

Discrimination Between Men and Women in the Working Life in Turkey and Regulations about Positive Discrimination

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Abstract: There are many individuals coming from different segments and groups among the individuals of the society. Since the interests of these individuals conflict with each other, there is an ongoing competition among them. Therefore, due to their diversities, individuals' exposure to negative treatment and behaviors in economic, social or political areas leads to discrimination. In spite of the existence of several types of discrimination (ethnicity and race-based, religion and faith-based, age-based, sexual orientation-based, etc.), gender-based discrimination leading to abuse in working life in Turkey and the regulations related to positive discrimination stated in the labor and social security legislation will be handled in this study.

Key words: Discrimination, gender-based discrimination, positive discrimination, labor law, social security law and labor law legislation

INTRODUCTION

The role of women in society and in working life has increased day by day. Women in Turkey not only carry out the cleaning, catering and caring works of family but also participate increasingly in working life as an essential and important part of labor force. As a natural result of this participation, women witness with some problems in their workplaces in working life. Among these are low levels of wage compared to men and less level of chance given to women in the management posts can be named.

Legal adjustments are not enough in order to solve discrimination problem against women. Therefore it will be better to handle this subject from economic, social and political aspects. However, the subject will be discussed from the point of legal aspect in particular constitution, labor and social security legislation. An overview of discrimination against women in the working life especially gender-based discrimination will be presented and then the regulations of positive discrimination against women will be examined.

The concept of discrimination: Discrimination can be defined as unfair treatment against an individual or a group based on prejudice (<http://wordnet.princeton.edu>). The Turkish Language Institution defines discrimination as unequal treatment, separation, exclusion, restriction or superiority of individuals, groups or societies due to their various characteristics (race, religion, language, gender etc.) (<http://www.tdk.gov.tr>). Another definition of

discrimination can be given as deprivation of some members of a state or a society from certain rights and/or privileges. Therefore, some groups or individuals are subject to discrimination and they are not included in a certain classification due to a definition used in separating members of society either by their race, religion or gender (Ataov, 1996).

Labor market is one of the most common areas of areas of discrimination in social life. Some of the workers in the market can not equally benefit from the opportunities offered by society and they are deprived of equal treatment. Accordingly, discrimination processes in the labor market are based on gender, race, ethnicity, age, disability and health conditions. Discriminated workers group is either totally excluded from the labor market or they have a job with negative working conditions (Sapançali, 2007).

Recent studies demonstrate that the participation rates of women in the labor force are high and this situation is not temporary especially in industrialized countries (Larson, 1990). However, there is a reality that women are not equal to men in working life. In the workshop held by ILO on March 29, 2007 in Bangladesh titled as Promoting Gender Equality at the Workplace, following findings were put forward (ILO, 2007):

- There is a negative attitude towards women at the workplace
- There is a lack of awareness among women on their rights

- Adequate importance is not given to gender issues
- There is a mind set women are less capable compared to men
- There is no cooperation between men and women

Forms of gender discrimination: In its most basic sense, gender discrimination can be defined as bad treatment against an individual or a group due to their gender, denial of their access to certain rights and opportunities (Mari, 2001). Gender-based discrimination is divided into two categories as negative-positive discrimination and direct-indirect discrimination.

Negative-positive discrimination: Quality differences among individuals of society, lack of quality below average or being different than the others being minority, having innate biological and genetic differences have always been used against individuals. Especially, when it comes to gender issue both men and women have some obligations to share stemming from legal, social and economic reasons. Disadvantages caused by these obligations also cause unequal treatment of an individual both in private and working life as well as leave an individual deprived of rights due to subjective reasons. Therefore, employer's obligation to treat equally in working life imposes two responsibilities on employer, negative and positive responsibility. Negative obligation refers to not to discriminate without just cause and the other is the equal treatment obligation. This refers to negative discrimination among the types of discrimination (Mollamahmutoglu, 2004).

Sometimes positive discrimination is necessary to treat individuals equally. Positive discrimination referring to the discrimination obligation in the presence of just causes is the discrimination in favor of disadvantaged people because of several reasons such as, their religion, language, color, race, health and social status and gender. For example, gender-based discrimination is one of the frequently encountered types of discrimination in working life. It is also possible to see positive discrimination applications such as rare business trip assignment of women workers, exemption of women workers from very risky tasks and not assigning them to positions affecting negatively family order. It should also be noted that positive discrimination has a significant social effect (http://www.turkhukuk sitesi.com/makale_840.htm).

There are several regulations that include positive discrimination provisions for disadvantaged groups of the society (women, young workers, disabled, ex-prisoners and terror victims, etc.) particularly in the Labor Law No. 4857 and Social Insurance and General Health Insurance Law No. 5510.

Direct-indirect discrimination: Direct discrimination means treating one employee less favorably than another on the grounds of his/her personal characteristics (gender, color, age or race). Rejection of a prospective employee's job application due to his/her gender can be regarded as gender discrimination (<http://equalopportunity.murdoch.edu.au/>).

Indirect discrimination occurs when a situation appears not to be suspicious leading to discrimination, but in effect has a discriminatory impact on a particular gender group. At this point, special conditions emerging as a result of belonging to a group become important. For example, since part-time working, seems unrelated to discrimination is preferred by women, an employer's regulations against part-time workers affecting indirectly certain gender group namely women lead to indirect discrimination (Arisoy and Demir, 2007). Exposure to adverse working conditions because of employees' personal characteristics is called indirect discrimination. The effects of working-hours on women and children and individuals' religious practices are clear examples (Gill and Monaghan, 2003).

Indirect discrimination occurs in two ways. The first is indirect discrimination arising from marriage or the position within the family and the other is indirect discrimination arising from part-time work (Arisoy and Demir, 2007).

Regulations on gender discrimination and positive discrimination: Female labor force in working life has increased day by day. However, traditional roles of women in the family as mother and spouse pose an obstacle to ensure gender equality in economic platform. Besides equality of women and men, protection of women in working life is also important. Starting from constitution, several legal regulations have been made to protect women and prevent gender discrimination in Turkey. Considering these regulations in terms of Labor and Social Security Legislation, many provisions including positive discrimination will be seen.

Regulations in the constitution: Articles on equality are included in the constitution since the constitution of 1924, first Turkish constitution. According to Article 69 of the Constitution of 1924. All Turks are equal before the law and are obliged to respect the law. All privileges of whatever description claimed by groups, classes, families and individuals are abolished and forbidden. Article 87 of the Constitution made primary education obligatory for all Turks either man or woman. Article 12 of the Constitution of 1961 emphasizes the principle of equality with the following statement. All individuals are equal before the

law irrespective of language, race, gender, political opinion, philosophical views, religion or religious sect. No privileges shall be granted to any individual, family, group or class. Article 10 of the Constitution of 1982 stresses equality in the same manner with the following provision: All individuals are equal before the law, irrespective of language, race, color, sex, political opinion, philosophical views, religion and religious sect. No privileges shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

With the Law No. 5170 dated May 7, 2004 amending some of the articles of the Constitution of the Republic of Turkey, the provision Women and men have equal rights. The state is responsible to implement these rights was added to Article 10 of the Constitution of 1982. With this study, ensuring de facto equality between men and women, one of the goals of social state has become more pronounced for women.

Except for article 10 of the Constitution, there are provisions based on equality and preventing gender discrimination in Articles of 12, 17, 41, 42, 49, 50, 55, 60, and 70. Article 49 of the 1982 Constitution secures the right to work an indispensable right for all people either women or men and article 70 secures employment under equal conditions for everyone and non-gender-based discrimination. Besides Article 50 of the constitution explains the issue of women in the work life and states nobody can be forced to work in jobs which are not suitable compared to their age and gender. Juniors and women as well as the physically and mentally disabled are protected privately.

Given all these provisions, Gender-based issues are based on equality in Constitutions especially 1982 Constitution. The Constitution of 1982 states that no one shall be required to perform work unsuited to his age, sex and capacity and women shall enjoy special protection with regard to working conditions.

However, the situation mentioned above namely the principle of equality before the law is valid for those who have the same legal status. The aim of this principle is to provide equal treatment before the law for those who are in the same position, prevent discrimination and privileges. Equality before the law does not mean that everyone will be treated according to the same regulations. Some exceptional characteristics of individuals or groups may require different regulations and practices for them. Same rules for same legal status and different rules for different statutes do not damage the equal opportunity principle stated in the constitution. As a result of the decision of the court of constitution, giving privileges to parties of society (women, disabled, and injured) do not harm the principle of equality in the constitution.

Regulations in the labor legislation: It is seen that women take more part in the working life as a result of the changes in economic, social and cultural structure in recent years.

However, it is also known that they witness with discrimination problem increasingly due to high rates of participation in the working life. Therefore, in addition to ensuring equality at the constitutional level in order to provide social rights to working women in working life, it is also required to take necessary measures in labor and social security legislation to protect women and eliminate discrimination.

Protection against discrimination (the principle of equal treatment): Treating workers equally implementing equal working conditions for employers in equivalent jobs is a duty entitled by contemporary labor law and depends on the principle of authenticity. The sources of equality principle are the principle of equality (article 10) in the constitution and in the principle of equal treatment (article 5) in the Labor Law No. 4857 (Celik, 2007).

Within the framework of this principle, article 5 of the Labor Law No. 4857 states that without valid reasons for differential treatment, the employer must not make any discrimination between a full-time and a part-time employee or an employee working under a fixed-term employment contract (contract made for a definite period) and one working under an open-ended employment contract (contract made for an indefinite period). Except for biological reasons or reasons related to the nature of the job, the employer must not make any discrimination, either directly or indirectly against an employee in the process of entering into contract, negotiation of contract provisions, execution and termination his (her) employment contract due to the employee's sex or maternity. In addition, article 5 states that employer can not pay a lower wage for similar jobs or for work of equal value because of gender differences (Akyigit, 2005).

If workers recruited are only selected among men in a work place where many workers will be hired in spite of the existence of women with adequate qualifications, this situation indicates the presence of discrimination depending on the nature of the case (Eyrenci *et al.*, 2005). In the same manner, the existence of some protective provisions in the legislation due to occupational health and safety and biological reasons or assigning women to easier posts due to pregnancy or maternity leave do not justify paying lower wages to women within the scope of this study (Bacak and Yigit, 2007). A provision related to legal sanctions was added to the principle of equality. The Convention on the Elimination of All Forms of Discrimination against Women ratified by Turkey and

article 5 of the Labor Law No. 4857 in order to compliance with the *acquis communautaire*. According to this provision added, if the above provisions in the execution or termination of the employment relationship, the employee has the right to demand a compensation up his (her) 4 months' wages plus other claims of which he (she) has been deprived. Provided that the provisions of Article 20 are reserved, the burden of proof in regard to the violations by the employer rests on the employee.

However, if the employee reveals overwhelmingly the existence of such a violation, the burden of proof that the alleged violation has not materialized rests on the employer (Celik, 2007). By these regulations, the most important change brought by the Labor Law No. 4857 is implication that any discrimination in respect of fundamental human rights including gender differences can not be made in employee-employer relationship (Civelek, 2006).

Prohibition of underground and underwater work:

Another regulation about the protection of women workers is the ban on underground and underwater work. The ILO's Convention No. 45 Concerning the Employment of Women on Underground Work in Mines of All Kinds was adopted on 4 June 1935. It is the first ILO convention that was ratified by the Republic of Turkey. It was issued on the official gazette No. 3638 on 23 June 1937. Article 68 of the Former Labor Law No. 1475 preserved exactly in article 72 of the Labor Law No. 4857.

The provision in Article 72 of the Labor Law 4857 states that women irrespective of their age must not be employed on underground or underwater work like in mines, cable-laying and the construction of sewers and tunnels.

Article 104 of the Turkish Labor Law No. 4857 implies an employer or his (her) representative who violates the ban on underground and underwater work will be liable to a fine. However, if woman worker is made to work underground or underwater, employment contract will be void and in spite of the existence of illegal working against legal provisions, employment contract will not be void from the beginning of the contract and the contract of woman employer will be void for the future (Bacak and Yigit, 2007).

Prohibition of arduous or dangerous work: The concept of arduous and dangerous work is not defined in Turkish Labor Law No. 4857. A regulation shall be issued to specify the categories of work deemed to be arduous or dangerous (Article 85/2 of the Turkish Labor Law No. 4857. The provision of Article 78 of the former Labor Law No. 1475 was transferred exactly to article 85 of the

new Turkish Labor Law No. 4857. According to this study, the categories of arduous and dangerous work and the types of arduous and dangerous work on which women are employed are specified in the legislation of Arduous and Dangerous Work issued on the official gazette No. 25494 on 16 June 2004. The employment of women in the works which do not have the letter of K (first letter for women in Turkish) in the list of the legislation of arduous and dangerous work is prohibited.

The Legislation of Arduous and Dangerous Work was prepared according to the article 85 of the Turkish Labor Law No. 4857 and also includes provisions about the categories of arduous and dangerous work and the types of the arduous and dangerous work on where women workers and young workers between the ages of 16 and 18 are employed.

The legislation does not define the concept of arduous and dangerous work clearly. However, the annex 1 of the legislation regards exploration and drilling activities, metallurgical industry related jobs, stone and soil industry, metal and metal-manufactured good industry, wood industry, chemical industry, weaving and garments industry, paper and cellulose, food and beverages industry, tobacco industry, energy production and distribution industry, transportation like jobs, agriculture and livestock, warehouse, telecommunication and similar jobs as arduous and dangerous works.

The provision an employee shall not be engaged for or employed on any arduous or dangerous work without a certificate based on the results of a medical examination made either at the time of his (her) recruitment or during his (her) employment at least once a year to prove that he (she) is physically fit for the job in question and robust. The medical certificate shall be obtained from the medical practitioner attached to the establishment or from a employees' health dispensary or in the absence of either, from the medical services of the nearest Social Insurance Organization, health centre, government or municipal medical practitioner, respectively in article 86/1 of the Turkish Labor Law No. 4857 will also applied to women workers.

Prohibition of night work: Night work causes disorders in the rhythmic order managing the basic biological functions of human being during the day and makes human being face with a functioning form with which body is unfamiliar. There are special regulations in the Turkish Labor Law, due to some reasons such as the effects of night work on vocational and physical risks, worker health and exclusion from social environment in particular family and the negative effects of night work on the formation and development of personality (Bacak and

Yigit, 2007). Article 69 of the former Turkish Labor Law No. 1475, which restricted and prevented women to work in the night works was eliminated by the new Turkish Labor Law No. 4857.

The provision on the prohibition for women in Article 73 of the Turkish Labor Law No. 4857 was abolished by considering the gender equality issue but night work prohibition was adopted only for child and young workers.

Article 69 of the Turkish Labor Law No. 4857 includes regulations about night work. The definition of night work, the working hours of night work and the lower and upper limits of night work are stated (article 41/VI of the Turkish Labor Law). According to the article 73 of the Turkish Labor Law child and young workers under 18 are prohibited from working in night works. Night work prohibition is not valid for places such as hospitals, dispensers, pharmacies, bathhouses, restaurants, hotels and entertainment facilities such as movies, theatres (Celik, 2007).

Until this implementing regulation, stated in article 73, enacted, Regulation about The Employment Conditions of Women workers in Night Shifts in Works belonging to Industry with the number 7/6909 was in force. Implementing Regulation about The Employment Conditions of Women Workers in Night Shifts dated August 9th, 2004 regulates night shift. As a result of the decision of the court of constitution giving privileges to parties of society (women, disabled and injured) do not harm the principle of equality in the Constitution.

Protection of pregnant and mother workers: Turkish Labor Law No. 4857 does not include descriptive provisions about the women workers' pregnancy, motherhood and nursing phases. However, according to the implementing regulation pregnant worker refers to the worker who informs her employer by a health report from any health clinic. New mother worker refers to the mother worker who informs her employer about her condition nursing worker refers to a mother worker who informs her employer about her duty to nurse her baby between the age of 0-1 year old (Cengiz, 2009).

Article 74 of the Turkish Labor Law No. 4857; states that in principle female employees must not work for a total period of 16 weeks, 8 weeks before confinement and 8 weeks after confinement. In case of multiple pregnancy, an extra 2 week period shall be added to the 8 weeks before confinement during which female employees must not work. However, a female employee whose health condition is suitable as approved by a doctor's report may work at the work place if she so wishes up until the 3 weeks before confinement. In this

case the time during which she has worked shall be added to the time period allowed to her after confinement. The time periods mentioned above may be increased before and after confinement by a doctor report according to the female employee's health status and the nature of her work.

In the same study, it is also stated that women workers shall be granted leave with pay for periodic examinations during her pregnancy. If deemed necessary in the doctor's report, the pregnant employee may be assigned to lighter duties. In this case no reduction shall be made in her wage.

In addition, it is stated that if the female worker so wishes, she shall be granted an unpaid leave of up to 6 months after the expiry of the 16 weeks or in the case multiple pregnancy after the expiry of the 18 weeks indicated above. This period shall not be considered in determining the employee's 1 year of service for entitlement to annual leave with pay. Female workers shall be allowed a total of one and a half hour nursing leave in order to enable them to feed their children below the age of one. The worker shall decide herself at what times and in how many installments she will use this leave. The length of the nursing leave shall be treated as part of the daily working time (Article 74 of Labor Law No. 4857).

Besides regulations stated in Labor Law 4857, Implementing regulation Working Conditions for Pregnant and Nursing Workers and Nursing Rooms and Child-Care Centers working conditions for women workers above 18 regardless of marital status in the work places within the scope of the Turkish Labor Law No. 4857 (Regulation article 2).

According to this regulation, women workers are prohibited from working in the night shifts during the first 6 months following the pregnancy. If working is objectionable by doctor decision due to health and security conditions, new mother workers must not be engaged in night work after the 8 weeks period following the birth and nursing workers must not be engaged in night work after 6 months following the nursing period (Implementing Regulation on Working Conditions for Pregnant and Nursing Workers and Nursing Rooms and Child-Care Centers, article 9).

Protection for severance pay: With the amendments made by law No. 2869 of July 29, 1983 on article 14 of the Labor Law No. 1475 regulating severance pay, if a women worker who terminates the contract of employment on her own will within 1 year of her marriage, then the employer are required to pay to her a total amount of severance pay equal to her 30 days' wage for each year worked. Before mentioned regulation is still valid within the meaning of the Labor Law No. 4857.

Measures against sexual harassment: The researches made on sexual harassment demonstrate that women are mostly exposed to sexual harassment and sexual harassment is from men to women. In addition, the researches show that sexually harassed individuals tend to hide the incident (Nixon, 2002). Sexual harassment is not only a problem violating human rights but also an ethical problem decreasing the productivity of workers. In the working groups, individuals' characteristics such as age, physical conditions, marital status do not prevent sexual harassment incidents. Because of all these reasons, Labor Law No. 4857 takes some measures to prevent sexual harassment in the working place.

According to the article 24/II-d provision of the Labor Law No. 4857, if, in cases where a worker is sexually harassed in the working place by another worker or by third parties and if necessary measures are not taken though the sexually harassed worker informs the employer about the incident, then sexually harassed worker has the right to terminate immediately her employment contract by a good reason. The same provision applies, if the employer is guilty of any speech or action constituting an offence against the honor or reputation of the employee or a member of the employee's family or if he harasses the employee sexually (Art. 24/II-b of the Labor Law No. 4857).

According to the legal basis of the law, necessary measures imply employers efforts to prevent repetition of the incident, e.g., changing sexually harassed workers' working place or terminating the contract of the worker who committed the crime depending on the severity of the harassment (Bacak and Yigit, 2007). According to the article 25/II-c clause of the Labor Law, if a worker sexually harasses another worker, employer is entitled to terminate the contract for good reason.

Regulations of press labor law 5953: While article 74 of the Labor Law No. 4857 states that female employees must not work for a total period of 16 weeks, 8 weeks before confinement and 8 weeks after confinement without a payment, article 16 of the Press Labor Law 5953 states that female journalist will have a maternity leave starting from the 7th month of her pregnancy to the end of the 2nd month of birth with half of the last wage given (Sakar, 2006).

If the birth fails or the baby is born dead, then female journalist is paid this wage for 1 month after the occurrence of the incident. Journalist's other sources of income such as income from insurance or other institutions do not affect this payment (article 16 of Press Labor Law No. 5953).

Regulations in the maritime labor law No. 854: Since the occupation of seaman is one of the professions and jobs closed to women, there is no any additional regulation in this law against gender discrimination (Dinc, 2002: <http://www.kamu-is.org.tr/pdf/636.pdf>).

Regulations in public hygiene law No. 1593: Public Hygiene Law includes protective regulations for both all workers and workers that are not encompassed by Labor Laws. The Public Hygiene Law, came into effect in 1930, is the first law bringing special regulations for discrimination against women in working life. The law prohibits women working in general facilities such as a factory or a production unit during for a period 3 weeks before and after birth. The law also gives women workers, start work at the end of 3 week period after birth, two daily leaves of half an hour for nursing baby during the first 6 months (Dinc, 2002: <http://www.kamu-is.org.tr/pdf/636.pdf>).

Legislation against gender discrimination in social security area: In order to comply with the European Union's Social Policy and Employment Directives, Turkey joined European Union's Gender Equality Programme as of 2003. Labor Law No. 4857 and Social Insurance and Universal Health Insurance Law were prepared according to the directives of the EU (Civelek, 2006). By these regulations, it is aimed to take necessary measures for women workers in working life who face negative situations due to their gender. In this way, it is aimed to increase female labor force participation rate.

Social Insurance and Universal Health Insurance Law No. 5510 dated May 31, 2006 include special social insurance regulations for women workers. By these regulations women workers are protected by special social security measures and the gender-based disadvantages are eliminated. These measures can be summarized briefly as follows (Official Gazette with the number 26200 dated 16/6/2006).

According to the Social Insurance and Universal Health Insurance Law No. 5510, brothel women as stated in Public Hygiene Law No. 1593 are included in insurance coverage (article 4/2/e). The insurance rights given to brothel women by the law No. 506 are preserved with the Social Insurance and General Health Insurance Law No. 5510. In this way, those brothels are accepted as working place, people who run those places are regarded as employer and workers of them are counted as workers with service contract. According to the Social Insurance and Universal Health Insurance Law No. 5510, one of the incidents accepted as work injury is the incident occurring during female nursing insurance holders' nursing times

and causing physical or mental disability immediately or after the incident (article 13/d). In this way risks that women worker might face during nursing are covered by social security. Therefore both gender issue of women and the health of baby are considered so that necessary precautions are also taken for the good of future generations.

Another important issue in terms of social security is the maternity status special to women. Maternity status is a status saddling women a greater responsibility for the continuation of generation and leading to loss of mental and physical health of women workers. According to the article 15 of the Social Insurance and General Health Law 5510, sickness and invalidity statuses of a female insurance holder or uninsured spouse of a male insurance holder related with the pregnancy or maternity status starting from the date of pregnancy up to the first 8 weeks or in case of multi delivery, up to the first 10 weeks following delivery shall be considered as maternity status. The purpose of this application is to protect mother and her baby during the certain periods of time before and after birth.

Additionally, according to the article 16/e of the Social Insurance and Universal Health Insurance Law No. 5510, nursing benefit applicable by the date of delivery, over the tariff determined by the Board of Directors of the Institution and approved by the Minister, shall be payable from the maternity insurance to the female insurance holder or to the male insurance holder due to his uninsured spouse giving birth and among the insurance holders under item (a) and (b) of paragraph one of Article 4 of this Law, to the female insurance holder receiving income or pension or to the spouse of male insurance holder receiving income or pension due to own works, for each newborn provided that the newborn lives. By these regulations importance given for the continuation of society can be understood.

According to the article 18 of Social Insurance and Universal Health Insurance Law No. 5510, in the case of insured woman's maternity for each day of not working including 8 week periods before and after birth and in cases of multi birth adding another 2 weeks to the said 8 weeks before the birth provided that minimum 90 days short term insurance premium is notified within 1 year before the birth. In case the insurance holder works until 3 weeks before the birth, upon request of female insurance holder and with the consent of medical doctor, a benefit for temporary incapacity shall be payable for the periods added to the rest period after birth. The temporary incapacity benefit payable in cases of work accident, occupational disease, sickness and maternity of female insurance holders is half of the daily earning to be

calculated as per Article 17. By temporary incapacity benefit, mother workers are provided with an income security for the periods in which they face a state of loss of work power and they and their babies may witness with health risks in case of working. Therefore, the health of woman worker and her baby and income loss issue are not ignored.

According to the Social Insurance and Universal Health Insurance Law No. 5510, If the universal health insurance holder, who is married but does not have children is female then herself or if male his wife;

- If, following medical treatments, it is found possible by the health committees of health care service providers authorized by the Institution that they cannot have children via normal medical methods but may have children via auxiliary reproduction methods
- Provided that the individual is over 23 and under 39
- Provided that no result is obtained from other treatment methods within 3 years is documented by health committees of health-care services authorized by the Institution
- Provided that the medical centre where the operation is made is in contract with the Institution
- Provided that the individual is a universal health insurance holder or dependant since minimum 5 years and that 900 days of universal health insurance premiums are paid

Provided that all of the above conditions are fulfilled collectively, then limited with maximum two trials, auxiliary reproduction method treatments and in case treatment of a disease is not possible with another medical method and the treatment is found medically compulsory by the health committees of health-care service providers authorized by the Institution, auxiliary reproduction method treatments are provided (article 63/e).

There are also some regulations towards women in the legislation of social security on the periods of insurance debiting. According to the Social Insurance and Universal Health Insurance Law No. 5510, women workers have the right to get into debt for unpaid birth or maternity leave periods and terms requested by female insurance holders under item (a) of paragraph one of Article 4 for twice but not exceeding 2 years period following the date of birth provided that the concerned individual does not work at workplace on service contract and the child lives (Article 41/a). By this regulation, female workers have the right to get into debt for unpaid periods in which they do not work to raise their babies better and assurance is given women. Finally, women workers can retire at an early age than men workers from the old-age point of view in social security regulations but the Social

Insurance and Universal Health Insurance Law No. 5510 is equalized the age of retirement as 65 for both man and woman starting from 2036 by gradual increases (Article 28/b).

CONCLUSION

In recent years, although there have been some significant changes in economic, social and cultural structure in Turkey, discrimination against women is still an important issue. Actually, woman's position in the social order forms the basis of this problem. Neo-liberal policy implementations began in the 1980s caused increase of migration from the rural to urban and this led to the increase of women labor force in the total labor force in cities. Improved level of education of women is another important factor in the increase of high participation rates of women in the labor force in recent years. By high participation rates of women in the labor force, cases of gender discrimination issue mentioned in the literature and are seen mostly in developed nations have begun to appear in Turkey as well.

Regulations governing the prevention of gender discrimination in the Constitution and Labor and Social Security Legislation as described before are not enough and by social policy measures, the state is required to provide some advantages in favor of the disadvantaged groups and the women workers. For instance, practices such as partial payment of the social security premiums of businesses employing women at a certain rate by the state or providing them social security premium discounts or tax cuts or similar implementations might be useful.

Finally, one of the most important activities to prevent gender discrimination in the working place can be organizing different training activities. In this area, many non-governmental organizations engage in some activities. Scope of these activities should be expanded and high participation of women among all parties of the society should be promoted.

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