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WOMEN RIGHTS in TÜRKİYE UNDER BUSINESS and HUMAN RIGHTS

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About Business and Human Rights Association (Minerva BHR)

Minerva BHR, is the first independent NGO in Türkiye with a central focus on business and human rights. In light of the United Nations Guiding Principles on Business and Human Rights, Minerva BHR aims to promote responsible business conduct, combat modern slavery and advocates for corporate responsibility and accountability to respect human rights. According to this objective, it works to prevent, mitigate or remedy human rights violations arising from the business activities of multinational companies and their suppliers in global value chains.

Through bridging a dialogue between all public, private, and civil actors; Minerva BHR aspires to collaborate with all stakeholders to develop and implement viable, feasible and practical solutions using its local expertise.

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Introduction

In today's world, it has become important to identify and prevent human rights violations resulting from business activities and to attribute responsibility for the occurrence thereof. Particularly considering the wide extent of the areas of impact of multinational enterprises whose activities extend to various parts of the globe through their group companies and supply chains, enterprises are now required to actively assume certain responsibilities in respecting human rights beyond states' duty to protect human rights. States' duty to protect human rights under international law requires them to ensure people's respect for human rights, as well as the protection and achievement of those rights, and it also includes the liability to protect human rights through effective policies and legal regulations against violation of human rights by third parties, including enterprises.

On this basis, legislations on human rights due diligence serve as a legal ground comprised of mandatory rules regulating enterprises' liability to respect human rights, requiring enterprises to identify potential effects of the activities in their global supply chains on human rights, prevent and mitigate any possible violations of human rights and establish remedial mechanisms. The proposal on **European Union Directive on Corporate Sustainability Due Diligence (the "EU Draft Directive")[1], which has been adopted by the EU Commission will enter into force once it is approved by the European Union Council and the European Union Parliament, aims to regulate due diligence on human rights, environment, and good governance in the domestic laws of the European Union Member States by rendering it obligatory.** Even though the mentioned EU Draft Directive has not yet entered into force, there are legal regulations which have entered into force and/or adopted for entry into force in Switzerland[2] and in several European Union Member States, including the Netherlands[3], Germany[4], and France[5] with respect to the identification and prevention of a range of human rights violations that occur in global supply chains, the performance of necessary inspections as well as the legal and criminal liability of corporations.

Human rights violations caused by corporate activities arise particularly in connection with problems such as but not limited to discrimination, child labour, no access to fair wage, environmental damages, forced labour, modern slavery and with the impact of existing gender-based inequalities, the situation gets worse for gender inequality victims, particularly for women. In fact, **women are disproportionately and more severely affected by the adverse impacts of commercial activities due to the presence of multiple forms of discrimination in association with different factors such as age, ethnicity, economic and social status, literacy, language, education, marital status, sexual orientation, sexual identity, disability, living in rural areas, and immigration in addition to existing gender-based inequalities.** Besides problems that women face at workplaces such as discrimination, the lower wage for the same job, glass ceiling, difficulty in accessing justice and remedy mechanisms, harassment and mobbing at the workplace; there are also consequences of informal employment, precarious working conditions, social and economic insecurity, being considered as low-cost and flexible labour and poverty for female workers who are left to exist at the bottom of the supply chains. In addition to and with an impact on the foregoing factors, it is observed that environmental impacts of enterprises that make adverse effects on biodiversity, ecosystems, water resources, human health and living areas are felt more severely by women and disadvantaged groups due to livelihood for women, women poverty, and obstacles in accessing health services and social support structures.

To this extent, actors in the business world, particularly multinational enterprises, bear responsibilities for complying with both national and international legal regulations and standards and thus avoiding practices that may cause problems such as discrimination, harassment, abuse of women's labour, precarious and informal work, etc. throughout their global supply chains and taking the necessary measures for the prevention of such problems.

This information note analyses the relationship between gender inequality, women's rights and business with a particular focus on women's rights and discrimination in work life within the scope of international and national regulations and policies, looks into women's rights within the framework of corporate activities, and examines gender-related impacts of business and multinational companies as well as problems and violations of rights faced by women in their work life, through a review on press and other public sources in the Covid-19 period so as to reflect current and outstanding problems.

Legal Regulations

General Framework

Within the context of business and human rights, there are several mechanisms and guiding principles aiming at protecting women's rights. The below-mentioned international conventions to which Türkiye is a party, regulate the duties of States Parties with respect to the protection of human rights and women's rights in work life, prevention of discrimination and mitigation and elimination of exploitation of women's labour. **In line with international conventions, regulations and sanctions concerning the protection of women's rights and gender-based discrimination have been introduced particularly by the Constitution of the Republic of Türkiye as well as laws such as Labour Code and Criminal Code.**

In addition to the mentioned regulations, there are certain principles and standards concerning business and human rights that refer to the responsibilities of corporations besides states' duty to protect human rights, which are not directly binding but are internationally recognised. For compliance with those international regulations and standards, many multinational enterprises promote sustainability policies in their activities and global supply chains.

Türkiye has not yet introduced any legal regulations in relation to business and human rights; however, Goal 9.3 under the Action Plan on Human Rights[6] published by the Ministry of Justice on March 2, 2021, within the scope of judicial reform reads as follows: "*Taking into consideration the United Nations Guiding Principles on Business and Human Rights, a national set of guiding principles on business and work-life will be prepared and awareness-raising activities will be conducted.*" Despite this clear reference, Türkiye has not yet taken a concrete step in the preparation of the National Action Plan set forth under the United Nations Guiding Principles on Business and Human Rights[7] ("**UN Guiding Principles**"). However, with the impact of the above-mentioned legal developments throughout the European Union ("**EU**") and in many EU Member States, Türkiye-based enterprises supplying products and services to the relevant EU countries will bear liabilities for ensuring human rights compliance within their activities and setting up and maintaining the mechanisms provided for in the relevant regulations.

International Legal Instruments

European Convention on Human Rights

Article 14 of the European Convention on Human Rights[8] (the "ECHR") regulating the prohibition of discrimination stipulates that "The enjoyment of the rights and freedoms set forth in the ECHR shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status".

Grounds for discrimination listed without limitation in Article 14 also include sex and impose on States Parties the liability of not making any sex-based discrimination among individuals in the enjoyment of their rights and freedoms under the ECHR. According to the decisions of the European Court of Human Rights (the "**ECtHR**") concerning Article 14, in order to suggest the presence of discrimination, there must be a difference in the treatment of persons in comparable situations. The ECtHR is in the opinion that different treatment constitutes discrimination if it has no objective and reasonable justification; in other words, if it does not pursue a legitimate aim or if there is no reasonable

relationship of proportionality between the method adopted and the aim sought to be realised[9]. The ECtHR also accepts that references to traditions, general assumptions or prevailing social attitudes in a particular country will not provide sufficient justification for a difference in treatment on grounds of sex[10].

For example, in a decision concerning the exclusion of a male employee from entitlement to parental leave, the ECtHR ruled that gender stereotypes such as considering women responsible for the care of the children and men for earning money for the family will not constitute a sufficient reason for such a different treatment[11].

COURT DECISIONS

Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination against Women[12] (the "**CEDAW**") is an international convention adopted by the General Assembly of the United Nations in 1979, which regulates the State's duty to eliminate all forms of discrimination against women and to which Türkiye has become a party in 1985. ***The CEDAW defines discrimination against women as any distinction, exclusion or restriction made based on sex which the effect or purpose of preventing exercise by women of human rights and fundamental freedoms in the political, economic, social, cultural or any other field***[13]**.** According to the CEDAW, States Parties undertake to comply with the regulations put out, in all fields -particularly in the political, social, economic, and cultural fields- all measures, including taking the necessary steps to begin appropriate national legislation moves.

Articles 4, 11 and 14 of the CEDAW can be considered the most imperative provisions in terms of women's rights and business. Article 4 of the CEDAW allows States Parties to take temporary special measures aimed at accelerating *de facto* equality between men and women in order to achieve the objectives of equality of opportunity and treatment, and clearly states that such measures will not constitute discrimination or inequality. Article 11 guarantees to eliminate discrimination against women in the field of employment and provide women with the same rights on a basis of equality of men and women, States Parties will provide rights such as the right to the same employment opportunities, the right to free choice of profession, the right to promotion, and the right to equal remuneration and equal treatment. Article 14 particularly focuses on discrimination against rural women and requires states to provide equal access to economic opportunities through employment or self-employment and follow the necessary measures to ensure the application of the provisions of the CEDAW to women in rural areas.

Conventions of the International Labour Organization

The conventions of the International Labour Organization ("**ILO**"), to which Türkiye is a member, are the pioneering regulations on women's rights in business. ILO's Discrimination (Employment and Occupation) Convention No. 111[14] stipulates that no distinction shall be made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin in the regulation of the conditions of employment, education and labour. To this extent, states are required to develop policies to promote and ensure equality of opportunity and treatment, including access to vocational training, access to employment and particular occupations, and terms and conditions of employment. The Equal Remuneration Convention No. 100[15] stipulates that men and women should have equal remuneration for work of equal value. In addition to the foregoing conventions, the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy[16] aims

to make direct recommendations to enterprises concerning social policies and comprehensive, responsible and sustainable workplace practices, ILO emphasises that enterprises should take an active role in promoting and contributing to gender equality with respect to their activities, communities in which they operate, their supply chains and other business connections.

United Nations Guiding Principles on Business and Human Rights

The United Nations Guiding Principles (the "**UNGPs**") set the main framework concerning duties and responsibilities regarding business and human rights, and provide for states' duty to protect human rights throughout their activities, corporate responsibility to respect human rights, and remedial mechanisms to be adopted in case of a violation. In such manner, regardless of their size and fields of activity, all companies must avoid violating human rights, and mitigate or remedy the damages arising from a violation if it was not possible to prevent it. Among the fundamental principles of the UN Guiding Principles, it is stated in **Article 3 that different risks faced by women and men, gender, vulnerability, and marginalisation must be effectively addressed**[17] **and the UN Guiding Principles must be implemented in a non-discriminatory manner**[18]**.**

European Social Charter

The signing states of the Council of Europe's convention on European Social Charter (the "**Charter**") accept and undertake to comply with its regulations. Article 4 of the Charter protects fundamental social and economic rights and guarantees civil and political rights. As a signatory, Türkiye accepted to recognise the rights of men and women workers to equal pay for work of equal value. Besides, as per the Revised European Social Charter[19] which was revised and opened for signature with the addition of 8 new articles to the Charter, Türkiye has undertaken to provide the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex[20].

Women's Empowerment Principles

Women Empowerment Principles (the "**WEPs**")[21] is a joint initiative of UN Global Compact[22] and UN Women and focuses on how enterprises will respect women's rights and support women's empowerment. To this extent, business leaders are expected to expressly undertake 7 principles aiming at establishing corporate policies which will advance gender equality. **Those principles include (1) establishment of high-level corporate leadership, (2) fair treatment and non-discrimination, (3) provision of health, safety, and well-being, (4) promotion of education, training and professional development for women, (5) implementation of enterprise development, supply chain and marketing practices to empower women, (6) promotion of equality through community initiatives and advocacy and (7) measurement and disclosure of achievements based on gender equality.** Enterprises that are signatories of the WEPs undertake to implement them, which promote women's leadership and entrepreneurship, education and training, equal opportunities at workplaces and non-discrimination within their organization, including boards of directors, supply chains and within every different area and sector of the society.

Even though the policy declarations and publicly available documents issued by the signatory enterprises show that women's rights and gender equality issues are on their agenda, there are significant gaps between those policies and existing practices, especially in supply chains, due to the failure to integrate the policies into the practice and the failure to adopt effective monitoring and assessment processes.

For instance, according to an independent audit report published in February 2021, which evaluates the world's biggest food and beverage companies that are signatories of the WEPs, only half of the companies have a supplier or vendor code of conduct that explicitly states support for gender equality[23].

OECD Guidelines for Multinational Enterprises

The Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises[24] (the "**OECD Guidelines**") are guiding principles aiming at developing responsible business practices for multinational enterprises, particularly those globally active, and ensuring that those enterprises respect human rights in their practices and policies. Duties set forth under the OECD Guidelines include evaluating and addressing existing and future effects of enterprises' activities on human rights and creating remedies. It is further stipulated that enterprises must avoid causing or contributing to human rights violations and maintain effective stakeholder communication with affected individuals and communities.

For women in business, enterprises are expected to promote equal opportunities for women and men and accordingly maintain equal criteria of selection, remuneration and promotion and equal application of those criteria, and to prevent discrimination or dismissals on the grounds of marriage, pregnancy or parenthood. Enterprises are further required to invest (to the greatest extent practicable) in training and lifelong learning, while ensuring equal opportunities to groups deemed to be disadvantaged such as women, youth, low-skilled people, people with disabilities, migrants, elderly workers and indigenous peoples. The OECD Guidelines also provide for a complaint mechanism whereby stakeholders and rights holders affected by enterprises' activities can address their complaints.

The OECD National Contact Points, which are required to be set up by OECD member states, are authorities to handle complaints of stakeholders in connection with any alleged non-compliance with the OECD Guidelines by enterprises and pass advisory decisions[25]. As an example of a complaint concerning women's rights; on

28 August 2020, an association of women fish processors filed a complaint with the Turkish National Contact Point against a Turkish company for alleged violation of Chapter IV of the OECD Guidelines for MNEs[26]. As the reasoning of the complaint, it was alleged that the company's operations of building a mining and steel complex on lands currently used by women fish processors caused significant risks on them and the company did not undertake an adequate human rights due diligence process to assess those risks. The complaint is still pending and has not been resolved yet.

Sustainable Development Goals

Sustainable Development Goals (Transforming Our World: The 2030 Agenda for Sustainable Development) (the "**SDGs**"), which were adopted by the UN's member states in the General Assembly of the United Nations in September 2015 and entered into force in January 2016,[27] constitute a call for action consisting of 17 global goals applicable for countries at different levels of development. The SDGs aim to provide a better world for all through focusing on fundamental issues such as mitigation of poverty, structuring of democratic governance and peace, climate change, disaster risk and financial inequality.

With respect to gender equality, Goal 5 of the SDGs addresses "achieving gender equality and empowering all women and girls" and includes as sub-goals "ending all forms of discrimination against all women and girls everywhere" and "eliminating all forms of violence against all women and girls in the public and private spheres including trafficking and sexual and other types of exploitation".

In the Sustainable Development Goals Evaluation Report published by the Strategy and Budget Department of the Presidency[28], basic policy instruments for the achievement of the SDGs are identified and the activities conducted to this end are evaluated. The report states that particular importance should be attached to integrating gender equality policies with policies of income equality and mitigation of poverty, organising education and employment policies in a way to support gender equality and monitoring the results of the relevant policies and projects to achieve Goal 5; and identifies the Ministry of Family and Social Services as the body responsible for the achievement of Goal 5. Other than the Sustainable Development Goals Evaluation Report, no official report concerning the achievement of the SDGs in Türkiye can be found from publicly available resources. For this reason, no evaluation can be made with respect to the activities conducted within this framework in Türkiye and the impacts of those activities.

National Legislation

General Framework

Article 10 of the Constitution of the Republic of Türkiye (the "**Constitution**")[29] adopts the principle of equality and stipulates that **Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds**; and in this context, it is stated that women and men have equal rights and, according to international regulations, the state is obliged to achieve such equality. Accordingly, **Article 122 of the Turkish Penal Code[30] stipulates the crime of discrimination and Article 5 of the Labour Act[31] titled "Principle of Equal Treatment" prohibits discrimination in the employment relationship on various grounds, including sex.** The same article further stipulates that differential remuneration for a job of the same or equal value on grounds of gender is not permissible and that application of special protective provisions due to the employee's sex does not justify payment of a lower wage.

Action Plans

In 2018, the General Directorate on the Status of Women of the Ministry of Family and Social Policies published the Women Empowerment Strategy Paper and Action Plan 2018-2023 (the "**SPAP**")[32]. The SPAP explains goals and strategies in the areas of health, education, decision-making, economy and media for women's empowerment and exercise of their rights, and identifies the official bodies which are responsible for the achievement of those goals. As for women's participation in business and their financial standing, the SPAP includes goals such as **enhancement of women's employment, the inclusion of women within social security including in the agricultural sector, the introduction of regulations concerning duties of municipalities and the private sector to open day care centres, and performance of awareness-raising activities concerning women's empowerment in certain organisations.**

By the Women's Employment Action Plan 2016-2018[33], the Ministry of Labour and Social Security has introduced goals for increasing women's employment, providing women with occupational skills and enhancing facilities for women's means of access to the labour market; and identified the bodies which are responsible for the achievement of those goals. Accordingly, goals are set for women's participation in labour, such as organising special support programmes for creating business opportunities for women, supporting projects on women's employment, carrying out women-oriented market research in labour markets, offering consultancy services in directing violence-victim women towards employment opportunities and providing support for maintaining formality in women's employment.

For the achievement of goals and targets laid down by means of action plans in line with the designated schedule, it is of great importance to monitor action plans regularly, expressly identify the responsibilities of the bodies which are responsible for such goals and carry out evaluations thereon. However, from the publicly available resources, no information could be found with respect to the steps taken for the achievement of the goals laid down under either of those two action plans. In addition, there is no monitoring or evaluation report issued concerning those goals and shared with the public.

Developments, Current Status and Evaluations Concerning Women's Rights in Business

Gender Inequalities

According to the Global Gender Gap Index published by the World Economic Forum that evaluates 156 countries and measures the sex-based inequalities in different areas[34], Türkiye ranks the **133**rd in gender equality, **101**st in women's access to education, **114**th in women's political empowerment, **140**th in women's economic participation and opportunities and **105**th in health and survival among **156 countries** in 2021.

Existing in every area of life, gender inequalities bring along problems in the following matters for women in work life:

Equal Pay for Equal Work

The joint study of the ILO Office for Türkiye and the Turkish Statistical Institute ("**TURKSTAT**"),

results of which were declared in September 2020[35], shows that the gender wage gap is around **15.6%** in Türkiye.

According to the study which analyses the wage gap in different categories, the wage gap widens as age increases: the wage gap is 3.8% at the first years of the work life, whereas it rises to 25% when the age group arrives to 40s. It appears that the gender wage gap also increases as the educational level decreases. While the wage gap is 38.6% for those with elementary education or less, it is around 15.8% for those with tertiary or higher education. The study also reveals the association of informal employment with wage gap: wage gap among informal workers is 24.2%, whereas it is 11.5% for formal workers. The study further shows that working mothers are paid 11% less than non-mothers, and 19% less than working fathers.

According to the Global Gender Gap Index, while a man earns **2.27 USD**, a woman doing the same job earns **1 USD**[36].

Glass Ceiling

Glass ceiling refers to unnamed barriers which women encounter while being promoted to medium-level management positions and are not clearly visible, but which women should overcome while advancing in their careers. The fact that women's participation in labour increases as their educational level increases, yet the number of women decreases in management positions[37] in Türkiye indicates that female employees are promoted later or more difficultly when compared to male employees or are not promoted at all, regardless of their achievements or efficiency in their career.

According to 2019 data from the European Union Statistical Office, Türkiye ranks second-to-last in the women manager ratio among 34 countries in Europe[38].

The same data shows that the women manager ratio in Türkiye is 22%, whereas such ratio is on average 37% in the EU countries. The data published by the Women on Board Association Türkiye indicates that, in European countries implementing legal regulations providing for a quota for the presence of women on companies' boards of directors, the ratio of women board members ranges between 30% and 40%, while such ratio is at the level of 17% in Türkiye[39].

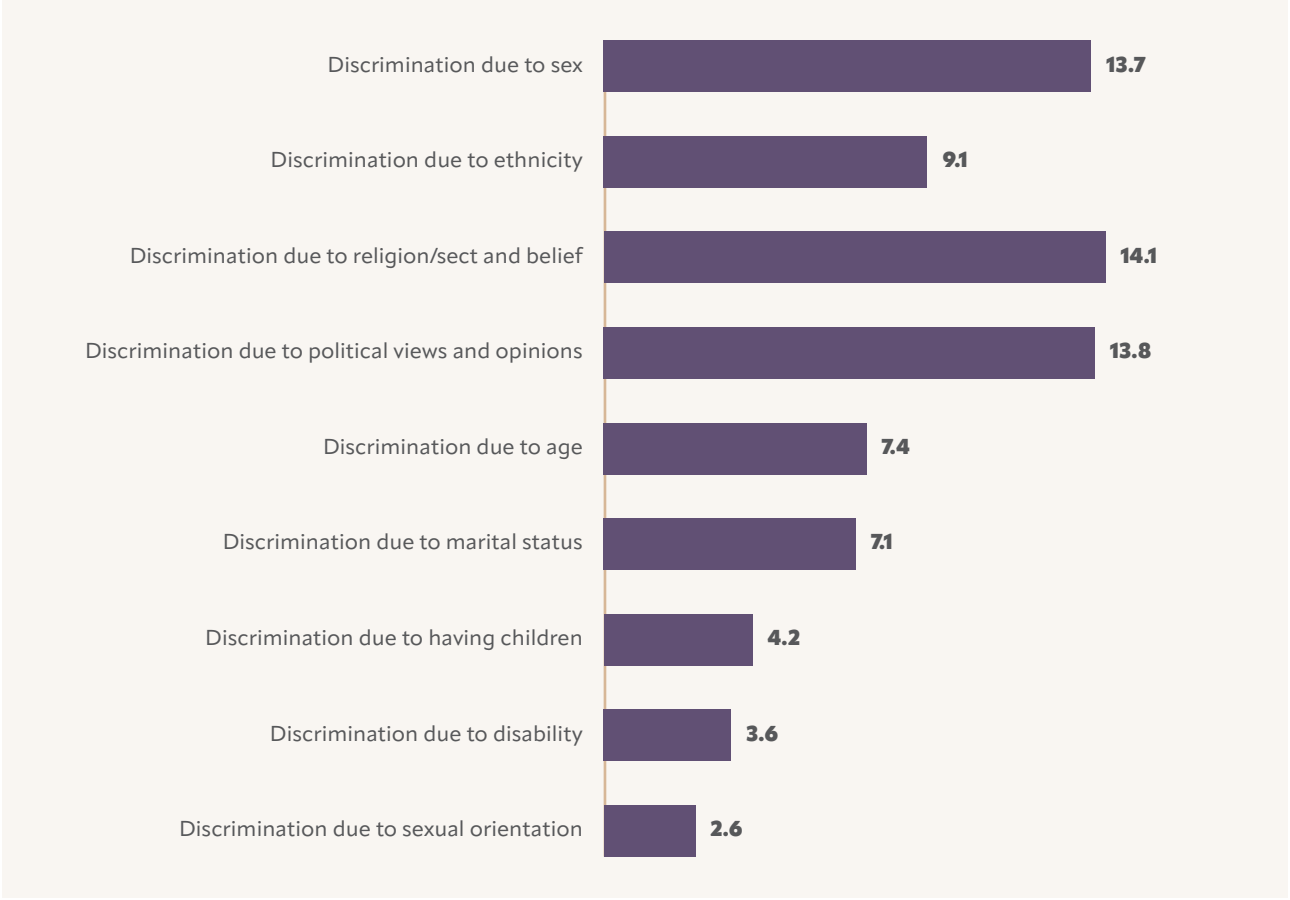
Discrimination

According to the research on gender equality in the work life, the ratio of women who believe that they are exposed to discrimination during a job application or job interview is more than two times the ratio of men who have the same perception[40].

TURKSTAT's 2017 labour statistics also show that sex-based discrimination in recruitment processes is among with reasons behind the number of women being less -as reflected by a ratio of **36%**- than the number of men in work life[41].

Discrimination reveals itself not only during recruitment processes but also in work life in general. According to the report titled the Truth of Women Employees in Türkiye issued by the Research Centre of the Confederation of Progressive Trade Unions of Türkiye ("**DİSK**")[42], discrimination stands as a significant problem in work life.

According to the report issued upon face-to-face interviews with 2,000 workers throughout Türkiye, **14.1%** of women express that they are exposed to discrimination in matters related to their ethnicity/religion/sect and belief, **13.8%** for their political views and opinions, **13.7%** on the basis of their sex, **8.6%** for their marital status/having children, and **23.2%** in recruitment which is the first stage of work life.



Graph 1: Discrimination Against Women in Work Life (%)
(Resource: Research Centre of the Confederation of Progressive Trade Unions of Türkiye, 2018.)

Especially refugee women, who are considered low-cost labour and work informally under precarious conditions, suffer discrimination due to being immigrants besides being women, and they are exposed to sexual and gender-based violence and racism[43]. Likewise, there were allegations that, in a factory operating in the food industry with a high ratio of female employees, women workers who have applied for the job upon job postings were exposed to ethnicity-based discrimination, and it was asserted that the applicants were asked about their ethnicity during interviews and the applications of Roma women were rejected without having interviews[44].

Gender

The relationship of gender with business and human rights is important not only in the context of problems in work life but also in the context of strengthening gender roles. The fact that media, television and advertising industries regenerate gender roles and discriminative discourses through their productions like series, ads, TV shows and newscasts is a particular point to be put under examination from the women's rights perspective.

Making an impact on social life by reaching large masses through TVs, TV series on the mainstream media strengthen gender stereotypes and sex-specific professions and discriminative domestic roles by presenting only certain roles of women (skinny, fragile, emotional, mother, wife, partner, girlfriend, amenable, pretty, good woman or bad woman).

According to the Research on Gender Equality in TV Series published by Turkish Industry and Business Association in 2018[45], characteristics featured for women are "docile, shyness and sentimentality", whereas "being aggressive" is the most prominent characteristic of male characters. The research indicates that female characters play in **73%** of the scenes involving "crying and sadness", while male characters play in **79%** of the scenes involving "violence and threat".

Similarly, 79% of the parent roles are represented by female characters.

In dialogue and/or image	Women	Men
Crying and sadness	73%	27%
Shouting and rage	47%	53%
Humiliation and ridicule	40%	60%
Violence and threat	21%	79%
Gossip and scheme	60%	40%
Work related	18%	82%
Domestic work	92%	8%

Table 1: Characteristics Featured in TV Series for Women and Men
(Resource: Turkish Industry and Business Association, 2018.)

Likewise TV series, day-time TV shows involving hosts' comments on how women should behave, judging and victim-blaming comments on grounds of those events they discuss and "moral values" also have a specific place in the strengthening of gender roles, discrimination against women and violence. For instance, in a day-time TV show broadcasted on a private company's TV channel, the host blamed and scolded a woman at the age of 18, who did not want her face to be shown, by screaming at her and showing her face during the live broadcast is held as an example of emotional and psychological violence against women; and the channel's management has been criticised for not taking the necessary measures for raising its employees' awareness on women's rights and violence against women or adopting a broadcasting policy respecting women's rights, and not taking any action concerning the mentioned TV show[46].

Besides, the sexist and masculine language, victim-blaming approach, and manners of handling violence in a way to legitimise and normalise violence in the press, particularly in the news related to violence against women, harassment, and rape, should also be addressed in terms of media companies' liability in the context of business and human rights.

Likewise, with their key position in how women-oriented gender roles are presented, ads also have a significant role in the strengthening and regeneration of gender roles attributed to women.

According to the results of the Effie Awards TV Ads' Gender Equality Scorecard 2020 Research conducted in cooperation with the Association of Advertising Agencies and Bahcesehir University Advertising Department[47], the ratio of women presented in the workplaces in the ads of 2019 is 14%, whereas women are presented doing domestic work three times more than men.

The research shows the limited visibility of women and men in certain sectors also remains in place. The ratio of men used as the main character by brands in the home cleaning and care category, which is accepted to be closely linked to women, is 8%, and women have limited representation in automotive, banking and finance and telecommunication categories. Accordingly, the ratio of female characters in banking and finance ads is 27%, and this ratio is 25% in the ads of telecommunication brands and 32% in the retail category.

Gender stereotypes reveal their effects both in the private sector and in the public realm, and those effects have many reflections in the labour market. With the impact of gender roles attributed to women, women are preferred less for jobs which require physical strength, which are challenging, complicated and stressful, and thus provide a higher earning and social status, and they are generally directed to routine jobs requiring a smiling face or hand skills that are generally based on labour. ***This situation called "occupational segregation", which refers to the unequal distribution of individuals in the labour market, especially in certain occupational groups, based on ethnicity, sex, etc.*** Due to this segregation, women are left to prefer occupations in sectors like service, health, education, agriculture, and textile or less-paid jobs requiring fewer skills and providing a lower chance advancing in their career. The Main Labour Force Indicators published by TURKSTAT in 2018[48] also indicate that women have the highest presence in the agriculture and service sectors. Accordingly, 26.8% of women work in agriculture, 14.7% in industry, 57.6% in the service sector and only 0.9% in the construction sector.

Labour Force Participation Rates

According to TURKSTAT's 2021 data[49], women constitute 49.9% of the total population, but only 34.2% of the working population.

Obstacles to access to education are among the reasons behind such a low ratio of women's participation in labour in Türkiye (which ranks the last among the OECD countries[50]), since it is observed that women's participation in labour and employment rises as their level of education increases[51].

TURKSTAT's data also show that, as of 2020, 2,877,000 women are illiterate, and 3,085,000 women have no diploma[52].

Due to occupational segregation, obstacles to access to education, discrimination against women in the work life and the low ratio of women's participation in labour and employment; **women's labour is considered low-cost labour and is directed towards areas like unpaid domestic work, part-time and uninsured employment, agriculture and seasonal agriculture, piecework production and service sectors.** This leads to problems of working in low-paid, overtime or part-time, informal and precarious jobs under challenging working conditions for women who participate in the work life. According to the research report titled Women's Labour in the Grip of Market, Policy and Gender published in 2021[53], women have no option other than working in low-paid, exhausting and precarious jobs and thus they remain in the work life for durations shorter than men[54].

For 2019, the duration of the work life is calculated as **19.1 years** for women, and **39 years** for men.

Occupational Health and Mobbing

It makes women labour more vulnerable to exploitation that poverty to be suffered by working women -who have no access to education, are deemed as low-cost labour and become obliged to work under precarious conditions- would be much more severe compared to men if they do not work and employees are also aware of this fact.

For instance, female workers working in a China-based technology firm's production factory in Istanbul stated that they were exposed to mobbing besides low wages and severe working conditions, and expressed that their toilet breaks were very limited and they were forced to work by wearing baby or adult diapers during their periods[55]. Those female workers further stated that sanitary conditions were poor, that people were getting infected from toilets, that managers were counting how many times workers were going to the toilet during the day and warning them if they went more than twice a day, and that even the number of plastic cups placed near water dispensers was limited so that workers would not drink too much water and go to the toilet more. Female workers expressed that night shifts were not organised as they wanted despite complaints and that factory services did not take them to their door after a shift which ended at 04:00 am and left them at a central place or the entrances of streets and therefore they were worried about their safety. Those female workers also stated that they were forced to use the same changing rooms as men and there were cameras in those rooms.

The textile sector, one of the sectors where women's labour is highly prominent, has a significant position in Türkiye's economy and many textile products currently exported to Europe are manufactured in Türkiye for various reasons like closeness to Europe, the prevalence of the textile sector and low-cost labour[56]. Small-scale textile mills manufacturing products for many reputable brands are generally located in small quarters and basement floors of buildings. Those mills where mostly women work generally lack security such as occupational safety, social rights, minimum wage, and union rights; and harassment, insult and mobbing are the most common problems that arise in those mills.

According to the research conducted by Öz İplik İş Union in textile factories, it is revealed that **50%** of women suffer harassment in the workplace[57].

In the declaration made by Regional Representative for Textile of the Confederation of Progressive Trade Unions of Turkey after a textile factory in Sanliurfa, which is one of the contractors in Türkiye of the main brand of a global textile group, did not recognise the unionisation process, it is stated that workers in the factory were exposed to discrimination and mobbing and that managers -by making use of their managerial position- harassed female workers[58]. Likewise, a female worker working in the textile sector in a mill engaged in contract manufacturing for large textile companies explained the working conditions as follows: "*This is a place where men are the majority and a mechanic can talk to a woman as he wishes. The foreman hears this but says 'You encourage them, you make it like this' and always blames us, the women. He throws the piece of work to the desk and tells us to do that work by using slang expressions. We, women, are asked to wear aprons that go from the waist down to the knees. This is because they want our buttocks to be covered. We have no insurance, no car service, no food and, despite all these, we are paid much lower than the minimum wage*"[59].

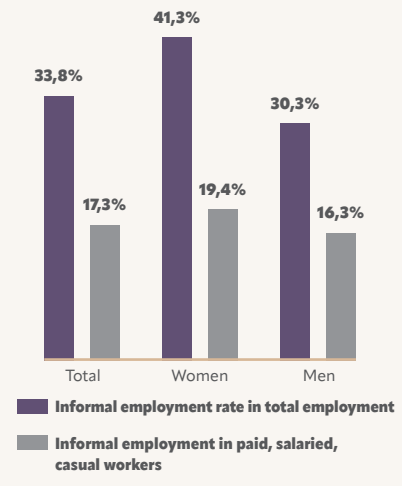
The working conditions of a company engaged in the food sector, which is proud of its high ratio of female employees, at its factory where the majority of workers are women have recently become an agenda item in the press. Stating that "*She is left under the mandate of all male workers from the foreman to the boss as she was at the lowest level in the chain of command and the chain of violence*", one of the female workers expressed with respect to the events in the factory that lack of a certain description of work made things harder for them, that a break of half an hour was given during working hours of 9.5 in breach of the labour law, that toilets and resting areas were being monitored with cameras and toilets were left locked out of breaks, that they were not able to seek their rights due to lack of union and workers objecting to this were unlawfully dismissed[60]. It was further stated that, besides long working hours and precarious working conditions, they were forced to work under poor health conditions during the Covid-19 period. For example, in a factory of the same company, even the workers with positive test results were forced to work in the "closed-circuit system" and practices like compulsory quarantine were adopted at the factory, and workers who did not accept these conditions were threatened to be dismissed[61].

Again, as an example of mobbing, female workers who are forced to work for around 13 hours at the warehouse of a grocery store chain stated that they are forced to carry heavy stuff in breach of occupational health and safety measures, and no action is taken against disturbing acts of their chiefs[62]. Another female worker working in the same workhouse expressed that, in the warehouse where more than 750 people are working, there are only two toilets for women and men and sanitary conditions are very poor and they were forced to work for long hours during the Covid-19 period.

Informal Employment

One of the most important problems suffered by women in work life is informal employment. Informality, which is particularly common for women working in the agricultural sector, is a major issue encountered by working women, considering that almost one-fourth of female employment is in the agricultural sector[63].

According to the Women's Labour Report published by the Confederation of Progressive Trade Unions of Türkiye-Public Services Employees Union of Türkiye[64], **41.3%** of employed women work informally.



Graph 2: Informal employment rate by total employment and employment status
(Kaynak: Public Services Employees Union of Türkiye, 2020.)

Women labour used intensely, especially in seasonal agricultural labour suffers many problems such as working at low wages for long hours, working under precarious and unhealthy conditions, accommodation in living conditions in crowded camp areas with insufficient health and hygiene conditions, etc[65]. In seasonal agriculture where men and women are generally paid differently, daily wages do not amount to the minimum wage even if workers work every day of the month, and uninsured workers do not have any security in terms of health or retirement[66].

In addition to agriculture and textile sectors, **piecework employment** at home is also among areas with a high level of informal employment of women. Piecework is generally a kind of production conducted for large-scale companies through the intermediary of a contractor or agent on a payment-by-piece basis. ***The Code of Obligations[67] defines it as a "type of work where the worker undertakes to carry out the work given by the employer against a wage at the worker's own home or any other place in person or together with family members" under a home service contract.*** However, in the case of piecework employment, those home service contracts stipulated in the Code of Obligations are generally concluded with subcontractors or agents instead of the persons doing the work at their homes. Piecework employment is preferred by employers due to being low-cost and absence of securities like social security as well as expense items such as workplace rent, electricity, water, service, food, overtime pay, nursery, etc., and leads to uncertain work descriptions, long working hours, unpaid overtime work and low wages for women. Piecework employment that is common in textile and leather sectors causes workers to work at risk without any occupational health and safety measures, and also gives rise to child labour risk as all family members take place in the work.

The fact that women are forced to work informally in various sectors brings women into a more insecure position in terms of recruitment and remuneration as well as fundamental rights such as dismissal, retirement and health benefits. Informal employment also deprives women of the measures taken by the government, especially those taken for fighting against adverse impacts of Covid-19, since the measures against Covid-19 were introduced to be applicable for formal employees. An indicator of this fact is that in 2020 when the prohibition of dismissal was ongoing, there was a decrease of 2.5% in men's labour in Türkiye, whereas such a decrease was 8.2% in women's labour[68]. It may be suggested that one of the reasons behind this gender-based difference in labour participation is the high ratio of women's labour in jobs with no legal security. Likewise, while the decrease in informal employment of men was 13% in 2020, the decrease in informal employment of women was 20%[69].

According to the Report on Gender-Based Assessment of the Impacts of Covid-19 in Türkiye issued by the UN Women, the ratio of women who lost their jobs in April 2020, when the impacts of Covid-19 were felt the most throughout 2020, is 18.8%, and this ratio is 14.2% for men[70].

One of the reasons behind this may be the fact that in addition to the high female labour ratio in informal and precarious jobs, sectors with high women employment like retail sales, tourism and service sectors have been affected more severely by Covid-19 and also that most women have become obliged to switch to short-time working and leave their jobs due to domestic works that have become urgent during Covid-19[71].

Istanbul Convention, Violence and Harassment

Violence

Standing as another major convention for eliminating all kinds of discrimination against women, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence[72] (the "**Istanbul**

Convention") defines ***violence against women as all acts of gender-based violence that result in physical, sexual, psychological, or economic harm or suffering to women, and addresses discrimination within the scope of violence against women.*** Under the Istanbul Convention, the States Parties undertake to adopt legal regulations to prevent all kinds of discrimination against women and implement the provisions of the convention without any discrimination. Following the withdrawal of Türkiye from the Istanbul Convention, to which 45 countries and the EU are Parties, as of March 22, 2021[73], it is now much more important to raise gender awareness in every field of business and to carry out activities for mainstreaming gender.

Particularly during the Covid-19 period when curfews were in place and working from home mostly was compulsory, there was a major increase in cases of gender-based violence. According to the data of the Istanbul Security Directorate, domestic violence cases increased by **38.2%** in March 2020 when compared to March 2019[74].

Non-governmental organisations working on gender-based violence also reported critical increases in violence cases. According to the Federation of Women Associations of Türkiye, there was an increase of 80% in physical violence cases when 2020 was compared to March 2019[75].

Harassment

According to the results of the survey conducted by the Confederation of Public Servants Trade Unions with **1,792** working women from 62 provinces between December 2019 and February 2020, **92%** of women state that they suffer violence at the workplace due to their gender, and **28%** state that they are exposed to harassment[76].

Physical and verbal violence are also among cases which are currently common in work life but disregarded most of the time. Women prefer not disclosing harassment cases due to hesitations such as concern for any negative effect on their career, victim-blaming, difficulty in accessing an effective legal remedy mechanism, fear of losing their job due to the low ratio of women's employment, etc., and when such cases are expressed, managers or legal bodies may attempt leaving them unattended.

Besides cases of harassment and violence at workplaces, measures taken and policies adopted by enterprises against violence and harassment are also matters to be looked into within the context of business and human rights[77].

For example, in an award ceremony sponsored by a shampoo brand of a multinational manufacturer of cleaning and personal care products that is a signatory of the WEPs and frequently emphasises the importance they attach to gender equality, the lifetime honorary award was given to a singer who becomes a topic of discussion due to his violent acts and statements against women and this attracted the reaction of many groups of the society particularly including women associations and women; and the company, as well as the brand, were blamed for being indifferent to violence against women.

Suggestions

Suggestions

Upon an evaluation of the above-mentioned international conventions, the national legislation and the current examples placed in the press, our recommendations -from the perspective of business and human rights- for actions to be taken in the **triangle of state-private sector-civil society** to protect women's rights and to prevent discrimination against women, violence, harassment and abuse of women's labour within all kinds of commercial activities, particularly including global supply chains, are as follows:

- The national legislation should be regulated from the perspective of gender equality and adapted to international regulations. To this extent, it is of great importance for the prevention of violence against women that Türkiye should immediately become a signatory to the Istanbul Convention from which it has withdrawn as of March 22, 2021.
- The burden of childcare placed on women should be equally shared, authorities should expand the presence of the child and elderly care centres and render those centres accessible, and maternity leaves should be regulated as parental leaves so that mothers and fathers share responsibilities equally.
- Human resources processes such as recruitment and promotion should be structured without regard to any gender criteria, the equal pay for equal work principle should be rendered applicable and controllable, and protection and complaint mechanisms against sexual abuse and harassment at workplaces should be strengthened.
- Regulations on the protection of seasonal agricultural workers and their families should be introduced within the framework of the Labour Law and the related secondary legislation.
- For the prevention of harassment and violence at workplaces, ILO's Violence and Harassment Convention No. 190, which defines violence as stalking, threat and verbal abuse and serves as a road map for combating violence and harassment, should be ratified and put into effect by Türkiye.
- For the enhancement of the working conditions of piecework employment, home workers and unpaid care workers, ILO's Home Work Convention No. 177 should be ratified and put into effect by Türkiye.
- A multi-stakeholder participative system involving non-governmental organisations, academicians and private sector representatives should be set up in order to amend the legislation, put policies on women's rights into practice and introduce new regulations.
- Research measuring gender equality should be conducted by TURKSTAT and the official authorities concerned, and consistency and transparency of such research should be ensured. In addition, the timeline for implementation of the action plans developed by the government as well as monitoring and evaluation reports should be shared with the public so as to enable them to track the evolvement of the process.
- Awareness-raising activities involving all actors in the global supply and value chains from manufacturers to buyers and to enterprises at the top of the chain that is generally multinational should be carried out through the cooperation of the relevant public authorities and NGOs and international organisations.
- As part of states' duty to spread and implement the UN Guiding Principles on Business and

Human Rights and considering that the United Nations Working Group encourages states to develop, enact and periodically update a national action plan on business and human rights, Türkiye should develop and put into practice a National Action Plan in this respect as well.

- By promoting women's rights and human rights issues and making the projects and policies developed by them publicly available, enterprises can both enable public oversight and contribute to a level of awareness by drawing attention to those issues.
- Enterprises' responsibilities include generalising human rights due diligence activities to identify risks related to women's rights, developing human rights policies and directives in compliance with international standards and principles and implementing those policies and directives at every step throughout their supply chains. As parts of human rights due diligence; risk analysis, regular audit and reporting, effective and accessible internal complaint mechanisms and establishment of remedial systems for violations arising from business activities are required. Particularly, in addition to human rights due diligence, it is important for enterprises of a certain scale and enterprises engaged in risk-posing sectors like agriculture and textile to adopt processes specifically for women's rights. Besides extending such practices for enterprises, regulations on human rights due diligence should be adopted within the national legislation by taking the legal framework applicable in certain EU countries as a model, and accordingly, criminal, and legal liability in this respect should be stipulated.

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