



PERCEPTION OF DISCRIMINATION AND CHALLENGES BEFORE THE RIGHT TO LEGAL REMEDY IN TURKEY

FOUNDATION OF SOCIETY AND LEGAL STUDIES
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ABBREVIATIONS

| | |
|----------------|---|
| AMER | Association for Monitoring Equal Rights (Eşit Haklar için İzleme Derneği -ESHİD) |
| ECHR | European Convention on Human Rights |
| ECtHR | European Court of Human Rights |
| EU | European Union |
| GNAT | Grand National Assembly of Turkey |
| KAOS-GL | Kaos Gay and Lesbian Cultural Studies and Solidarity Association (Kaos Gey ve Lezbiyen Kültürel Araştırmalar ve Dayanışma Derneği) |
| LGBTI+ | Lesbian, Gay, Bisexual, Transsexual, Intersex (Plus) |
| NHREI | National Human Rights and Equality Institution / Human Rights and Equality Institution of Turkey (Türkiye İnsan Hakları ve Eşitlik Kurumu) |
| NGO | Non-governmental Organization |
| PCC | Presidential Communication Center (Cumhurbaşkanlığı İletişim Merkezi -CİMER) |
| UN | United Nations |

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1. Introduction

Famous Armenian-Turkish actor Nubar Terziyan had placed an obituary in a newspaper expressing his profound sorrow upon the unexpected passing of his dear friend, legendary Ayhan Işık. The obituary ended with a signature saying: "Your uncle, Nubar Terziyan." Mr. Işık's family, concerned about the perception that Ayhan Işık might have been misconstrued as non-Muslim, had put a "counter-post" that read: "An important correction. 'Our dear beloved Ayhan Işık has nothing to do with the obituary signed as 'Your uncle, Nubar Terziyan' (...) We, We, hereby, announce upon necessity. His Family."⁵²

Today we recognize cases of discrimination more like the one cited above⁵³ because we are now more knowledgeable about discrimination which, in the end, renders it more visible. Discrimination can be defined in various ways since it is a phenomenon that proves to be prevalent all around the world in its different forms. Such prevalence and variety, therefore, sometimes makes it harder to identify what kind of behavior qualifies as discrimination. Moreover, all forms and types of discrimination, the level of tolerance and the form of struggle against it, and even the perceived need to eliminate discrimination can vary according to one country to another. In spite of these differences, however, the common ground shared by countries is that discrimination is a form of social life that cannot be accepted in today's modern world.⁵⁴

It is also possible to put forth definitions of discrimination that all can agree on in spite of its different forms and degrees. Indeed, Antonovsky's definition, which is among the oldest ones, reads: "Discrimination may be defined as the effective injurious treatment of persons on grounds rationally irrelevant to the situation. Individuals are denied desired and expected rewards or opportunities for reasons related not to their capacities, merits, or behavior, but solely because of membership in an identifiable out-group."⁵⁵ Similarly, Göregenli bases her definition of discrimination on the characteristics of the group that the individual belongs to.

Discrimination is a process involved in all negative attitude and behavior that feed on prejudice against a group or the members of that group. Prejudice, thereby, discrimination leads not only to negative ideas about a group or its members but also to conduct involving negative feelings ranging from scorn and avoidance to hate. Prejudice refers to negative, dogmatic convictions and conduct that evaluate other people based on their belonging to a specific group, not on their individual existence. Although discriminatory behavior that arises as a result of such prejudice is directed at individual persons, the thing that differentiates discrimination from 'cross' and 'bad' behavior like dislike and avoidance in human relationships is this: The people against whom

⁵² Cited by Benlisoy, Foti. [2018]. "Azlaştırılan ve azınlıklaştırılan Rumlar: Neron Kompleksi", in Ayrımcılığın Yüzleri, (Ed. Ülkü Doğanay), Ankara: Kapasite Geliştirme Derneği, p. 131. (From Dilara Balci's book Yeşilçam'da Öteki Olmak.)

⁵³ For a study that presents an ample number of instances on ethnic discrimination that was published exactly 40 years after the above-mentioned account, see "Hate Speech and Discriminatory Discourse in the Media," 2019 Report, Hrant Dink Foundation Publications.

⁵⁴ Leblebici, Doğan N. et al. [2005]. "Employment of Persons with Disabilities in Turkey: The Effectiveness of Current Measures for the Prevention of Discrimination", *Toplum ve Sosyal Hizmet*, 16/1, p. 25.

⁵⁵ Antonovsky, Aaron. [1960]. "The Social Meaning of Discrimination", *Phylon*, 21/1, p. 81.

discrimination is directed are targeted by this behavior not because of their personal characteristics but because of the characteristics of the group they belong to.⁵⁶

Yet discrimination not only does signify "to discriminate" but also hierarchical classification and exclusion or ignorance.⁵⁷ The European Commission defines discrimination as "[To] differentiate or to treat differently when there is no relevant difference between two persons or situations, or to treat in an identical way situations which are in fact different."⁵⁸ It is also seen that the definition provided by the European Commission reveals two types of discrimination as direct and indirect.⁵⁹ While direct discrimination has been defined as "treating differently, without an objective or reasonable justification, persons in relevantly similar situations," indirect discrimination has been defined as a general policy or measure that has disproportionality prejudicial effects on a particular group which may be considered discriminatory notwithstanding that it is not specifically aimed at that group and may result from a de facto situation.⁶⁰

Overall one can, thus, argue that discrimination is seen in the following situations:

- Different treatment of those in the same situation is a violation of prohibition of discrimination.
- Identical treatment of those in different situations is a violation of prohibition of discrimination and has to potential to create, reinforce, and multiply inequalities.
- Different treatment of those in different situations can multiply, uphold or eliminate inequalities as per the nature and size of the treatment.⁶¹

Not only do the ways in which a problem is defined make it possible for us which attitudes and behaviors would qualify as discrimination, they at the same time designate which means of struggle could be utilized to combat such attitudes and behaviors. However, the idea that discrimination needs to be handled as a problem and should be fought against is not as old as the history of discrimination itself. Although the struggle against discrimination had started after the 1950s, it is possible to argue that states, supranational and international organizations have taken important steps to this end within the last two decades. One should also note that there is still much headway to be made to prevent discrimination.

On the international level, prohibition of discrimination has found its way into texts drafted by organizations like the Council of Europe, the European Union, and International Labor

⁵⁶ Göregenli, Melek. [2012]. "Temel Kavramlar: Önyargı, Kalıpyargı ve Ayrımcılık", in *Ayrımcılık: Çok Boyutlu Yaklaşımlar* içinde, (Eds. Kenan Çayır-Müge Ayan Ceyhan), İstanbul: İstanbul Bilgi Üniversitesi Yayınları, p. 21.

⁵⁷ Johnson, G. D.-Guillard, V. [2017]. "Discriminations dans les Services Marchands: Le Cas des Chambres D'hôtes en France", in *Dauphine Recherches en Management*, Paris: La Découverte, p. 31.

⁵⁸ European Commission. [2005]. *Combating Discrimination*. European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities, p. 13.

⁵⁹ In addition, various other forms of discrimination like intentional and unintentional, potential and experienced, official and unofficial have also been classified. What is significant here is that a form of classification, at the same time, puts forth means of struggle against such discriminatory conduct.

⁶⁰ Ellis, Evelyn-Watson, Philippa. [2012]. *EU Anti-Discrimination Law*, London: Oxford University Press, s. 107.

⁶¹ Gül, İdil Işıl. [2006]. *Fiziksel Engellilerin Uluslararası Hukukta Korunması ve Uluslararası Standartların İç Hukuka Yansımaları*, Marmara University Social Sciences Institute. Unpublished Ph.D. Dissertation, İstanbul, p. 98.

Organization since the 1945 UN Charter and states parties have been urged to implement measures about the prohibition of discrimination set forth in these texts.⁶²

When one refers to combating discrimination in social life, the first question is with whom the responsibility lies. It goes without saying that combating discrimination is first and foremost the responsibility of states and such struggle necessitates legal and institutional transformations above all else. Combating discrimination, therefore, should clearly and unequivocally be established in the highest domestic legislation of each nation (i.e. the constitution) that cannot be infringed upon.⁶³ In addition, amendments should be introduced to laws and institutions to combat discrimination accessible by individuals should be established. Legal remedy mechanisms in Turkey include lodging applications before such public bodies as the Human Rights and Equality Institution of Turkey (NHREI -Türkiye İnsan Hakları Eşitlik Kurumu, TİHEK) and the Ombudsman Institution (Kamu Denetçiliği Kurumu -KDK), filing criminal charges before public prosecutors' offices or bringing lawsuits before courts, and lodging individual applications before the Constitutional Court. Although Turkey introduced certain regulations both in its constitution and some other laws within the framework of the above-mentioned international texts and documents (with reservations in most international conventions or covenants), bringing lawsuits seems to be one of the most important ways for victims of discrimination as there is either no alternative solutions whatsoever or some of these have just recently been established.⁶⁴ Indeed the EU's 2019 Turkey Report reveals that Turkey has not taken the necessary steps to combat discrimination with regards to both the legislation introduced and the use of other alternative solutions. The report states the following about the state of affairs in Turkey:

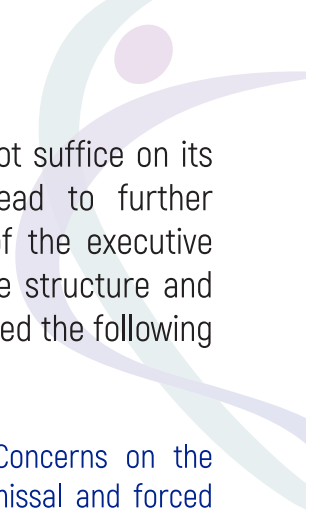
The principle of **non-discrimination** is not sufficiently protected by law or enforced fully in practice. The NHREI, which is in charge of applying anti-discrimination legislation, had only finalised two decisions by March 2019. Hate crime legislation is not in line with international standards, and does not cover hate offences based on sexual orientation. The introduction of revised school textbooks in the 2017-18 academic year has raised questions about some content with regard to secularism/religion and gender inequality. In April 2016, Turkey signed the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, but ratification is still pending. Turkey should urgently adopt a law on combating discrimination in line with the ECHR, including sexual orientation and identity. Turkey should also ratify Protocol 12 of the Convention, which provides for the general prohibition of discrimination, and implement the recommendations of the Council of Europe's European Commission against Racism and Intolerance (original emphasis).⁶⁵

⁶² A list of such texts and documents can be found at: <https://humanrightscenter.bilgi.edu.tr/tr/content/26-birlesmis-milletler-sozlesmeler/> (Date of access: 03/09/2020).

⁶³ Kibirige, Joachim S. (2000). "Prudent vs. Pragmatic Solutions: In Defense of State Intervention Against Discrimination", *Sociological Practice*, 2/3, p. 191.

⁶⁴ The Ombudsman Institution was established in 2013, while the Human Rights and Equality Institution of Turkey was established in 2016.

⁶⁵ European Commission, Turkey 2019 Report, Brussels, 29.5.2019, p. 37.



In addition, bringing lawsuits before courts to combat discrimination does not suffice on its own, and even in some situations these remedies themselves may lead to further discrimination (because of challenges in access to courts, the influence of the executive branch over the judiciary, etc.). This state of affairs is closely related to the structure and functioning of the judicial system in the country. EU's Turkey Report has provided the following assessment about the functioning of the judicial system in the country:

Turkey is at an **early stage** in this area. Serious **backsliding** continued. Concerns on the independence of the Turkish judiciary following, among other issues, the dismissal and forced removal of 30% of judges and prosecutors following the 2016 attempted coup remain. The recruitment of new judges and prosecutors under the current system added to the concerns, as no measures were taken to address the lack of objective, merit-based, uniform and pre-established criteria for their recruitment and promotion. The chilling effect of the dismissals and forced transfers on the judiciary is still observed, and risks engendering widespread self-censorship among judges and prosecutors. This may weaken the judiciary as a whole, its independence and the separation of powers. No measures were taken to restore legal guarantees to ensure the independence of the judiciary from the executive or to strengthen the independence of the Council of Judges and Prosecutors (CJP) (original emphasis).⁶⁶

Under such circumstances adopting the principles of equality and prohibition of discrimination set forth in the constitution, related laws, and international conventions and covenants is not sufficient enough on its own to combat discrimination but it also necessitates the supervision of hierarchical privilege and power as well. Laws that are not or cannot be implemented are dead. Thus an effective use of legal remedy mechanisms in practice, increasing the number of means to this end, facilitating and enabling access to such mechanisms⁶⁷ along with the autonomization of power foci should be provided for because, as Göregenli has also underlined, discrimination has a political dimension serving the interests of dominant classes in order to form and maintain social hierarchy and it is clear that those in power need discrimination to hold on to their own statuses.⁶⁸ As is presented by data collected within the scope of this study, one of the reasons why individuals who face discrimination do not engage in legal struggle proves to be the low level of trust in the judiciary. This situation has also been reflected in individual applications about discrimination lodged before the Constitutional Court. Indeed the rate of individual applications about discrimination among all applications lodged before the Constitutional Court in 2018, 2019, and 2020 (first six months) was 1.4%, 1.2% and 1.1% respectively.⁶⁹ As will be discussed in the following parts of the study, these rates are quite low when one takes into account the fact that discrimination in Turkey is observed intensively in every field.

Another signifier of the fact that the principle of equality does not suffice on its own lies in the dependence of the exercise of this right on social and economic conditions of that

⁶⁶ European Commission, *ibid.*, p. 22.

⁶⁷ Köküarı, İsmail. (2011). "Hak Arama Özgürlüğü ve 2010 Anayasa Değişiklikleri", Gazi Üniversitesi Hukuk Fakültesi Dergisi, 15/1, p. 164.

⁶⁸ Göregenli, *ibid.*, p. 62.

⁶⁹ <https://www.anayasa.gov.tr/tr/yayinlar/istatistikler/bireysel-basvuru/> [Date of access: 04/09/2020].

country. For instance, neither granting the right to work for the disabled⁷⁰ without discrimination based on disability can guarantee employment for disabled individuals in a way that befits their own conditions within the current social and economic structure nor granting the right to health for the disabled without discrimination based on equal opportunity can guarantee that disabled persons will have access to healthcare services, just like the abled, within a healthcare care system that has been gradually left to market conditions.⁷¹

One of the most important challenges before individuals' reluctance to engage in a struggle against discrimination is their insufficient knowledge of what constitutes legal remedy mechanisms. At this point civil society organizations and trade unions working for non-discrimination take the center stage both during the process of seeking legal remedies and within the framework of informing individuals about these legal remedy mechanisms and raising awareness. NGOs working for non-discrimination can mainly be categorized into four different groups. These are:

1. Human rights organizations that work for the promotion of other rights and freedoms along with non-discrimination,
2. NGOs that work for different ethnic groups, faith/belief groups, minorities; gays, lesbians, bisexuals, and transsexuals (LGBTI+), the disabled, and other groups with a potential to be victimized,
3. Activism-based civilian initiatives that work against racism, xenophobia, and discrimination,
4. NGOs that do not target a single specific group but provide research-focused studies on the prohibition of discrimination.⁷²

It has also been observed that trade unions and their confederations have not been working on forms of discrimination other than gender-based discrimination except for a few instances. For example, although ageism or age-based discrimination is one of the main problems in employment, trade unions have been referring to ageism within the scope of social security disputes instead of handling the issue as a matter of discrimination.⁷³

The primary aim of this research report within the framework of the above-mentioned arguments was to reveal whether individuals who were discriminated against or those who thought they could be discriminated against knew especially about legal remedies to combat discrimination and the degree to which they could use such remedies effectively. This study, therefore, sought answers to the following questions:

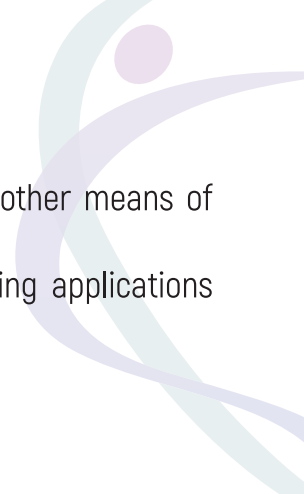
1. How is the prevalence of discrimination perceived in Turkey?
2. Within which fields of social life and how often discrimination is seen?

⁷⁰ We preferred to use the term "disabled" in this study rather than terms like "handicapped" etc. utilized by other studies that we cited, thus, we changed such usage in those studies into "disabled."

⁷¹ Okur, Nejla.-Erdugan, Fatma Erbil. (2010). "Sosyal Haklar ve Özürlüler: Özürlülük Modelleri Bağlamında Tarihsel Bir Değerlendirme", Sosyal Haklar Ulusal Sempozyumu-II Bildiriler, İstanbul: Petrol-İş Yayını, p. 259.

⁷² Gül, İdil Işıl. – Yeşiladalı, Burcu. – Karan, Ulaş. (2012). Ayrımcılık Yasağı El Kitabı, İstanbul: İstanbul Bilgi Üniversitesi Yayınları, p. 3.

⁷³ Gül, İdil Işıl et al., ibid., p. 5.

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3. What are individuals' experiences about discrimination?
 4. How much do individuals know about the legal remedy mechanisms and other means of struggle in Turkey?
 5. What kind of challenges do individuals meet during the process of lodging applications before legal remedy mechanisms in Turkey?

2. Methodology and Field Study

This study utilized quantitative and qualitative data collection techniques together. Firstly, a total of 1,200 individuals were surveyed through questionnaires in seven cities (İstanbul, Ankara, İzmir, Samsun, Edirne, Hatay, Mardin) representing overall Turkey in line with the above-mentioned aims. The questionnaire was comprised of two parts. The first part covered demographic questions like age, gender, and education aiming to collect information about participants and their circles. The second part was designed, in concordance with the above-mentioned aims, so as to understand the participants' perceptions and experiences about discrimination, whether they used legal remedy mechanisms or not, and whether they encountered problems during the process of seeking legal remedies. Data collected from the questionnaire were analyzed by the SPSS (Statistical Package for the Social Sciences) software program that enabled quantitative analysis.

The second stage of the field research was comprised of qualitative data collected through face-to-face interviews with 18 civil society organizations established to combat discrimination.⁷⁴ The NGOs interviewed were selected from the above-mentioned seven cities designated as samples for quantitative data analysis. The aim here was to discuss data collected through quantitative inquiry through amplifying them by data collected through qualitative inquiry.

The phenomenological tradition, which was classified as one of the qualitative research traditions by Creswell,⁷⁵ was adopted within the scope of this study. The overall framework of such a research focus incorporates understanding the essence of individuals' experiences about a phenomenon and to use in-depth interviews with 5 to 25 participants who had lived the phenomenon inquired as a data collection tool.⁷⁶ Qualitative inquiry describes and explains how people live, how they act, what and how they perceive, and to what and how they react.⁷⁷

The role of the researcher within this scope is to understand social phenomena experienced by people, how people interpret themselves and other people's acts and thoughts. The paradigm of research, therefore, is one that is interpretive which aims to understand individuals' thoughts, attitudes, behaviors and perceptions, their changing social relations

⁷⁴ Some of the interviews were done via the Internet upon interviewees' requests because the study was conducted during the COVID-19 pandemic.

⁷⁵ Creswell, John W. (2007). *Qualitative Inquiry and Research Design, Choosing Among Five Traditions*, Thousand Oaks, CA: SAGE Publications, p. 58.

⁷⁶ Creswell, *ibid.*, p. 78-79.

⁷⁷ Rothery, M., Jr., Grinnell, R. M., Tutty, L. M. (1996). *Qualitative Research for Social Workers: Phases, Steps and Tasks*, Boston: Ally and Bacon Publications, p. 4.

along with their perceptions of these within the framework of an experienced phenomenon in a certain society and culture.⁷⁸

This study adopts the idea that facts are produced within a social milieu and are ever-changing while presenting the perceptions of NGOs working for non-discrimination and human rights about their experiences within the framework of the above-mentioned tradition and paradigm and bases its perspective on the prediction that knowing something is associated with how people interpret and explain certain phenomena along with their own experiences.⁷⁹

Audio records and hand-written notes pertaining to the interviews were computerized followed by data analysis within the scope of this study. MAXQDA Qualitative Data Analysis software was used to analyze data.

Analysis of qualitative data was performed based on an inductive structure. A process towards the general was maintained through the coding of concepts and terms obtained directly from the interviews themselves and through forming themes within the framework of these codes. To put it more clearly, at the onset of the analysis data were encoded and sorted into subdivisions followed by the formation of a larger, merged, and holistic structure. Thematic analysis, which is one of the most common forms of analysis within qualitative research, was selected within this framework. Themes and patterns are searched directly within data and are coded through analytical methods in such analyses. Therefore, firstly analytical coding is performed followed by a focus on classification and thematization.⁸⁰

The coding technique used in this analysis is a process involved in the form of description of what the collected data tell the researcher.⁸¹ This process is followed by the identification and sorting of codes via the findings obtained from data. Finally, the codes that contain similar views are placed into the same data classification and subsequently a thematic frame is established.

Firstly, sub-codes were formed from data obtained from the interviews and coding was performed based on this technique, then these codes were sorted within the framework of themes. The following was evaluated as a result of this analysis:

- Correlations among the inquired phenomenon and other issues,
- Whether different causes and effects were at stake about the research topic within the collected data,
- Whether certain words, similes and metaphors used by the participants in their accounts of their experiences led to a difference or similarity about the research topic.

The following parts present analyses of data obtained both from the questionnaire and interviews.

⁷⁸ Glesne, C. (2013). Nitel Araştırmaya Giriş, (Trans. Eds. A. Ersoy and P. Yalçınoglu), 3rd Ed., Ankara: Anı Yayıncılık, p. 11.

⁷⁹ Glesne, ibid., p. 11.

⁸⁰ Glesne, ibid., p. 259; Rubin, H. J., Rubin, I. S. (1995). Qualitative Interviewing: The Art of Hearing Data, California: SAGE Publications, p. 239.

⁸¹ Gibbs, G. (2007). Analyzing Qualitative Data, Thousand Oaks, CA: SAGE Publications, p. 38.

3. Levels and Forms of Perception about Discrimination

3.1. Prevalence of Discrimination

The participants were asked to score the degree to which discrimination was prevalent in Turkey ranging from 1 (none) to 10 (very often). According to the results, about half of the participants (49%) indicated that discrimination was seen very often in Turkey. One of the reasons of such a result pertains to what people regard as discrimination. Additionally, some studies particularly on disabled persons, the elderly, women, sexual orientation, and ethnic background covering specific fields like education and labor markets have also concluded that the perception of discrimination both in Turkey and the world was just as high as those found in this study.⁸² As will also be seen in the next data presented, the rate of those who stated that they faced discrimination in this study was high as well. This aspect can be interpreted as one of the reasons why the prevalence of discrimination was found to be high in this study.

The rate of those who indicated that discrimination was not prevalent (those who scored 5 or less) was 12.4%, while the rate of those who said that discrimination was partially prevalent (those who scored between 6 and 8) was 38.6%.

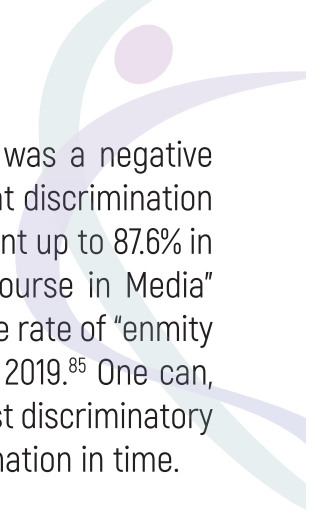
Based on these data it is possible to argue that participants of the study thought that discrimination was very prevalent in the society. In other words, individuals were of the opinion that discrimination was prevalent in Turkey though based on different reasons. In a study conducted with the Roma, the researchers have also reached a similar conclusion.

As the results of the study conducted in Kocaeli's İzmit district on this ethnic group [the Roma], who were trying to survive rather than trying to thrive, a great majority of the interviewees thought that they have been discriminated against for years, have been seen as the lowermost section of the society, have not been recognized as essential citizens of the country, and have been ostracized by the rest in a way. The reason why unemployment has been prevalent and education levels have remained low among the Roma was identified as this state of affairs.⁸³

We compared the data on the perception of discrimination collected within the scope of this study conducted to determine the recent trend of perceived discrimination in Turkey with the

⁸² For studies with similar conclusions, see Erdemir, Aykan. et al., [2010]. *Alevi Bakış Açısıyla Türkiye'de Ayrımcılık*, Ankara: Alevi Kültür Dernekleri Yayını; Varışlı, Berfin. [2017]. *Katmerli Ayrımcılık: 65 Yaş Üstü Kişilerle Yapılan Niteliksel Araştırma*, Maltepe University, Social Sciences Institute, Sociology Department, Unpublished Ph.D. Dissertation; Özgökçeler, Serhat. – Bıçkı, Doğan. [2010]. "Özürlülerin Sosyal Dışlanma Boyutları: Bursa ve Çanakkale Örneklerinden Yansıyanlar," *Sosyal Haklar Ulusal Sempozyumu-II Bildiriler*, İstanbul: Petrol-İş Yayını: 217-243; O'Neil, Mary Lou et al. [2018]. *Türkiye'de Kamu Çalışanı Lezbiyen, Gey, Biseksüel, Trans ve İntersekslerin Durumu 2018 Yılı Araştırması*, Ankara: Kaos GL Yayını; Behtoui, Alireza. [2015]. "Perceptions of Discrimination", in *The Integration of Descendants of Migrants from Turkey in Stockholm*, (ed., Charles Westin), Amsterdam: Amsterdam University Press: 69-77; Gökçe, Asiye Toker. [2013]. "University Students' Perception of Discrimination on Campus in Turkey", *Journal of Higher Education Policy and Management*, 35/1: 72-84; Pokharel, Samidha. [2008]. "Gender discrimination: Women perspectives", *Nepalese Journal of Development and Rural Studies*, 5/2: 80-87.

⁸³ Uğurlu, Örgen. [2018]. "Dönüşen Kentlerin Dönüşmeyen Ayrımcılığı: İzmit Romanları Örneği", *Uluslararası ayrımcılık Konferansı*, İstanbul: ESHİD Yayınları, p. 66.



results of a field research conducted by AMER in 2018.⁸⁴ Accordingly, there was a negative upward trend between the two periods. While the rate of those who stated that discrimination was partially present or prevalent in Turkey was about 70% in 2018, this rate went up to 87.6% in 2020. Hrant Dink Foundation's annual "Hate Speech and Discriminatory Discourse in Media" reports present ample data for us to explain this change. For instance, while the rate of "enmity and war discourse" was 12% among hate speech in 2017, it went above 18% in 2019.⁸⁵ One can, thus, argue that the current polarizing political climate in Turkey and the populist discriminatory hate speech have also affected groups' and individuals' perception of discrimination in time.

Moreover, NGO executives that we have interviewed stressed that discrimination was very prevalent not only in their field of work but also in many others as well. Indeed, an interviewee, who was an executive board member of an İstanbul-based association working for non-discrimination, underlined the following:

Discrimination is very prevalent in Turkey. It is seen, I mean, rather in all the fields you have mentioned; I cannot say one is more and the other is less; they are almost all the same. Those who are different are ostracized, the other is ostracized; thus, discrimination is present in every field; that means, it is the same in women's, the same in the LGBTI, the same in disability, the same in ethnic or religious fields as well. I thought maybe not for the elderly but we have seen discriminatory acts against the elderly particularly during the pandemic; especially against those 65 years of age and older. I think that discrimination has been on the rise against especially 65-year-old and older individuals during this period.

A participant from an İstanbul-based association working for LGBTI+ rights made a compelling point about the prevalence of discrimination:

It goes without saying that there is too much discrimination in this field of work. Turkey's overall socio-political conjuncture has already been very favorable for this especially during such periods. As you too know, they even landed the pandemic on the LGBTI+. There is sexual orientation and gender-based discrimination; we witness that discrimination is very prevalent due to health status as well. HIV is one of them. We also see that particularly discrimination against women is very prevalent. This is not only against non-trans, heterosexual women; it is also discrimination against lesbian, bisexual, trans women. As I said before, unfortunately we sometimes witness discrimination even by individuals studying/working for women's rights or by those who self-identify as feminists.

Another executive of an association that mainly worked for Roma rights also believed that discrimination was on the rise.

I can say this; I think the severity of discrimination has been worsening, polarization has skyrocketed with the political discourse, with the discourse of politicians; I think that discrimination against the LGBTI, against various religious minorities, against the disabled, against the elderly has soared a lot during this process. To be honest, I think that the country is in an even direr situation

⁸⁴ Özatalay, Cem. – Doğuç, Seçil. [2018]. Türkiye'de Ayrımcılık Algısı: Türleri, Failleri, Boyutları, İstanbul: ESHİD Yayını.

⁸⁵<https://hrantdink.org/attachments/article/2665/Nefret-soylemi-ve-Ayr%C4%B1mc%C4%B1-Soylem-2019-Raporu.pdf> [Date of Access: 24/09/2020].



as discrimination rises stemming from the lack of legislative regulations or updates in laws or deterrent acts against any discrimination.

A significant point needs to be underlined here. It seems that one of the important factors that determine the perception of discrimination is the difference between experiencing discrimination and not. As will be discussed in the following parts, the participants were asked whether they faced discrimination even once or not within the scope of this study. When we compared responses about the perception of discrimination and experience of discrimination, we observed that individuals with lived discrimination have a higher perception of discrimination as well. Indeed, the rate of those underlining discrimination was high in the society among the ones who stated that they experienced discrimination is 56.7%, while this figure goes down to 28.8% for those stating they did not experience any discrimination. Similar rates are seen when the participants were asked whether they thought they would be discriminated against in the future. In other words, the rates of those who had experienced discrimination at least once in their lives are also higher in that they thought that they would face discrimination in the future as well.

We compared this datum with certain independent variables (age, education, gender, and income level) in order to understand the differences pertaining to the prevalence of discrimination.

3.2. The Correlation between the Perception of Discrimination and Demographic Indicators

Responses about the perception of discrimination (scoring between 1 and 10) were rendered categorical in order to enable a comparison between the perception of discrimination and level of education and the scores between 1 and 5 were sorted as low, those between 6 and 8 as medium, and scores 9 and 10 were sorted as high perception of discrimination. The result of the comparison between the perception of discrimination and level of education revealed that there was a strong direct proportion about the prevalence of discrimination. While participants with a middle school or lower educational level mostly had a medium level of perception of discrimination generally, such perception increased beginning with high-school graduates and reached the highest level in individuals with university and higher post-graduate degrees.

When we compared the perception of discrimination with gender, no statistically significant difference was revealed. In other words, high level of perception of discrimination was 48.1% and 48.9% in women and men respectively.

There was, however, a significant difference as per income levels. The perception of discrimination among participants with low income levels was higher than that of individuals with higher income levels. Generally, it is possible to argue that as the income level goes down the perception of discrimination rises in opposition to the education level. It can be suggested that high income levels, within this framework, decreases the rate of discrimination in at least some forms (class, way of life, etc.). Indeed, the following data to be discussed reveal a similar trend. Data on lived discrimination, which will be discussed in the following parts, need to be analyzed in order to determine it definitively.

When the perception of discrimination was compared with age, a significant difference was found. Accordingly, it is possible to argue that those between 18 and 45 years of age had a higher perception of discrimination than that of other age groups.

When data collected thus far were assessed, it was seen that there was a significant difference in perception of discrimination with regards to levels of education and income. There was rather a partial difference as per age groups. Gender, on the other hand, did not lead to a difference in the perception of discrimination.

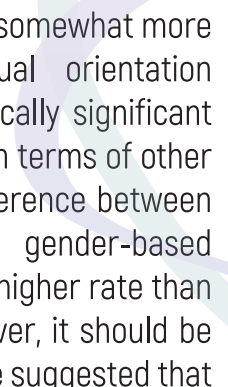
3.3. Perceptions about the Causes of Discrimination in Turkey

As has been stated previously under methodology, the participants of this study were asked about their observations as to the prevalence and forms of discrimination in social life. The aim of this part is, therefore, to present a discussion about data collected on this issue.

We should firstly assess the overall state of affairs before delving into the comparison of demographic data. The following panorama is revealed based on data collected: Physical and mental disability, being young and being old are regarded as the categories that are subjected to discrimination the least. In contrast, discrimination based on gender, religious faith, ethnic background, and political views take the center stage as the categories that are discriminated against the most. The gradual polarization of the society in recent years and the higher visibility of particularly femicide may explain the relative elevation in the perception of discrimination based on political views and gender. With regards to religious discrimination, the participants underlined mostly religious discrimination based on sects.

In the "other" category under this question, participants mostly referred to discrimination based on economic power or class status, discrimination based on level of education, discrimination based on profession and status, and discrimination based on way of dressing (headscarf etc.). The comparison of these data with education, income, age, and gender yields interesting results. When discrimination is compared with level of education, participants with a university degree and higher graduate degrees stated that all the above-mentioned forms of discrimination were seen in the society and these rates went above 50% in all forms of discrimination. Let us present a couple of examples. Within the gender category, which has the highest rate of discrimination as stated above, the percentage of those who responded "generally-always" to this question is 37% among participants with a high-school degree or lower, while this percentage goes up to 63% among those with associate, bachelor's and graduate degrees. Similarly, the rates in the being young category, which is generally assumed to have been less discriminated against in the society, are 37.5% among high-school graduates and those with lower degrees, while the figure goes way above the average in the group with higher level of education (62.5%). It will be safe to argue that level of education has significant impact on the perception of discrimination in the society within this framework.

When the income level is taken into consideration, there is no statistically significant difference in forms of discrimination. But, as will be seen in the following analyses, it is possible to put forth that low and mid-income groups partially differ from upper income groups particularly about discrimination experiences.



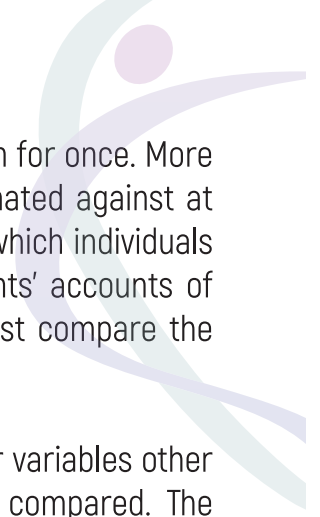
When we compare the same forms of discrimination with gender, the result is somewhat more complicated. When gender-based discrimination or sexism and sexual orientation discrimination are at stake, responses by women and men reveal a statistically significant difference. Yet such a significant difference is not seen between the genders in terms of other forms of discrimination. In other words, there is a statistically significant difference between women and men among the participants about their perception of gender-based discrimination. As is expected, women's perceptions of discrimination reveal a higher rate than those of men. When male participants are assessed in their own right, however, it should be noted that their awareness about gender-based discrimination is high. It can be suggested that this might be related to the recent increase in the visibility of violence against women through news reports and to the increase in activities undertaken by women's rights movements and organizations.

Finally, we compared the same data with the age categories. A differentiation is observed in this category similar to that of gender, in other words, approaches to each form of discrimination partially differ in the age categories. We most generally observe, however, that a partial difference is found in particularly discrimination based on ethnic background, religious faith, physical and mental disability, being old, gender and sexual orientation. Such a difference is one that is revealed in the young, middle-aged, and elderly categories. In brief, the group that responded with "generally-always" the most is the middle-age group (especially those between 26 and 55 years of age) except for ageism against the elderly among the above-listed forms of discrimination. For instance, the perception that gender-based discrimination is high in the society is particularly more dominant in the middle-age group. The same view also holds true for the above-mentioned forms of discrimination (other than being elderly) as well. As may well be expected, when it comes to ageism or age-based discrimination, as the age goes up so does the perception of such discrimination.

The following can be stated when the previously presented data are assessed: As the level of education goes up so does the perception of discrimination in all fields, in other words, we can say that there lies a direct proportion between them. But when it is compared with income levels, no statistically significant differences are revealed. We can only say that low and mid-income groups' perceptions of discrimination are partially higher than those of the higher income group. Gender and age variables emerge as differences only in some forms of discrimination.

3.4. Lived Discrimination and Perceptions about the Future

As has been explained in the methodology part, one of the primary aims of this study was to find out whether individuals knew about the available means of struggle when they faced discrimination or when they thought there was a chance that they might be discriminated against and to understand the reasons why they did not engage in such a struggle if they did not do so. Related questions were asked to the participants within the scope of the study. This part interprets the responses to such questions.




The participants were firstly asked whether they faced any discrimination even for once. More than two thirds of the participants (72%) expressed that they were discriminated against at least once. One of the issues that needs to be discussed here is the ways in which individuals define what discrimination is and what is not. When we interpret participants' accounts of discrimination in the following part, we will address this issue. But let us first compare the result presented with demographic data.

A high degree of correlation is observed between discrimination and the other variables other than the income level when age, education, gender and income level are compared. The difference with the income level is at a partial level. What are these differences? When age is taken into account, the rate of those who stated that they were discriminated against is particularly higher in the 26-45 age group which is higher than that of the older age group. Education creates a significantly higher difference once again. Firstly, it should be noted that the rate of those who indicated that they faced discrimination in all levels of education is quite high. Yet, contrary to expectations, among those who stated that they faced discrimination the number of those with bachelor's and graduate degrees is higher. This might stem from the fact that individuals with a higher education level are more sensitive about discrimination which, in turn, might have led them to see or define discrimination in a broader way.

Gender, too, creates a significant difference. Indeed, the rate of women who indicated that they faced discrimination is higher than that of men (76.2% and 67.9% for women and men respectively). As has been underlined above, income level creates a significant difference though partial. Indeed, the rate of participants who stated that they were discriminated against among those with an income of 2500 TRY and lower is 80.9%, while this rate goes down to 67.2% in those with an income of 10001 TRY and higher. It can be argued within this framework that high level of income relatively reduces the chances of experiencing discrimination.

The participants who indicated that they faced discrimination were asked what kind of discrimination they experienced. According to data obtained from this question; discrimination based on political views, religious faith, ethnic background, and gender take the center stage as the forms of discrimination that are faced the most by the participants. It should at this point be noted that the definition of political view was defined very broadly by the participants. Indeed, the participants, who stated that they were unemployed because they did not have influential contacts and thought that those with such contacts were always employed, assumed that they were discriminated against because of their political views. Yet, in fact when nepotism is defined as unfair privilege, one of the reasons for this may well be political views along with many other reasons. The participants, however, coded nepotism as discrimination based on political views. Moreover, it seems that the government's current policies to dominate each and every field, for instance, the fact that merit or competence has been forced to the background in assignments to posts and the fact that similar practices have become rather visible in the society have led to a more prevalent assumption of discrimination based on political views.



The participants who indicated that they faced discrimination were asked to explain the kind of discrimination they experienced through an open-ended question. The responses to this question make it possible for us to understand what the participants made of discrimination as well. First and foremost, participants who stated that they were discriminated against because of their gender (particularly because they were women), because of their sect (particularly because they were Alevis), because of their ethnic background (particularly because they were Kurdish), because of their political views and physical disabilities are high in number. The forms of discrimination cited by the participants include layoffs, mobbing and harassment at work, denial of promotion, refusal of employment in the labor field; attitudes and behavior like humiliation, contempt, exclusion, othering, not being taken seriously, verbal harassment, community pressure in social life; scorn, harassment, disdain in educational institutions. When we asked the participants about the kind of discrimination they faced, the following responses were offered:

"I immigrated from Bulgaria in 1989. A nationalist whom I met with for a job had accused me of being a 'burden on the country.'"

"I could hardly find a job because I was a middle school graduate when I came to İstanbul from a village when I was still in my 20s."

"My younger brother always receives more material and moral support within the family."

"I could never have the freedom that my younger brother enjoyed as the daughter in the family; I have to hide my sexual orientation."

"I generally have trouble in social circles because I am an Alevi. Religious difference gives way to discrimination in many fields."

"They insulted me assuming that I was a refugee because I was speaking Arabic. They behaved in a derogatory way uttering bad words."

"I was discriminated against because of my headscarf. My older brothers didn't let me attend school after elementary school because I was a woman. My subsequent desire to go to school was denied by my spouse and family as well."

"I experience discrimination based on my physical appearance because of my high body mass index."

"I am a refugee. They refuse to employ us. They make us work without insurance. Besides low wage and insults."

"I work at a daily's Ankara representative office. I haven't got a raise for years because I'm a woman and my position at the office hasn't changed."

"I went to a psychologist as a bisexual and they told me that this wasn't normal and I shouldn't feel like this."

"I was suspended at the institution I worked for. I experienced discrimination because of my political and religious views."

"Since most of the employees at my workplace were from the East and I was from the West, I was always excluded."

"I faced discrimination at school because my child was disabled. They were disdainful, exclusionary and derisive."

"I sometimes face discrimination at workplaces because I'm from Diyarbakır. I myself fought against this. I mean, I didn't apply anywhere."

"I hadn't been served in Doğubeyazıt because I had asked for tea in Turkish."

"I have a congenital disability and I haven't been able to work at a decent job all my life."

"There are no services whatsoever for the disabled. There are almost no curb ramps or they are blocked by cars. My job applications end up in being rejected because of my disability."



"When I was looking for a flat, the owner didn't want to rent it because I was single."
"I mostly faced discrimination at many stages of my life generally due to my ethnic background and my birthplace, Diyarbakir. Also because of my physical disability."
"When we first came to İstanbul and were looking for a job and a place to live, they used to ask us where we were from and I was repeatedly denied employment and rent a place merely because I was Kurdish."
"I wasn't given a job because I was young."
"I experience discrimination at my workplace because of my age, my old age."
"I faced prejudicial conduct when I was applying for a job because I was Sunni in spite of my merits."
"I was often despised because I was a woman. At the same time people made fun of me because I prayed and fasted."
"There is discrimination at school about wearing a headscarf or not. I always face harassment and scorn because I'm not wearing a headscarf."
"I faced exclusion because I talked about my political views and was not employed because of my sect. They told me that they wouldn't employ me after learning about my sect."

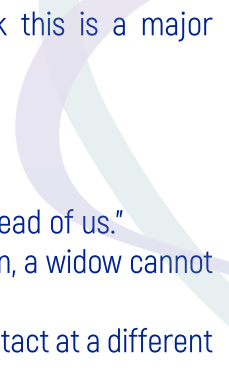
One of the points that need to be focused on in these discourses is that discrimination often has multiple grounds. In other words, an individual may face discrimination based both on their ethnic background and gender and religious faith. The fact that an individual faces discrimination because of their different identities can also elevate the level of discrimination. Such state of affairs may pose some problems in combating discrimination. For instance, an employer in France after passing over a female employee of ethnic origin for promotion, rebutted her claim of discrimination by showing that they had promoted both blacks (but who were men) and women (but who were white). Jurists have observed that cases in civil courts brought by plaintiffs claiming discrimination based on multiple grounds tended to be less successful than those involving a single prohibited ground, fostering desire for a specific remedy for multiple discrimination claims.⁸⁶ Such a point was made by an association for disabled women that we interviewed as well:

[D]iscrimination is a multiple and intersectional thing. I mean, I'm a disabled woman but we don't have the chance to say that my field can only be comprised of disabled women. A disabled person may be a woman but at the same time an LGBTI individual. Therefore, they may face another form of discrimination at the same time because of their race and ethnic background. They may experience another problem about freedom of faith. Therefore, discrimination is a multiple, intersectional field. We, too, see things like this to be honest; we try to see things in a more holistic manner.

Additionally, as we have underlined above, some participants tend to define discrimination in a very broad way. The responses by some participants when they were asked about the forms of discrimination they lived or witnessed seem to prove it. Some examples of these are:

"Their neighbor filed a complaint against them because of a tweet they posted, their workplace was fined."

⁸⁶ Mercat-Bruns, Marie. (2016). *Discrimination at Work: Comparing European, French, and American Law*, Los Angeles: University of California Press, p. 233. This study offers many other examples about multiple discrimination and how to combat it.



"They reduced the tax burden on lawyers but not on us accountants. I think this is a major discrimination."

"Waiting in lines at banks, hospitals."

"I was unfairly taken into custody at a protest."

"Insults against feminism by those who don't know anything about feminism."

"I'm a philosophy graduate, I'm not appointed. Waged teachers are employed instead of us."

"A divorcee and a widow are not the same. While the state pays a divorcee woman, a widow cannot get any kind of support."

"Not having a contact at a hospital or differences between a person who has a contact at a different state institution and who doesn't."

"I always face discrimination as a woman. The Syrians get more tolerance. I was declared a fascist because I said so."

"A younger woman and I got on the bus; they asked me to give my seat to her although I was the one who saw the available seat. This made me uneasy."

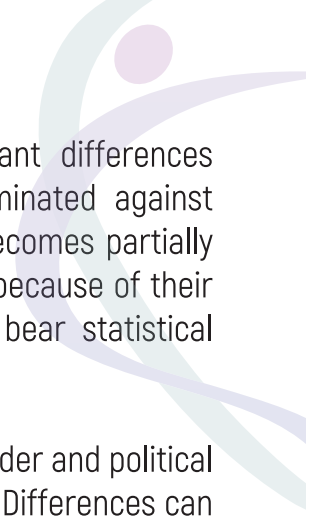
"My school was closed down when I was a student" (They are referring to schools that were closed down after July 15 coup d'état attempt.)

"I stood trial because of a dispute in traffic and when I applied for a job at a hospital this was seen in the system although I wasn't sentenced."

Such responses reveal that discrimination is defined by some in a very broad way and many different situations encountered are evaluated as discrimination but, at the same time, they can even resort to a discriminatory discourse while talking about their own experiences of discrimination. One can, thus, argue that concepts such as direct discrimination, indirect discrimination, and positive discrimination or affirmative action are not commonly known in the society. An executive at an association for disabled women underlines similar points as well.

Firstly, I think that people don't know what discrimination is. This in itself is also a problem. I mean, everyone can see everything as discrimination. Discrimination is in fact a much more specific and distinctive thing. It is an issue that can easily be experienced, that can be experienced in multiple ways, maybe a specific issue. But, I think, it is also important for people to know what discrimination is. Because it can often become something that is mistaken for other things. The issue of discrimination should be taught first. What do we really call discrimination? This is in fact something independent of literature. Yes, there is the concept of discrimination defined by literature; there are situations that law sees as discrimination. Maybe it would be useful to blend all these and mold them into a form that people can understand in everyday life and ask them about it to get feedback. Because they are sometimes surprised. I mean, for example violence is like this as well. But like they say 'do you call this violence?' people may wonder 'is this really discrimination?' Sometimes they don't know or vice versa.

The following profile emerges when we compare the above-mentioned forms of discrimination in everyday life with age, gender, education and income level. Young and middle-aged participants think that they face statistically higher discrimination in terms of being young, political views, gender and sexual orientation while they think that they face partially higher discrimination in terms of ethnic background and religious faith. No statistically significant difference is revealed between the other variables and age.



When gender is taken into account, there are high statistically significant differences specifically among the participants who indicated that they were discriminated against because of their own gender and ethnic background, while the difference becomes partially significant among those who indicated that they were discriminated against because of their political views. When education status is compared, the differences that bear statistical significance are the variables of religious faith, gender and political view.

The highest rates for experience of discrimination based on religious faith, gender and political view are seen among individuals with university and higher graduate degrees. Differences can also be seen within education levels themselves. First of all, discrimination based on political views has the highest rate among all education levels but discrimination based on religious faith has a very similar rate to that of discrimination based on political view in some education levels (elementary and middle school). Thus, each education level can vary both in itself and in proportion to other education levels.

Finally, we compared discrimination variables with income levels. The data obtained here proved to be similar to the above-mentioned rates that were previously compared with total income. In other words, as the level of income goes down the rate of discrimination rises slightly. When it comes to physical disability, mental disability, ethnic background, and being a refugee, those with lower income state that they face these forms of discrimination more.

We will discuss data on the future within this topic lastly. We had evaluated data on whether the participants' faced discrimination even for once. The data on whether they would face discrimination in the future or not do have similar rates as well.

The rate of those who think that they might face discrimination in the future is 70% and this rate is very similar to that of those who stated that they experienced discrimination (72%). Therefore, an individual who faced discrimination once might have thought that they would probably face discrimination in the future as well. Those who thought that they would not face discrimination in the future is about 10% and it seems that some of those who indicated that they had not faced discrimination in response to the previous question have switched to the "I have no idea" option when they were asked about the future.

When the participants were asked, in relation to this question, what they thought about the kind of discrimination they might face in the future, the following panorama emerges. In other words, the participants' perceptions of future indicate a possibility that they might face discrimination based on political views, religious faith, gender and ethnic background. It is possible, based on both data, to assert that discrimination based on political views, religious faith, gender and ethnic background in Turkey is more prevalent than other forms of discrimination and probable expectations from the future also indicate the same.

3.5. Experiences in Combating Discrimination

We presented data on individuals' perceptions and experiences of discrimination in Turkey thus far. This part will further present data on the same participants' level of information about legal remedy mechanisms in combating discrimination, whether individuals who faced

discrimination utilized legal remedy mechanisms or not along with the challenges they met during this process.

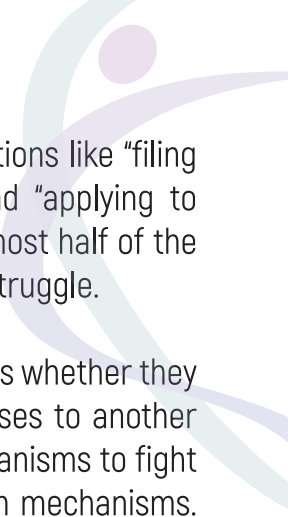
The participants were asked whether they knew about their rights when they faced discrimination. Accordingly, only a quarter of the individuals indicated that they knew about their rights to non-discrimination while one third of them stated that they did not. Moreover, the rate of those who stated that they had partial knowledge was 43%. It can be put forth, based on these data, that three fourths of the individuals in Turkey either have no or partial knowledge of legal mechanisms should they face discrimination. At this point the participants were asked to identify three mechanisms that they knew of in response to an open-ended question. According to the results, it seems that bringing a lawsuit is the most common remedy because about 20% of the participants offered this response. Secondly, applying to NGOs working in the related field proves to be one of the means of struggle known by the participants. Legal means that were very broadly stated came in third. Applying to the law enforcement and filing criminal charges came in fourth and fifth respectively. The rate of those who indicated that they would apply to the Constitutional Court, NHREI, the Ombudsman, the Grand National Assembly of Turkey (GNAT), city and district human rights boards was quite low. As will be seen in the following parts, some of these public institutions are either little known or expectations from these institutions to combat discrimination is rather low.⁸⁷ One can also see these facts in reports issued by the NHREI itself. Indeed only 371 applications were lodged before the NHREI within the scope of prohibition of discrimination while merely 34 of them were evaluated and the rest were rejected on the grounds that they did not bear the conditions put forth in the legislation (for instance, applications by LGBTI+ are not covered by the legislation).⁸⁸ All aside, one can simply argue that an annual number of 371 applications refers either to the fact that the NHREI is not known enough or not much trust is invested in this institution. The Ombudsman Institution shares the same fate as well. Indeed, a total of 20,968 applications were lodged before the institution in 2019 but only 886 (4.2%) of them were about human rights and discrimination.⁸⁹

At this point the participants were asked, using a Likert scale, about their attitude about what kind of an initiative they would normally take should they face discrimination. According to the results, the rate of those who indicated that they would apply to the “executive of the related

⁸⁷ For a study with similar results concluding that the recognition of the NHREI and the Ombudsman Institution among the disabled was rather low, see AMER, Engellilerin Adalet Erişimi, Mevzuat Taraması Saha Araştırması Raporu [Access to Justice for the Disabled, Legislation Review Field Research Report], p. 15.

⁸⁸ NHREI, Ayrımcılıkla Mücadele 2018 Yılı Raporu [2018 Report on Combating Discrimination].

⁸⁹ Ombudsman Institution, 2019 Annual Report, pp. 105-114. Let us introduce a couple interesting examples from this report. The report indicates that a mere total of 9 applications were lodged before the Ombudsman in 2019. 4 of these were about violence, harassment and abuse, 2 were about gender-based discrimination, 1 was about social services and support activities, 1 was about women in need of protection and care, and 1 was about other issues pertaining to women's rights. According to the report, the number of applications about the rights of disabled persons was 435 while the number of applications about human rights was 234. A similar state of affairs is also valid for city and district human rights boards. See Karan, Ulaş. [2018]. “Türkiye İnsan Hakları ve Eşitlik Kurumu Kanunu ve Ayrımcılık Yasağına Dair Mevzuatın Avrupa Birliği Hukukuna Uyumu”, Uluslararası ayrımcılık Konferansı, İstanbul: ESHİD Yayınları, p. 95-104.



institution," "to the related NGO," and "to bar associations" is 50% and more. Options like "filing criminal charges before public prosecutors' offices," "bringing a lawsuit," and "applying to security forces" range between 40% and 50%. It can thus be suggested that almost half of the participants knew about these mechanisms and would use them as means of struggle.

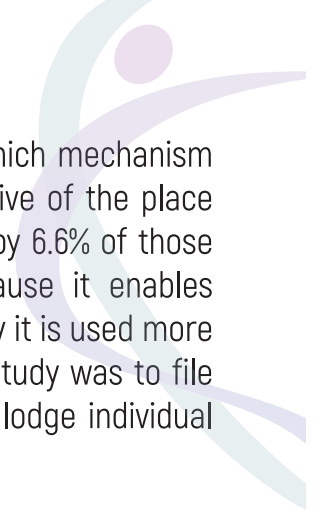
Yet the main problem asserts itself after this point. We had asked the participants whether they faced discrimination or not and the "yes" responses made up for 72%. Responses to another question gave us the idea that the participants at least knew about some mechanisms to fight discrimination should they face one, while 40% to 60% of them would use such mechanisms. There appears an important difference, however, between facing a concrete case of discrimination and stating what one would do and what kind of attitude one would have when one faced discrimination. In other words, the major problem here is not only about whether one knows about non-discrimination mechanisms but also about utilizing or not utilizing them in a material case. Indeed, the participants who stated that they had faced discrimination offer interesting responses when they were asked whether they had taken an initiative against discrimination. In other words, only one fifths of individuals who stated that they faced discrimination utilized legal remedy mechanisms for non-discrimination and were engaged in a struggle against discrimination.⁹⁰ In this case it is important for us to answer the question why individuals remained passive in fighting discrimination and in seeking their rights or why they avoided these. A couple of more detailed analyses were performed in order to answer this question.

Whether demographic qualities lead to an impact in fighting discrimination should be identified first and foremost. Within this framework we compared the above-stated data with age, gender, education and income levels. We will discuss data pertaining to these analyses next.

The two variables that bear statistically significant difference when the data are compared with education level, age, gender and income level prove to be education level and partially age. In other words, as education level and age go up so do initiatives for fighting discrimination and initiatives to seek remedies. Neither gender nor income level creates significant differences at this point. Indeed, while the rate of lodging applications before a body to fight discrimination within the literate and illiterate category is 17.9%, the figure goes up to 27.9% for university and graduate degree holders. Similarly, the rate of lodging applications before a body to fight discrimination within the 18-25 age groups was 13.8% while this figure goes up to 28.6% in the 56-65 age group and to 37.5% in the 66 and older group. Thus, as age and education level go up so does seeking legal remedy.

We asked the participants what kind of a step they took in their pursuit for rights and fighting discrimination within the scope of this study. It should firstly be noted that the level of

⁹⁰ Especially many studies that were conducted on more specific forms of discrimination have also reported similar results to those of this study. In other words, even if individuals face discrimination only a small portion of them utilize legal means against discrimination. See. Yılmaz, Volkan. – İpek Göçmen, I. [2015]. "Türkiye'de Lezbiyen, Gey, Biseksüel ve Trans (LGBT) Bireylerin Sosyal ve Ekonomik Sorunları Araştırmasının Özet Sonuçları."



utilization of legal remedy mechanisms are quite low for all regardless of which mechanism was used. The most commonly utilized mechanism is to apply to the executive of the place where discrimination was faced but even this mechanism was used merely by 6.6% of those who faced discrimination. The use of this mechanism is important because it enables intervention then and there when one faces discrimination and the reason why it is used more may stem from this fact. The second remedy sought by participants of the study was to file criminal charges or bringing lawsuits before a court, while the third was to lodge individual applications before the Presidential Communication Center (PCC).

Data collected within this scope were also compared with such variables as age, gender, education and income level as was done before while the only variable that created a statistically significant difference was the education level. As the education level goes up so do initiatives for seeking remedies and fighting discrimination. Education level proves to be a determining factor especially in the use of such mechanisms as applying to the executive of the place where discrimination is faced, lodging applications before the ECtHR, GNAT, PCC and filing criminal charges/bringing lawsuits. Differences in age, gender and income level do not yield a statistically significant difference in the utilization of these mechanisms.

It may prove to be significant to see the responses offered to questions in the form of a Likert-type scale in order to understand the reasons why individuals do not make use of legal remedy mechanisms and avoid fighting discrimination. Firstly, a good part of the participants (about 41%) indicated that they did not know about their legal rights when they faced discrimination. When the undecided are added to this figure, it slightly goes over 60%. The rate of those who agree with the statement “I do not exactly know how and where I would apply to when I face discrimination” was about 38% and if the undecided are added to this the rate draws close to 60%.

What is more important is that these data reveal that some of the legal remedy mechanisms established to combat discrimination in Turkey are not known either. Indeed, the rate of those who indicated that they did not know about the existence of human rights boards in cities and districts, of the NHREI and of the Ombudsman Institution is more than 45% in each. When the undecided are added to these, such figures amount to more than 60%.

Finally, responses to statements like “I think that resorting to legal means will not be useful if I face discrimination,” “I think that all kinds of struggle against discrimination will be useful in Turkey,” and “Violation of a legally protected right will definitely be met with criminal sanctions in Turkey” reveal that the participants do not have much confidence in the judiciary and generally in legal remedies or in any form of struggle in combating discrimination in Turkey. In other words, they think that whatever is done they would be to no avail.

Another result that supports the above-mentioned data emerges when we ask the participants, who indicated that they faced discrimination but did not take any action, about the reasons why they did not do so. The most dominant reason why people did not seek legal remedies seems to be assuming that they would be of no avail. It can, thus, be suggested that individuals do not have trust in neither the functioning of the judiciary nor in that of other mechanisms in

combating discrimination. The emphases of the participants, who marked the “other” option with further explanations, both support the above-mentioned data and bear the traces of normalization of discrimination as well.

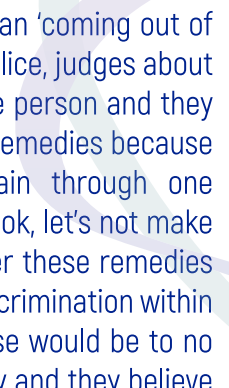
“Law exists merely in name, because I don’t believe that it would be of avail.”
“I feared that I would lose my job.”
“Unfortunately, I couldn’t have the courage back then because I was young.”
“They believe that we already deserved what happened to us.”
“There is no legal process about sexual orientation discrimination.”
“Legal processes go at a snail’s pace.”
“I was concerned about the status of the person I was complaining about and I was persuaded not to file a complaint.”
“Because I couldn’t file a complaint against a police officer as I thought they would already be protected.”
“I didn’t think I would get a fair result.”
“I didn’t take it serious enough to lodge an application.”
“I didn’t think there was a point to it because these were cultural codes and habits.”
“As I have experienced cases of discrimination that became very mundane, they end up getting involved in individual disputes.”
“I didn’t feel that mine was that important in the face of much more horrible discrimination.”
“I didn’t apply anywhere because I faced rather family pressure or problems in finding a job.”
“It was discrimination that everybody saw as normal.”
“It wasn’t that serious. They were ordinary things we were accustomed to in everyday life.”
“No one would give a damn because I’m disabled anyway.”

These examples above may also be read as indicators of how discrimination is normalized, taken for granted and, therefore, why individuals do not feel the need to engage in a struggle against it. Thus, not only does distrust in legal remedies but also normalization of discrimination and taking it for granted prove to be factors that prevent such struggle. Normalization and mundanization have also been emphasized in other studies conducted on discrimination. Indeed, a study conducted with civil administrators point to a similar result.

The civil administrators interviewed stated that these problems and challenges became more evident, they increased in number and varied in form especially in posts considered risky and during emergency periods. In fact, the interviews revealed that Alevi and/or Kurdish civil administrators’ facing practices like reassignment to passive posts and administrative investigations especially during emergency periods have virtually become a “tradition” that became “mundane.”⁹¹

Emphases by NGO representatives interviewed may be explanatory at this point. An İstanbul-based NGO representative working for the non-discrimination of LGBTI+ states the following about the reasons why people do not use legal or other mechanisms against discrimination:

⁹¹ Demirer, Yücel.- Hülya Kendir. – Adem Yeşilyurt. [2018]. “Türkiye Kamu Yönetiminde Ayrımcılık: Kürt ve Alevi Yöneticilerin Durumuna İlişkin Sınırlı Gözlemler”, Uluslararası ayrımcılık Konferansı, İstanbul: ESHİD Yayınları, p. 45-53.



If I were to talk specifically about the LGBTI, a lawsuit may at the same time mean 'coming out of the closet' for the person; many things may happen. Or it may mean telling the police, judges about their problems over and over again. This causes much secondary trauma for the person and they don't believe that justice would be served. I mean, they usually avoid using legal remedies because they think that they would be exposed to discrimination again and again through one discrimination. And they may unfortunately prefer to brush it over by saying well ok, let's not make a big thing out of it. Our target audience that we work with may not really prefer these remedies because they are afraid of repeated stigmatization and having to face another discrimination within that remedy seeking process. This is in fact because they both believe that these would be to no avail and because legal remedies and prosecution take a very long time in Turkey and they believe that they would be exhausted again and repeatedly face rights violations during that process.

An executive from a women's association underlined in the interview that people did not know about their rights and believed that they would not be able to achieve any results: "I don't think they use [legal remedies] enough because they don't know about them. I think that they require more knowledge about their achievements or what they can do legally and they generally fail to lodge applications because of hopelessness resulting from assuming that 'we can't achieve any results even if we do this.'" Another executive for a Mardin-based women's association underlines the following points: "I think that people who face discrimination do not use legal or other remedies to fight discrimination enough. [...] Because they are worried about the possibility that they might not achieve any positive results. Some groups live on oblivious of their rights."

An executive of an İstanbul-based association working to end violence against women and discrimination explains the reasons why people who face discrimination do not engage in a fight against it using legal or other remedies as such:

What we see is that they don't use [remedies] often. Firstly, it happens this way: Most come to us after using these. I mean, they know, for example, most people in fact know that they should call the police; therefore, they go to the police but the police would reject them. They say 'go home, your home is safer.' They experience this a lot. (...) I can say that poor practice is so much that they avoid using those rights because they witness these...

A similar perception about the conduct of law enforcement is expressed by other NGOs as well. An executive from an İstanbul-based association that was established to fight discrimination against Kurdish LGBTI+ places a similar emphasis:

They come to the association and I say "Let's lodge an application," they will ask me there "Who was it? Where do you know them?" "Why did you let them into your house?" They will ask me these... They can't tell the police; the police ask you this: "Who was it? Why did you let them into your house?" They face thoroughly individual, subjective comments like "By god, this is always the case," "There you go, this happens to you of course." They of course don't want to apply to these mechanisms. I myself am one of them, I mean, I say why bother. You already go through psychological trauma, and as if that were not enough will you do that, will you experience another trauma by the hand of the state? You wouldn't want that naturally.

A representative from an association fighting discrimination against disabled women places a similar emphasis to the ones stated above but thinks at the same time that the challenges before access to such mechanisms are also very important in fighting discrimination.


There are also certain disadvantages. Now, you know that you were discriminated against, maybe you are aware of the issue. But, for example, disadvantages like being disabled affects situations as well. For example, say, you are going to file a complaint at the courthouse or you will bring a lawsuit at the administrative courts or you will lodge an application before the human rights board. All these need to be accessible. Even thinking about these may sometimes keep people back from applying to these mechanisms. Maybe they know, maybe they are aware but such factors may prevent them from using some mechanisms.

Like how a disabled person cannot go out, a woman who was exposed to violence cannot do so because harassment and rape are such issues; the system wears you down. You have to tell people about things repeatedly everywhere. And you always tell them. You tell them what happened at the police station, you leave the police station and tell them what happened at the hospital, you leave the hospital and tell the prosecutor about what happened, after the prosecutor you tell the judge. After all these you tell the psychologist, an expert about what happened. All these mechanisms are very exhausting and most women [do not do so] because of this, plus there are of course other prejudices there; in addition, there are certain social disadvantages of being harassed and raped; these also add up like no one should know. People don't want to put up with all that. They prefer to put up with that pain, that distress but they don't have the energy to fight it. What they go through in fact is already traumatic.

Another representative from an İstanbul-based association that mostly works for the rights of the Roma has similar emphases as well.

They mostly withdraw; I don't think they use [these mechanisms] enough, it is not easy. Most of those who are discriminated against are already disadvantaged in terms of gender, disability, ethnic background or religion. They already have fears. So, they apply to us with great enthusiasm but when they calm down, their fear pulls them back. We encourage them in this, tell them that we stand by their side, we talk at great length; they say OK, then just drop it. There are many cases like this. First of all, going against the state particularly in our groups, they say we can't rebel against the state let alone lift a finger. So, they think that any kind of opposition would be rebellion against the state. On economic grounds for example. Well, generally local institutions, people apply to us. They then rescind their applications fearing that they would be excluded, be subjected to violence, be stigmatized where they live. I mean there is a perspective that says let's not get ourselves into trouble; whatever happened, happened; it is over now.⁹²

⁹² An ample number of studies on failure to act against discrimination through legal or other means have also reported similar data to our results. See O'Neil, Mary Lou et al. (2018). Türkiye'de Kamu Çalışanı Lezbiyen, Gey, Biseksüel, Trans ve İntersekslerin Durumu 2018 Yılı Araştırması, Ankara: Kaos GL Yayını; Hatiboğlu-Kısat, B. - Odabaş, A. A. (2020). Çankaya'nın Sitemli Yurttaşları, Kentsel Hareketlilik ve Kentsel Hizmetlere Erişim Ekseninde Toplumsal Cinsiyet Eşitliğinin İzleri: Ankara, Çankaya Örneği, Ankara: Yeryüzü Kalkınma Kooperatifi Yayınları-1; Ördök, Kemal. (2017). Türkiye'de 'Geçici Koruma' Altında Suriyeliler ve Seks İşçiliği, Ankara: Kırmızı Şemsiye Cinsel Sağlık ve İnsan Hakları Derneği Yayınları; Kaya, Nurcan. (2015). Türkiye Eğitim Sisteminde Renk, Etnik Köken, Dil, Din ve İnanç Temelli Ayrımcılık, İstanbul: Tarih Vakfı (MRG);



One of the important points that we identified during the interviews was the challenges faced particularly by disabled persons and refugees in access to remedies. An executive from a Samsun-based association for the hearing disabled puts such emphasis: “[...] There is also the PCC. When a person with hearing disability wants to express their complaint in their mother tongue, that is Turkish sign language is their mother tongue, they cannot file a complaint via the PCC. We can also imagine this over courthouses or any hospital as well. I think this is gross discrimination.”

Yet the problems that face the disabled in access to justice is not limited to this. Taşçı et al. put forth the following about the problems that disabled persons face in access to justice:

Not only the fact that the state’s mere building of courthouses and assigning courthouse staff does not suffice for the exercise of disabled persons’ right to access justice but also one cannot talk about sufficient disabled-friendly settings in current courthouses (disabled access, signs in Braille, audio warning systems, etc.). Similarly, no interpreters who know sign language are employed at courthouses. Thus, prosecution processes for the disabled are hindered and their right to a fair trial can be violated.⁹³

As is seen, the results obtained from interviews are not very different from the data collected from questionnaires. Most of the NGO representatives interviewed complain about long-term judicial processes and the inability to achieve sufficient results from such processes. Therefore, the major problem here seems to be the reluctance and inhibition to fight discrimination on the grounds of above-listed reasons when one faces discrimination rather than the ways in which individuals perceive the prevalence of discrimination because judicial remedies are both considered to be exhausting and of no avail.

A detailed interpretation can be offered when the above-mentioned data on why individuals do not engage in initiatives against cases of discrimination that they faced are compared with demographic data.

Individuals’ education levels can create a significant difference in some of the reasons for failure to lodge applications. It is seen that the education level has a significant impact on not knowing where to apply, assuming not being able to achieve any results, financial difficulties, and not knowing one’s rights. Briefly, as the education level goes down the rate of “yes” answers to this question goes up when the variables of financial difficulty, not knowing where to apply, and not knowing one’s rights are at stake. There is also a direct proportion between the “yes” answers in the option assuming not being able to achieve any results, in other words, as the education level goes up so does the rate of those who indicated that they did not lodge applications because they assumed that they would not be able to get any results.⁹⁴ Education

⁹³ Taşçı, Ali. et al. [2018]. “Adli Süreçlerde Engellilerin Adalete Erişimi ve Adli Sosyal Hizmetin Rolü”, Uluslararası Engelli Hakları Konferansı Engellilerin Adalete Erişimi, Uluslararası Ayrımcılık Konferansı, İstanbul: ESHİD, p. 82.

⁹⁴ For a similar result between education levels and knowledge about mechanisms that can be applied to in discrimination or rights violations cases see. AMER, Engellilerin Adalete Erişimi, Mevzuat Taraması Saha Araştırması Raporu, [Access to Justice for the Disabled, Legislation Review Field Research Report], p. 14.

level does not create a statistically significant difference in terms of other variables.

There are three variables with a significant difference at a high level created by the gender variable. The options fearing the reaction of their social circles and not knowing their rights are at a high level, while partial differences are revealed in the fearing something would happen to them option. The rate of women's responding "yes" to these factors is higher than that of men in all three variables. In other words, women are more fearful of their circles' reaction and something would happen to them in comparison to men, while at the same time they know about their rights less than men.

The variable of age affects only one variable. While the rate of individuals between 18 and 25 years of age who assumed that they would not be able to achieve any results if they lodged applications was 68.4%, this rate drops to 56.3% in the 56 and older age group.

We, on the other hand, ascertained that the total income level did not lead to a statistically significant difference in the above-listed reasons for not taking a step against discrimination. In other words, individuals' income level does not seem like an effective variable on their failure to act.

Finally, we will talk about how individuals, who utilized legal remedy mechanisms against cases of discrimination they faced, experience this process. The participants of the study were asked about the results of their legal initiatives. Accordingly, positive result (30%) and result pending (31%) responses have equal distribution, while the rate of those who indicated negative results was 39%. The responses of those who marked the "other" option for this question are like the above as well. Mostly those who emphasized that some of the lawsuits they brought were finalized with a positive judgment while for some others negative judgments were delivered are dominant. These are followed by those who rescinded their complaints because the process was taking too long.

We asked the participants, who indicated that the process was still pending, about what they thought about the reason for this. The most important factor that we saw here was "long-term trial" (38.8%). The responses "Applications' being taking into account or not according to the identity of the applicant" (19.4%) and "Course of the process according to the identity of the applicant" (13.6%) also refer to discrimination faced even during the utilization of legal remedies. It will not be wrong to argue that the response "Failure to conduct effective investigations" (14.6%) points to a similar problem as well.

We also observed that emphasis was placed on long-term legal processes during the interviews conducted with NGO representatives. An executive from a Hatay-based women's association underlines this problem as such:

Generally, there is a long lasting, long-term judicial process. This judicial process has led to achievements in a couple of works we have undertaken so far but some of them are still pending. Unfortunately, it is not finalized in a very short period. We have problems like these. There are setbacks in acting and finalizing cases rapidly.

We asked the participants who got negative results what they thought about the reasons of such results in an open-ended question. The most general responses that we believe represented all are listed below.

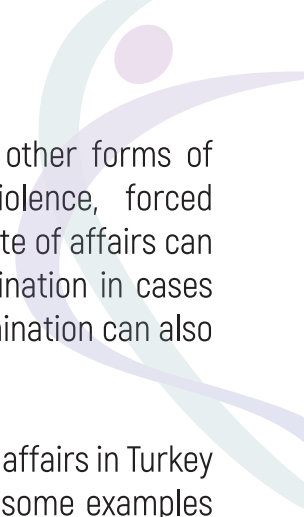
- "Normalization of discrimination, people's failure to do something."
- "The institutions we applied to are not independent."
- "Political discrimination of the mayor."
- "Loopholes in bureaucracy and public institutions."
- "The penal code is insufficient in terms of discrimination."
- "The state seems to be taking care of its invalid citizens but in fact it doesn't at all."
- "State's bodies run by discrimination."
- "It was finalized in a negative way because it was verbal abuse and there was no proof."
- "Rule of law is controlled by the state in Turkey."
- "Legal remedies are dysfunctional; unlawfulness, arbitrariness, administrative pressure."
- "The person in charge was also discriminatory."
- "It ended in a negative result because of the indifference of administrators about harassment and despotic attitudes."
- "It was because the ruling party supports discrimination based on political views and they were afraid."

In addition to these statements, especially some NGO executives working to promote LGBTI+ rights point out to the facts that measures are merely taken according to the identity of the applicant because of loopholes in legislation, no investigations are conducted, and thus legal remedy mechanisms end up being insufficient.

Since sexual orientation and gender identity are not listed as reasons for discrimination anywhere in legislation or the constitution, even in provisions that cover discrimination in Turkey, since it is only covered in terms of sex; we hear such words when we lodge an application. For instance, we lodged an application before the NHREI saying that a trans woman was not admitted to a hotel although she had a reservation merely because she was trans. What the NHREI says is: I don't review cases of discrimination based on sexual orientation and gender identity. It says my legislation cites sex; this is not discrimination based on sex, it doesn't concern me. [...] Unfortunately, because there's no recognition, it doesn't ignore but at the same it doesn't recognize either. Perpetrators go unscathed somehow, as it doesn't recognize this, as it maintains that loophole.

I will answer this question based on our target audience and our field of work. We, in fact, utilize them; I use the NHREI, the Ombudsman, the PCC but our lodging applications does not suffice, we cannot achieve positive results since their legislation does not recognize us. Some of these application mechanisms themselves even lead to repeated violations for us by their own hands. For example, the NHREI organized a conference called the protection of the family and argued that homosexuality had negative effects on the family there. We don't even think that we could get a positive response from the NHREI in such a case but we apply anyway. Of course, we get negative results. Do people use these mechanisms? They try to but the mechanisms themselves are of no use to us.⁹⁵

⁹⁵ This point is important because, as Spivak too underlined, the subaltern does not speak, even when it does it is not heard. Thus the subaltern votes, pays its taxes but it does not have access to structures of citizenship; this is the very reason why it is subaltern. See Spivak, Gayatri Chakravorty. (2009). *Les Subalternes Peuvent-Elles Parler?*, Amsterdam: Les Belles Lettres, particularly Chapter 4 and following parts.



Moreover, some of the participants (38.9%) indicated that they also faced other forms of discrimination like repression, harassment, social exclusion, threat, violence, forced reassignment, and scorn due to such initiatives against discrimination. This state of affairs can be regarded as a factor that would undermine the struggle against discrimination in cases where people face discrimination. Thus, utilizing legal remedies to fight discrimination can also present themselves before individuals as novel ways to face discrimination.

Finally, we asked the participants what they would like to add about the state of affairs in Turkey about discrimination within the scope of this study. We are going to present some examples from responses to this question that we think represent the overall participants of the study. The considerable points in these responses are: (1) an overall high perception of discrimination, (2) pessimism about any future improvement and gradual elimination of discrimination and (3) the assumption that a fight against discrimination both through legal and other remedies is impossible in Turkey.

"Gross cases of discrimination are happening in Turkey based on political ethnic background and even on regions."

"As discrimination, there are many cases of discrimination based on political opinion but we nevertheless defend our ideas within rights, law, our justice."

"It's an exhausting and long process. More effort should be put for people to have more trust in law and the power of law. The judiciary should be independent."

"There is a huge gap in public institutions. There are problems particularly in judicial organs. We are not living in a state governed by rule of law."

"There is no legal process whatsoever for the LGBT."

"Legislation about discrimination should be more determinant. Courses on discrimination should be offered within the education system."

"I don't have faith in the legal system in Turkey. I think that there is no justice and we're governed only by a single man. Our ideas are not made much of, civil rights are not taken into account."

"Discrimination has skyrocketed in Turkey in recent years. I don't think that legal remedies would yield results."

"There are legal loopholes, the law enforcement do not do their jobs properly, civilian authorities do not listen to victims of rights [violations]."

"The legal process should run rapidly. Public officials who commit discrimination should be punished."

"Discrimination is definitely committed. I think that no just result is achieved even if persons seek their rights. I certainly do not believe that a trustworthy decision is delivered by law and justice."


"Discrimination in Turkey just changes causes rather than being terminated unfortunately. There were like political ones in the 80s, religious ones in the 90s, and many others in the 2000s."

"I think that all forms of discrimination are present in terms of religion, language, race, faith, sexual orientation (sexually). And now I don't even think that maybe 50% of the justice system delivers due sentences."

"No detailed information is provided about what needs to be done when people face such situations. This issue needs to be dwelled on more."

"I think that discrimination in Turkey is always extreme no matter what it is about and no institution has ever been involved in an initiative to rectify the situation."

"There's no awareness about discrimination. Some conditions have become chronic and no one fights against it because it is taken for granted."



"There's discrimination about almost anything in Turkey. We face individual and institutional discrimination. A person with bodily disability is sometimes scorned by the society."
"I think that my application against discrimination will be to no avail. Only a collective application may yield results. There is a lot of discrimination in Turkey. There is discrimination in every field."
"We want justice, conscience in the country. I think that I will have problems in finding a job in the future. I think that nepotism works and because of that I will face discrimination."
"The disabled face many cases of discrimination. The primary needs of the disabled are not met [access ramps, security bars in toilets]. Institutions for the disabled are dysfunctional."
"I think that principles of equality are not implemented for people in all institutions and the institutions that would provide, that should have provided this are not exactly doing their jobs."

4. NGOs and Combating Discrimination

As has been underlined before, the responsibility for combating discrimination lies first and foremost with states and their institutions. The role of social organization, on the other hand, in combating discrimination is rather important as well. NGOs undertake various activities to curb prejudices and stereotypes that lead to discrimination, to monitor and document acts of discrimination, to ascertain measures to eliminate discrimination, to raise awareness about all these, to enable victims of discrimination use legal remedy mechanisms, to bring strategic lawsuits before courts and maintain trial follow-up, and form networks or platforms.⁹⁶

We had indicated that we interviewed representatives from 18 NGOs that were established to combat discrimination within the scope of this study. This part analyzes data collected from these interviews. Our aim here is to understand (1) the kind of activities NGOs undertake particularly about discrimination; (2) the relationships among NGOs that work in different fields to fight discrimination and the opportunities for cooperation; and (3) the kinds of challenges they face in fighting discrimination.

While 14 of the NGOs that we interviewed within the scope of this study conduct activities to fight discrimination, 4 of them are indirectly involved in the fight against discrimination. It is possible to group these NGOs, based on our interviews, into two groups as (1) those empowering individuals within their target disadvantaged groups, raising awareness in these groups, enabling the exercise of legal remedy mechanisms, and monitoring and documenting cases of discrimination, (2) those that rather organize mass protests and meetings (panels, interviews, fora, etc.) instead of working directly with individuals or those who faced discrimination. For instance, an executive from an association working for disabled women that we can sort into the first group states the following about their activities:

Well, discrimination against disabled women and girls is something very common and comprehensive. For example, we work [in the fields of] violence and gender. We mostly do awareness raising works. I mean, we worked in different cities in Turkey for about four-five years to raise gender awareness with disabled women. We published a report on violence against disabled

⁹⁶ Beyazova, Ayşe. [2012]. "Ayrımcılıkla Mücadelede Sivil Toplum Örgütlerinin Rolü", in Ayrımcılık: Çok Boyutlu Yaklaşımlar, (Eds. Kenan Çayır-Müge Ayan Ceyhan), İstanbul: İstanbul Bilgi Üniversitesi Yayınları, p. 278



women in Turkey in 2013-2014. Our activity area is usually within this framework.

Another executive from a Samsun-based association for the rights of disabled persons, which we can also categorize under the first group, talks about similar activities as well.

Our organization is an NGO that promotes social, cultural, employment intensive and sportive works for hearing disabled individuals. Along with these we undertake rights-based activities to support hearing disabled individuals. We can say that the hearing disabled field is one that already wrestles with the problem of discrimination a lot. The major issue here pertains to problems about language acquisition and the related training studies for this. For hearing disabled individuals and rights-based consciousness we conduct works, for example, about the right to access information.


Some of these NGOs also receive personal applications by persons who claim that they faced discrimination, provide legal assistance and monitor trials along with providing psychologists as well.

An executive from a Samsun-based Alevi association, which we can categorize under the above-mentioned second group, indicates the following about their activities:

[...] Alevism is a faith that has been disregarded for centuries in Anatolia. It is still an ignored, banned faith that has gone through severe trauma both during the Ottomans, Seljuks and the republic. Now our signboard reads Cemevi but the GNAT has not delivered a decision to recognize cemevis as places of worship yet. Although the ECtHR had delivered a judgment to this end, they do not grant our right by implementing this judgment in domestic law. We have been fighting for equal rights for years. We have even organized serious rallies about this issue in İstanbul, Kadıköy; Ankara, Sıhhiye; İzmir [NGO] No 1 and expressed our reaction in a mass rally. We organized signature campaigns to this end as well.

Most of the NGOs we interviewed stated that they conducted joint works particularly with other NGOs working in similar fields and were able to undertake joint projects with them. But the problem here seems to pertain to possible cooperation among NGOs that especially work in different fields of discrimination. As we have underlined before, discrimination has multiple façades, which makes cooperation and coordination among NGOs that work in different fields very important in the fight against discrimination. Indeed, an executive from an association for disabled women emphasizes this point.

We, of course, cooperate [with other NGOs]. The issue of disabled women is in fact the most important cause of our work; to make disabled women's problems based both on being disabled and women, those unequal and discriminatory problems visible. Because organizations for the disabled don't see women, while women's organizations don't really see the disabled working in the field. Thus, we are stuck in an in-between place as both disabled persons and women and we had very serious problems about visibility. So, on the one hand, our paths haven't crossed thus far with organizations for the disabled, women's organizations, LGBTI organizations working in other fields of discrimination or one-to-one with like other organizations working on race, ethnic background but it is one of the things the we can do most when met on some common ground.



An executive from an LGBTI+ association responds to our question on cooperation with other NGOs working for non-discrimination as such:

Yes, we do. We always have contact with all the LGBTI associations in Turkey and even with those LGBTI entities that are not associations. We may conduct joint projects too. We already are members to the same umbrella networks with most of them or are among the founders of the same umbrella networks. We do joint work with all if need be... When it comes to the LGBT field, I think the answer is yes. But we have this problem. For example, we too work on sexual orientation and gender identity and most fundamentally gender. Unfortunately, we can't develop this often with the feminist movement, I mean, with women's associations; we can't establish contact this often as we do with LGBT associations or we can't get feedback this often or we reach a certain point but then they abruptly forget about LGBT inclusivity in another statement they release and we go back to zero. We unfortunately have this problem.

Based on the two statements above along with our observations from other interviews, we can argue that there is a close relationship and cooperation among some of the NGOs working in the same field in combating discrimination but such cooperation is harder to undertake in different fields. This fact can be regarded as a disadvantage for NGOs to fight against the multiple structure of discrimination.

NGO representatives interviewed also indicate that they face numerous challenges in fighting discrimination. While some of these are about their own organizational capacities and financial problems, a significant portion emerge in the inadequacy of non-discrimination mechanisms, difficulties in practice, and relationships with state institutions. Especially associations working for LGBTI+ rights seem to face more problems with state institutions than others. An executive from an Istanbul-based LGBTI+ association underlines the following on this matter:

We unfortunately face numerous challenges. I mean, audits top these. Offices can be raided after being targeted by the state. A few years ago plainclothes officers raided our office. While there were a couple of association members and executive board members inside. We have already got used to this; a protest is organized on Twitter every six months to raid our offices and we are forced to fight against these as well. The prevention of marches... Well, like I said, through audits; we may be subjected to audits a lot. We can't get responses to our applications for information; this last thing I said is not specific to us, it is one of the overall problems of the civil society in Turkey but we really have a hard time in even being at the office because we are an LGBTI association. Our problems are like these.

Another representative from an LGBTI+ association underlines the challenges in their use of non-discrimination mechanisms.

[These mechanisms] definitely work if you are Turkish, male, white, heterosexual. If you are religious, if you are Sunni and Hanafi Muslim, yes, the PCC can work all very fine, the state can stand on your side all very fine... Yet all the rest identities, we can add age to this too, and gender as well, being a woman or a man or others that fall outside this binary, I mean, all identities; any application you lodge is not really taken seriously. The state, I mean, stands with a guy who is 28-30 years old, white, Turkish, male and heterosexual, as it always does. Yes, these mechanisms exist but because these mechanisms are controlled by a party, they are only good to defend the rights of groups that



are closer to its own views and that look like them, in fact to defend the rights of those who commit discrimination themselves. All the mechanisms in fact serve this end. You can merely lodge applications but I haven't witnessed any developments after lodging applications.

Similar challenges are actually faced by other associations working for non-discrimination as well. An executive from a Hatay-based women's association points to the same pressures.

We face many challenges as the [...] Association. Our office was sealed and we were fined based on trumped-up grounds in the simplest terms. At the same time initiatives are taken by calling women who participated in a training program for women's human rights, harassment by calls from the police, filing fake reports about women, and estranging women from the association. We pay heavy prices as an association in this regard.

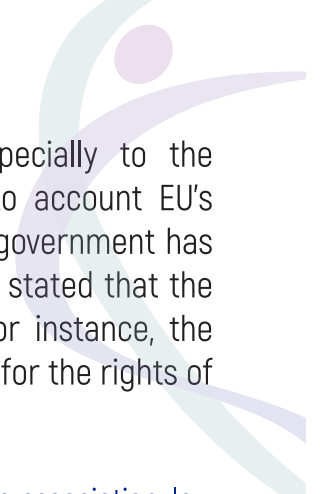
Another executive from a women's association emphasizes the fact that practice is very important even if the laws prohibiting discrimination are adequate and the actual challenges are met in practice.

Everyone you talked to may have told you this: It is actually great in writing but so poor in practice. When a police officer or a lawyer doesn't know the law, a great shortcoming appears. Therefore it is important rather than legal provisions, I think that the practice part is problematic. But there are actually many other things that need to be improved in terms of legislation as well. When you go into it the legal regulations are not ideal either. I think that we are in a very bad situation in all regards. Unfortunately if poor practice is just as common and left to arbitrary conduct so is good practice. I mean, when you come across someone with a good approach, someone who might have had education in this field, an expert you face something good. The fact that this has been left to such personal things, failing to have been established on a standard proves to be a major issue. As long as this is maintained, such practices, implementation of laws I mean, discrimination would be multiplied. What is more there is serious discrimination in social terms too. ... It seems that it is on the rise not only in Turkey but all over the world, as these conservative policies take more hold.

We think that the most important emphasis on the relationship between the civil society and the state is placed by the following statement of an executive from an association working to promote Roma rights: "We, too, face many of the challenges met by civil society organizations in Turkey. Especially as the political discourse changes so do acts in civil society. While you are untouchable in a minute, you can become a target to be touched in another minute. Political discourse changes daily in this country."

It seems that the political powers in Turkey get involved with the civil society within the framework of their own ideologies and political attitudes. In brief, the fact that sects, aid associations and foundations, associations of women with Islamic education, etc. have taken the center stage following the 2000s can be regarded as one of the indicators that the state only establishes contact with the civil society as long as it fits its own ideology.⁹⁷

⁹⁷ For a study that supports this view, see Coşkun, M. Kemal. [2007]. *Demokrasi Teorileri ve Toplumsal Hareketler*, Ankara: Dipnot Yayınları.



NGOs, on the other hand, mostly fail to affect policy-makers due especially to the over-centralized public administration mentality. The government takes into account EU's demands rather than those from the civil society but it is observed that the government has recently been disregarding EU's demands as well.⁹⁸ Nevertheless it should be stated that the NGOs working for non-discrimination also face numerous problems too. For instance, the following conclusions were reported in a report conducted with NGOs working for the rights of disabled persons:

[A]bout one thirds of the associations regard their internal problems (inadequate association, low awareness in members, acts damaging trust before the eyes of the public) as a major problem preventing their activities. Almost half of them qualify financial problems as the main challenge. Similarly, almost half of them regard external problems (legislation, bureaucracy, society) as the major challenges.⁹⁹

5. Conclusion and Discussion

The aim of this study was to understand the ways in which discrimination is committed in Turkey and in which fields it was prevalent, how individuals' experiences of discrimination and their perceptions of future were shaped, and finally individuals' awareness of legal remedy mechanisms and the degree to which they utilized/were able to utilize these mechanisms.

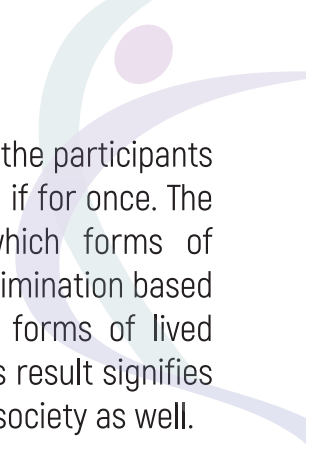
Firstly, it is observed that the individuals who participated in the study have a perception that cases of discrimination is high in Turkey. Yet the perception of discrimination based on political views, gender, religious faith, and ethnic background is higher than that of others. Perception of discrimination based on physical disability, mental disability, and ageism on the other hand is quite low. One can argue, then, such discriminatory conduct and practice is not much visible in the society and social awareness should be raised about these points.

Additionally, there is a close correlation between the perception of discrimination and experiencing discrimination in social life. The perception of the prevalence of discrimination in individuals who faced discrimination for any reason is higher than that of others. Further, the group which indicated that they experienced discrimination believe that their chances of facing discrimination in the future is higher than the other group.

When the demographic characteristics affecting individuals' perception of discrimination are taken into account, it is seen that education status is effective in perceptions of all forms of discrimination. In other words, as the education level goes up so does the perception of the prevalence of discrimination. Income levels and age, too, have a significant effect on the perception of prevalence of discrimination. Younger individuals and those with lower income have a higher perception of the prevalence of discrimination in the society. Gender, however, does not lead to a statistically significant difference in individuals' perception of discrimination.

⁹⁸ Gül, İdil Işıl et al., *ibid.*, p. 9.

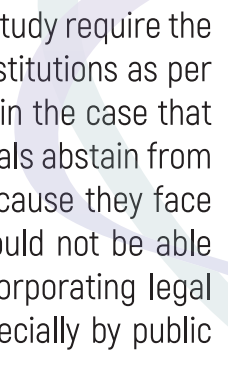
⁹⁹ Yazıcı, Ergün. – Yemişçi, Derya A. (2010). "Engellilere İlişkin Sivil Toplum Kuruluşlarının Sorunları: İzmir İli Bakımından Bir Değerlendirme", Sosyal Haklar Ulusal Sempozyumu-II Bildiriler, İstanbul: Petrol-İş Yayını, p. 206.



According to data collected within the scope of this study, a significant part of the participants indicated that they faced discrimination in their lives one way or another even if for once. The reasons for discrimination also match data on their perception of which forms of discrimination are prevalent. In other words, there is a high perception of discrimination based on gender, ethnic background, religious faith, and political views and the forms of lived discrimination are seen based on these very four forms of discrimination. This result signifies that individuals tend to generalize their lived forms discrimination over to the society as well.

Further, more important results that need to be discussed emerge at this point. According to the collected data, although the level of perception of discrimination and the rate of those who faced discrimination are high, this fact does not guarantee that individuals who faced discrimination will engage in a struggle for their rights. According to the data collected, a couple of reasons can be listed for such state of affairs: (1) Firstly, a significant part of individuals do not know where to apply and their rights for non-discrimination when they face discrimination. The most common remedies known are either lodging applications before the executive of the related institution or bringing lawsuits before courts. These individuals do not know much about the NHREI, the Ombudsman Institution, city and district human rights boards as alternative remedies. (2) Secondly and more importantly, even knowledge of all these remedies does not guarantee that individuals will engage in a struggle against discrimination. Firstly, they believe that they will not be able to achieve any positive result even if they utilize legal remedies. This, in turn, shows that trust in the judiciary is quite low. Further, when the fact that judicial processes generally take too long is added to the assumption that no results can be obtained, individuals avoid getting involved in these processes. Indeed, as has been discussed above, the results obtained by individuals who experienced discrimination when they resort to legal remedies against discrimination support this as well. The rates of applications with positive results and those pending are equal; they are both about 30%. The rate of applications with negative results is about 40%. In other words, about 70% of applications are still pending or finalized with a negative result. At the same time trust in such alternative semi-judicial institutions like the NHREI and the Ombudsman Institution is at quite low levels. (3) Thirdly, individuals who face discrimination also face further discrimination during procedures in access to justice and this pulls them off from engaging in a struggle against discrimination. For instance, going to the courthouse for an individual with physical disability, the absence of necessary equipment to lodge an online application for an individual with audio or visual disability, even going to the law enforcement poses a problem for the LGBTI+ all by itself are challenges before access to justice. (4) Finally, the fact that individuals' disregarding certain practices and attitudes as discrimination along with the fact that some forms of discrimination have become normalized and been taken for granted within the society emerge as a factor that prevents the fight against discrimination.

These results reveal that three points need to be underlined to combat discrimination. The first one of these requires an increase in the number of awareness raising initiatives about what discrimination is and how it needs to be perceived because, as we have stated above, some forms of discrimination (discrimination against the elderly, the disabled etc.) are not quite visible in the society; while the second necessitates an increase in the number of awareness raising initiatives about the steps to be taken, which legal remedies can be utilized, and what



the related rights are when one faces discrimination. Finally, the results of the study require the establishment of apparatuses and mechanisms to control the state and its institutions as per their conduct in non-discrimination or the improvement of such mechanisms in the case that they exist since one of the results of the study pertains to the fact that individuals abstain from engaging in a struggle against discrimination even if they experience one because they face challenges in gaining access to justice mechanisms or assume that they would not be able to achieve any results. Indeed, the data collected demonstrate that merely incorporating legal provisions to fight discrimination is not enough on its own but practices especially by public employees are much more important.¹⁰⁰

The above-mentioned points underlined to combat discrimination also show that the NGOs working in this field can assume an important role. Yet the challenges faced by these NGOs prevent them from involvement in such initiatives as well. All possible cooperation among NGOs working both in the same fields of discrimination and in different areas should, under these conditions, be improved both in order to form a public opinion and to enable awareness raising initiatives to be effective. Additionally, it seems that the state should assume an active role to render these initiatives sustainable.

¹⁰⁰ For a recommendation arguing that social service workers can raise awareness and enhance knowledge about discrimination against disabled persons for all state personnel working in the field of justice see, Taşçı, Ali. Et al. (2018). "Adli Süreçlerde Engellilerin Adalete Erişimi ve Adli Sosyal Hizmetin Rolü", Uluslararası Engelli Hakları Konferansı Engellilerin Adalete Erişimi, Uluslararası Ayrımcılık Konferansı, İstanbul: ESHİD, p. 84.

Appendix: Demographic Data

| Gender | Number | Percentage (%) |
|---------------|-------------|----------------|
| Woman | 508 | 42,3 |
| Man | 663 | 55,3 |
| Not disclosed | 29 | 2,4 |
| TOTAL | 1200 | 100 |

| Age | Number | Percentage (%) |
|--------------|-------------|----------------|
| 18-25 | 280 | 23,3 |
| 26-35 | 378 | 31,5 |
| 36-45 | 271 | 22,6 |
| 46-55 | 159 | 13,3 |
| 56-65 | 87 | 7,2 |
| 66 and older | 25 | 2,1 |
| TOTAL | 1200 | 100 |

| Education | Number | Percentage (%) |
|-------------------------|-------------|----------------|
| Literate and illiterate | 40 | 3,3 |
| Elementary school | 100 | 8,3 |
| Secondary school | 163 | 13,6 |
| High-school | 250 | 20,8 |
| Associate degree | 208 | 17,3 |
| Bachelor's and higher | 469 | 36,6 |
| TOTAL | 1200 | 100 |

| Place of birth | Number | Percentage (%) |
|----------------|-------------|----------------|
| Village | 223 | 18,6 |
| District | 327 | 27,3 |
| City | 281 | 23,4 |
| Metropolitan | 369 | 30,8 |
| TOTAL | 1200 | 100 |



| Work status | Number | Percentage (%) |
|-------------------------|-------------|----------------|
| Waged in public sector | 220 | 18,5 |
| Waged in private sector | 295 | 24,7 |
| Freelance | 121 | 10,2 |
| Freelance, employer | 72 | 6 |
| Retired | 78 | 6,5 |
| Unemployed | 132 | 11,1 |
| Student | 171 | 14,3 |
| Housewife | 86 | 7,2 |
| Farmer | 2 | 0,2 |
| Day laborer | 5 | 0,4 |
| Other | 10 | 0,8 |
| TOTAL | 1192 | 100 |

| Total income | Number | Percentage (%) |
|----------------|-------------|----------------|
| 2500 and less | 229 | 19,4 |
| 2501-5000 | 382 | 32,4 |
| 5001-7500 | 289 | 24,5 |
| 7501-10000 | 157 | 13,3 |
| 10001 and more | 121 | 10,3 |
| TOTAL | 1178 | 100 |

| Number of persons in the household | Number | Percentage (%) |
|---------------------------------------|-------------|----------------|
| 1-2 person(s) | 411 | 34,6 |
| 3-4 persons | 569 | 48 |
| 5- 6 persons | 168 | 13,2 |
| 7-8 persons | 31 | 2,6 |
| 9 persons or more | 7 | 0,6 |
| TOTAL | 1186 | 100 |

| Socio-economic status | Number | Percentage (%) |
|-----------------------|-------------|----------------|
| Lower | 314 | 26,2 |
| Middle | 818 | 68,2 |
| Upper | 68 | 5,7 |
| TOTAL | 1200 | 100 |



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