarchal attitudes, expectations on women to take care of the children, and men being the primary earners, doing all the housework, and stereotypes about the role of women. These influence employment practices, expectations, and familial responsibilities. There is limited childcare and insufficient protection services, especially in rural areas, which makes it even more challenging for working women to continue working. There is weak enforcement of laws and resource constraints: some cases of discrimination, inequality, and harassment are not adequately prosecuted or investigated, and there is a lack of administrative bodies.

International Law and Domestic Implementation

Article 90 of the Turkish Constitution states that once the treaty is ratified, international law has the same force as domestic law. Since Turkey has ratified treaties regarding equality, it is obliged to follow the conventions and articles of the treaties.

CONCLUSION

This research paper has examined the extent to which International Human Rights Law and European Law address gender based discrimination against women in workplaces in Turkey and the implementation of the multiple International and European treaties that Turkey has ratified, apart from its domestic law. It argues that although international and domestic legal protections and promises exist, their effectiveness in practice remains limited in Turkey. The paper begins by exploring the significance of workplace discrimination against women globally. Then, this issue is examined in Turkey. Although the constitution, several laws, and ratified treaties prohibit gender based discrimination in workplaces, due to weak enforcement of laws, insufficient complaint mechanisms, cultural norms, and gender stereotypes, the laws and conventions are undermined. This showcases a persistent gap between legal promises and their implementation into practice. This paper explored international treaties such as CEDAW and ILO, putting particular emphasis on relevant conventions such as ILO 100, 111, 156, considering if these conventions and treaties were ratified, their effects, and the extent they were incorporated into Turkish law. The findings demonstrate that the ratification of treaties has not translated into practice effectively along with weak enforcement. Even though Turkey has ratified CEDAW and ILO Conventions 100 and 111, implementation of these conventions remains insufficient. The effect of ECtHR was also examined through the case of *Hülya Ebru Demirel v. Turkey*. This case illustrates both the broad potential of ECHR and its limited impact on Turkish judiciary, underscoring structural and social barriers that affect the effectiveness of treaties. More broadly, the case studies provided demonstrate an important limitation of International and European Law: the ratification of treaties and adoption of legal reforms and promises do not explicitly translate into social change. International legal promises and treaties provide a robust legal framework, encourage domestic alterations and create a reform for accountability, however; their effectiveness depends on domestic institutions and social acceptance of legal reforms. Therefore, the Turkish case studies show that achieving gender equality requires not only legal obligations, protections and promises, but also strong implementation, robust enforcement mechanisms, institutional capacity and persistent effort to overrule discriminatory social stereotypes. According to these cases, it can also be seen that implementation fails and gaps persist because judicial actors may interpret and apply the law through prevailing social norms and it goes unnoticed that discrimination occurs. These findings demonstrate the distant relationship between law on paper and in practice. Although the legislative framework seems sufficient, the glass ceiling, cultural norms, lack of complaint mechanisms, gender roles, patriarchal attitudes, political regression (such as withdrawal from the Istanbul Convention), and insufficient enforcement of laws obscure the effect of these laws in workplaces in Turkey. These factors, when combined, limit the effectiveness of the international and European law on grappling workplace gender discrimination in Turkey.

One limitation of this study is its reliance on secondary sources and the analysis of only two cases involving workplace discrimination in Turkey. While these cases provide valuable insights into the legal

framework and illustrate how discrimination may remain to be unrecognized by judicial bodies despite legal protections against it, they do not provide direct information about how workplace discrimination is experienced and implementations are put into practice. In particular these cases do not allow this study to directly determine how workers experience discrimination, how workplaces implement legal framework into practice, and why discrimination is or is not reported by the employees. In addition, since two cases cannot fully represent the experiences of a wide range of employees in Turkey, the findings cannot be generalized to the Turkish judicial system or workplaces as a whole. Consequently, the study's reliance on secondary resources rather than primary data limits the conclusions that can be drawn about broader patterns of discrimination and implementation into practice. Nonetheless, this study identifies several new directions for future research. Future research can address these limitations by examining a more diverse and large range of cases and involving primary data such as interviews or surveys conducted on female employees or employers, to provide more direct evidence and information about implementation of legal practices and workplace discrimination. Future study with different subjects can also be conducted based on this study. Since this paper also went deep into the social and legal dynamics of Turkey, it provides a better understanding of the relationship, implementation, and perception between international law and domestic law. A study comparing the difference in implementation and enforcement of international treaties between Turkey and other European countries can be made. By doing so, it can be demonstrated how similar legal obligations result in different outcomes for states with differing legal, social, cultural, economical, ethnic values. Furthermore research can be done on the social reality of Turkish law and the significance of discrimination in Turkey. Another future study can be conducted on the legal situation between Turkish and international law.

In conclusion, Turkey has made commitments to eliminate gender based workplace discrimination through the ratification of international treaties and conventions. Although legal commitments exist, the gender roles, legal norms, and social expectations still persist. International Human Rights Law and European Law introduce strong legal mechanisms and provide rigid legal frameworks, but without robust enforcement and better implementation of the law, a change in social expectations, and conventional thoughts, the effect of these legal mechanisms are obscured. Addressing and aiming to eliminate gender based discrimination in Turkey not only requires the ratification of conventions, but also strong institutions, implementation of laws into practice, and changes in the legal system. By putting emphasis on the effects of international human rights law on gender-based workplace discrimination in Turkey, this paper highlights the changes that can be made in Turkish law, and the extent international treaties grapple with domestic issues.

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