

CONVENTION ON THE ELIMINATION OF ALL FORMS OF  
DISCRIMINATION AGAINST WOMEN 46<sup>th</sup> CEDAW SESSION

**Turkey's Sixth Report on its Compliance  
with the  
Convention on the Elimination of All  
Forms of Discrimination  
against Women**

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Prepared by  
[The Coalition for the Partial Preliminary Evaluation Report  
by 71 Non-Governmental Organizations of Turkey](#)

## Table of Contents

<b>I- Executive Summary</b> .....	2
<b>II- Introduction</b> .....	5
<b>III- The Historical Dimension</b> .....	6
1. The General Treatment of Women Who Wear the Headscarf in Turkey .....	6
2. The Emergence of Headscarf Bans in the Context of Secular/Democratic Tensions.....	7
3. The Expanding Scope of Headscarf Ban after the Post-modern coup of February 28, 1997 and the Extension of the Headscarf Ban .....	8
4. The discriminatory applications that have been expanded in every sphere of life since April 2010 .....	8
5. Legal Evaluation of the Headscarf Ban .....	10
6. Headscarf Ban According to United Nation Covenant and Committee Decisions .....	10
7. Assessment of Common Justifications for the Headscarf Ban .....	12
8. The Extent of the Ban, and the Heavy Cost of the Headscarf Ban for Individual Women .....	13
9. Failure Widely to Disseminate the CEDAW Concluding Comments .....	14
10. The Intention of Turkish Authorities not to Apply CEDAW’s Conclusive Comments and the Unreal Answer of Turkey to the Question of CEDAW in January, 2010. ....	15
11. Difficulties in Collection of Statistical Data .....	16
<b>IV- Turkey Fails to Implement Its Obligation under the Articles of CEDAW</b> .....	18
1. Article 1/Ineffectiveness of Legal Mechanisms in Preventing Discrimination .....	18
2. Articles 4, 7 and 8/the Negative Effects of the Headscarf Ban on Women’s Participation in Political Life and Decision Making Processes .....	19
3. Article 10 / How the Headscarf Ban is a Bar to Equal Rights in Education .....	20
4. Article 11 / “Negative Effects of the Headscarf Ban on the Exercise of the Right to Work” .....	22
5. Articles 12 and 14/the Effects of the Headscarf Ban on the Health, Social Status and Problems of Women in Rural Areas .....	24
6. Article 16 / Effects of the Headscarf Ban on Early Marriage, Early Motherhood and Family Relations .....	25
7. CEDAW Committee’s General Comment No 19 How the Headscarf Ban Undermines the Struggle against Violence against Women .....	26
<b>V- Concluding remarks</b> .....	27
<b>VI- Recommendation to the CEDAW Committee</b> .....	28
<b>VII- List of 71 institutions, women’s law associations, trade unions, human’s rights associations and platforms</b> from Provinces of Ankara, İstanbul, Bursa, Afyon, Antalya, Adıyaman, Batman, Çorum, Diyarbakır, Gaziantep, Kırıkkale, İzmir, Kocaeli, Konya, Samsun confirmed their support to the report by joining workshops and/ or making written contributions .....	28

## ***I- EXECUTIVE SUMMARY***

We, the undersigned civil society organizations<sup>1</sup>, have prepared this report in the belief that Turkey's long-standing prohibitions on the headscarf, which have intensified since the 1997 "postmodern military coup,"<sup>2</sup> are discriminative and directly violate the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Our report shows the extent and the impact of the headscarf ban in barring women from admission to educational institutions, employment and participation in political life<sup>3</sup>. The report best describes how these restrictions legitimize discrimination, and how the imposition of the ban by the state has turned into violence, patriarchal oppression, and discrimination not only by men against women, but also by women against women with a headscarf. The articles of CEDAW that are violated by the discrimination of women because of whether their hair is covered are expressed in this report. Recent surveys, case studies and reports of some international organizations on the issue have been used to argue the statements in advance.

### **1) Turkey Fails to Implement Its Obligation under the Article 1 of CEDAW *Ineffectiveness of Legal Mechanisms in Preventing Discrimination***

The NGO's note that in Turkey the discriminative treatment inflicted upon women with headscarves is actually advocated by the state institutions and the organs of justice. Courts deem the discriminative practices inflicted on women with headscarves to be lawful simply on the grounds that wearing a headscarf is contrary to contemporary forms of dress despite the fact that there is no actual law against headscarf. For example, in one of the cases as well-known as a slander by involved parties, a woman applied to a court in Konya city of Turkey (Konya Asliye Hukuk Mahkemesi) to redress compensations for the violation of her personal rights. The court has denied the request. In the decision it is stated that, "*The applicant has to bear these criticisms even if they are severe in nature in ways that refer to mind-set under the headscarf since the applicant is a public servant as a doctor who had studied positive and rational sciences contrary to her headscarf.*"<sup>4</sup> Similar interpretations took place in the decisions of the Constitutional Court and Appeals Court of The State Council. Thus, such interpretations resulted in discriminatory applications against women in their private life. A hotel denied giving service to a woman with a headscarf, or an automotive company did not allow women with headscarf to enter its factories' territory which includes its shop in it.

*Civil society organizations want Turkey to indicate what steps it is going to take to "establish*

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<sup>1</sup> This report is a product of several workshops on the headscarf issue that were directed by AKDER (Women's Rights Organization against Discrimination-AKDER). 71 institutions that include trade unions, associations and women associations from 15 provinces have joined these workshops and contributed to the construction of the report. As the Coalition of NGO's partial evaluating report 203 women representatives of associations and platforms from each region of Turkey have met in Konya Province and their contributions have shaped the following report. The Shadow Report was updated in 2010, presented to the non-governmental organizations, and their support has been obtained. The list of the 71 NGOs undersigned the report is included on the last page of this report. For more information please contact via avfatmabenli@yahoo.com on behalf of the Coalition of Partial Preliminary Evaluation Report by Non-governmental Organizations.

<sup>2</sup> A Turkish general's description of the military's discreetly orchestrated 1997 regime change, quoted in the daily newspaper, *Milliyet* on January 16, 2001.

<sup>3</sup> This report, which is limited to 30 pages, focuses on the negative impacts of the headscarf ban for women in Turkey since the limit of it does not allow the platform to give focus to any other problematic issues in the same report.

<sup>4</sup> *Türban Takan Ağır Eleştiriye Razı Olmak Zorundadır, [Judge Said; headscarfed women has to accept faultfindings]*, 5 June 2009, Konya 1. Asliye Hukuk Mahkemesi, Konya 1st Court of Distance, 2007/40 E., 2008/159 K, 22.05.2008 Dated,

*legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions, the effective protection of women against any acts of discrimination and how it intends to establish effective legal protection in this matter.*

**2) Turkey Fails to Implement Its Obligation under the Article 4.7 and 8 of CEDAW  
*The Negative Effects of the Headscarf Ban on Women’s Participation in Political Life and Decision Making Processes***

Women with a headscarf cannot become a member of parliament, a governor, a mayor, a head official of a district or a member in local governments. A ban on headscarves for ballot-box observers was introduced by the decision of Supreme Election Committee. They are not allowed to take part in any levels of the decision-making processes or political mechanisms. Exclusion of women with headscarf in Turkish politics has a direct effect on the participation of women in the political arena and legislative institutions in general.

*Civil society organizations demand that the reasons behind the total exclusion of women with a headscarf from political life should be investigated.*

**3) Turkey Fails to Implement Its Obligation under the Article 10 of CEDAW  
*How the Headscarf Ban is a Bar to Equal Rights in Education***

Women with headscarf are completely excluded from all educational processes. In every level of education including universities and colleges, the condition of unveiling ones head is obligatory. Some of the veiled women who are obliged to adopt that condition leave the educational institutions and go back to their home. It blocks their educational rights. The law amendments of the Parliament to lift the ban (by bringing an unconditional equality for all citizens while having services from the state) have been blocked by the Constitutional Court. Moreover, Turkey has not applied the final decisions of CEDAW since 2005, and it replied the question of CEDAW Committee on the ban with an answer far from the reality by citing an irrelevant article of the regulation.

Turkey as a country in which 62% of women population cover their heads and discriminated for 12 years by the application of ban supposed to hide the impacts of the headscarf ban from CEDAW. The NGO’s are concerned with the number of women who are forced to leave their education because of the ban certainly have had a negative impact on the poor ratios of education in the country.

*We urge that the State should be asked what measures it has taken “to ensure that the headscarf ban does not negatively affect equality of opportunity for women in educational institutions. In particular, State should announce what steps it will take to abolish headscarf ban in universities, to start investigation about those who limit these women’s right to education and to promote higher participation of women with headscarf.*

**4) Turkey Fails to Implement Its Obligation under the Article 11 of CEDAW  
*“The Negative Effects of the Headscarf Ban on the Right to Work”***

Women with headscarf also face up with the preventions in employment. Women, who were already employed, were fired in the process after the post-modern coup on 28<sup>th</sup> February, 1997. Since 2000, the ban has been applied in the general exams to be a state officer, and they are prevented to apply for a position in a public institution by it.

Professionals, who are not working as state officers but registered to the organizations of their professions as lawyers, notaries, pharmacists, doctors and dentists, are not allowed to work while wearing headscarf in their private offices. The examples of this application can be seen in any private educational institutions such as kindergartens and handicraft courses as well.

*The Turkish state must be asked what steps it plans to take in order to ensure that women who wear a headscarf do not suffer discrimination in their working life. The provision in clothing regulation requiring civil servants to be uncovered has been causing discrimination in public institutions by ignoring the qualifications of a group of women.*

**5) Turkey Fails to Implement Its Obligation under the Article 12 and 14 of CEDAW: *The Effects of the Headscarf Ban on the Health, the Social Status and Other Problems of Women in Rural Areas***

The NGOs note that the ban exercises a particularly harsh grip on women from rural areas of the country. For women who cover their heads and in economical need, the headscarf ban blocks off the only possible path for them up out of their class position. In addition, denying the right to access to economic resources for veiled women also limits their access to health services. Beside it, there are many examples alleged that women were not medically treated or have faced up with ill-treatments because of their attire.

*The Turkish authorities must be asked what measures they plan to take to safeguard the social rights of women who wear a headscarf. They must make clear what precautions they intend to put in place to prevent arbitrary practices in the provision of health services.*

**6) Turkey Fails to Implement Its Obligation under the Article 16 of CEDAW *The Effects of the Headscarf Ban on Early Marriages, Early Motherhood and Family Relations***

Girls who are forced to wear headscarf or choose to wear it skip their education before or during high schools because they are forced to leave the school to cover their heads, or since they are aware that they will not be allowed to go to the universities with their scarf on. The indirect result of it can be seen in the statistics for the average age of marriage. After the application of the ban, the increase in the age of marriage slowed down which means early marriages increased. Early marriage and the lack of education result in the inequality in households, and encourage early motherhood.

*The undersigned civil society organizations demand to know what measures Turkey is willing to enact to remove the discriminative policies currently in operation, and what plans and projects will be finally implemented to ensure that women who wear the headscarf can take up the active place in life and in society to which they aspire?*

**7) Turkey Fails to Implement Its Obligation under the CEDAW Committee's General Comment No 19: *How the Headscarf Ban Undermines the Struggle against Violence against Women***

The civil society organizations note that discrimination against women with headscarf has obstructed the empowerment of women and thereby undermined the methods of combating violence. Interference with the right to education, limits the potential of women to achieve economic independence, and to act independently when confronted with domestic violence.

Forcing women to uncover their heads and preventing them from all institutions of education, employment and other rights is a kind of psychological violence. Recent studies on the subject indicate that women, who feel obliged to uncover their heads in order to avoid losing their careers or job position, are psychologically affected by the process. 70.8% of women who had removed their headscarf stated that they felt they had been injured/ shattered by the experience, and 63.2% stated that they felt as being subjected to an insult.<sup>5</sup> Denying a woman's right to choose her own clothes under such circumstances is a profound external interference.

*Civil society organizations now call for the removal of obstacles to the empowerment of women in the struggle against violence. The Turkish authorities must take effective measures to ensure that women have the power to make their own decision, and should be required to provide what has been done in this direction.*

## II- INTRODUCTION

Samira Moosa, assistant director of the Sociology College of Sultan Qaboos University in the Sultanate of Oman. Samira Moosa was invited to attend in a panel discussion at the First International Children and Communication Congress at Istanbul University on 16<sup>th</sup> October, 2003. However, since women with a head cover are not allowed to any parts of the university's territory, she was not even permitted to set foot on the premises. University officials' excuse for their behavior was "We invited her because we thought she was a man."<sup>6</sup> The similar incidents to that example<sup>7</sup>, whereby university officials are grossly discriminatory towards a woman who wears the headscarf are 'normal' practices in Turkey after the post-modern coup which took place in 1997. Entering into Higher Education institutions and working as a civil servant has become impossible for a woman with a headscarf on.

Despite the fact that there has been on going debate about the headscarf and overwhelming public discontent against the ban there has not been any development in order to remove the ban. An initiative that aimed to outlaw preventing students from entering universities because of their dress was overturned by the Constitutional Court.<sup>8</sup> Because of that attempt the governing party is facing up with a closure trail, and the court intends to ban the minister responsible for women affairs from politics. The justification of it is the minister's statement about students with headscarves who are not allowed to enter any universities' territories. Furthermore, after a newspaper article that mentioned that AKDER with some other NGOs was writing a report to submit to CEDAW, the Interior Ministry launched an "external investigation" against AKDER and requested copies of the reports that were submitted to CEDAW members in 2007.

There are no schools anywhere in Turkey where girls can have education while wearing a headscarf, because in Turkey there is no such option on law. Thus, the headscarf ban is applied even in the Theology faculty.

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<sup>5</sup> "Turkey's Veiled Reality," <http://www.hazargrubu.org/panel/BasortuluGercek1-2007.pdf>

<sup>6</sup> "Bir iletişim skandalı" [A communication scandal], MİLLİYET [Nationhood], 16.10.2003

<sup>7</sup> The same situation was experienced once more by Att. Fatma Benli who had a major role to prepare this report. Att. Fatma Benli who is declared as one of "the most effective 500 Muslims in the World" by Georgetown University has been invited by a University in Istanbul in order to make representation about violence against the women. When the inviting authorities figured out that she is wearing a headscarf, they cancelled the program. 15.11.2008, <http://www.tumgazeteler.com/?a=4341636>

<sup>8</sup> Decision of the Constitutional Court, 05 June 2008.

According to the recent surveys, approximately 14 million girls and women wear headscarves in Turkey.<sup>9</sup> For the report on gender equalities that was prepared by World Economic Forum in 2009, Turkey **which has the 17<sup>th</sup> biggest economy in the world, ranks 129<sup>th</sup>** out of 134 countries.<sup>10</sup> Turkey gets behind all other European and OECD countries in terms of the education, working life, social life and health of women. Turkey is the country with the smallest representation of women in its parliament, the smallest number of women in employment, and the lowest rate of female literacy. As it was mentioned in the State report, “beside applying any kinds of discrimination upon gender, it is an obligation for government to take necessary legal steps for providing the equal rights for women and men, and to create equal opportunities to use these rights.”<sup>11</sup> But the data of the ratios show that Turkey as a democratic state which has a developed economy does not perform its obligation in providing equality between men and women. In addition, as it is approved by the State report, there are really few provisional particular actions to improve the recent status of women in Turkey.

In general, government policy is to ignore the existence of the problem which affects so many veiled women. But to ignore the ban does not eliminate its negative effects. **One of greatest obstacles for Turkish women is the ongoing headscarf ban that forces them to remove their headscarves or leave in order to participate in social activities.** It is impossible for women to secure genuine equality with men in a context in which women are forced by the hand of the state to uncover their heads if they want to exercise their rights, and are excluded from the life of the society if they refuse to comply with instructions.

### ***III. The Historical Dimension***

#### ***1. The General Treatment of Women Who Wear the Headscarf in Turkey***

No compulsion on women either to cover or to uncover their heads is acceptable in a democratic society, and indeed, there are no federal laws in Turkey explicitly ban the use of the head cover for women. But the founding state ideology has supported the image of the “modern-looking woman with uncovered head,” over and against the “traditional veiled woman.” And the Army Forces were shaped around this ideology. They make society accept it as it is by the help of every ten-year coups.

As a result of the republican revolutions, women were granted civil and political rights, constitutionally and legally guaranteed. However, it is considered that women with headscarf can not benefit the rights if they do not take their scarves off and as a result their places are considered as in their houses and their villages. Women who wore the headscarf began to be excluded from social life. The increases in freedoms, prosperity and education when Turkey entered a more democratic period under the multiparty system, introduced in 1946, were accompanied by increased visibility of veiled women with the new migration from villages to

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<sup>9</sup> *Milliyet* [Nationhood]/KONDA Research Centre, “Türkiye'nin üç sorunu, ‘değerlendirmeler’.” [Turkey’s three problems, “evaluations.”] T. 31.05.2003. In the newspaper’s survey of 03.12.2007, however, claims that the number of headscarfed women had risen to 69.4%. *Milliyet*, “Gündelik yaşamda din, laiklik ve türban – 1”, [Religion, secularism and the headscarf in daily life-1]

<sup>10</sup> Turkey failed in gender equality, 29.10.2009, Turkey ranks 105<sup>th</sup> out of 115 countries on the World Gender Map in 2006; 121<sup>st</sup> out of 128 countries in 2007 and 123<sup>rd</sup> out of 130 countries in 2008. [http://www.weforum.org/en/Communities/Women%](http://www.weforum.org/en/Communities/Women%20)

<sup>11</sup> Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women 6. periodic reports of States parties, Turkey.

the cities. These women started to be viewed as a problem because they were perceived to conflict with western modernism.

## ***2. The Emergence of Headscarf Bans in the Context of Secular/Democratic Tensions***

The broad-based support for democratic initiatives among people from a background of villages and country towns resulted in a general extension of freedoms which included an expansion of religious freedoms. But the elites of the republican state, who perceived this new situation as a potential counterrevolutionary threat to their own status and power, tried to head off this development with political and military interventions. Part of these efforts to halt developments in freedom of religion included treating religion and religiosity as a threat, which must be opposed as a supposedly conservative and reactionary movement which was seeking to impose *shariah* law. Thus, veiled women became ever more visible, and especially when they started to appear in the educational setting in the 1980s, they began to take the brunt of the state's intolerance of religious freedom.

During more politically liberal periods, women wearing a headscarf had a greater chance of entering higher education and finding employment in the public sphere. For example, during this period special laws were passed providing for "freedom in the matter of dress" and the rights to education for university students who wore the headscarf were not restricted.<sup>12</sup> But measures tended to be taken against women with headscarf during the periods of the military interventions and these were supported by the interpretations of the judiciary.

Thus it was that the first really widespread prohibitions brought against the headscarf were introduced after the military coup of 12 September 1980. The regulation concerning the Dress of Personnel Employed in Public Institutions of 1982 is still in force more than a quarter of a century later, and is the sole basis for subsequent bans.<sup>13</sup> The regulation is a perfect expression of the mentality of the period, which aimed to impose absolute militarist perspective from shoe style to fingernail length.<sup>14</sup>

This regulation was occasionally applied in its strictest form, but implementation was increasingly relaxed as society moved on from the disciplines of the post-coup period into a time of increased democratic freedom. As a result, the 1990s were a much more comfortable period for such women.

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<sup>12</sup> Supplementary Article 17 of the Higher Education Law states that: "[Choice of] dress in higher education institutions is free, provided that that no current laws are infringed." Official Gazette 28 October 1990, No: 20679. This provision was challenged at the Constitutional Court, but the Court ruled that it did not contravene the Constitution, and did not strike out the provision. The Court's justification includes an interpretation that the headscarf cannot be included under freedom of dress, but the article of the law that provides this freedom is still on the statute book. ". Therefore, from the time the law was put in place in 1991 up to the 1997 post-modern coup, students in higher education institutions were able to experience freedom in matters of dress as intended by the legislature, and students who wore the headscarf were not subject to discrimination.

<sup>13</sup> Official Gazette, 25 October 1983, No: 17849.

<sup>14</sup> Article 5 of the regulation states: "Clothing shall be clean, neat, ironed; shoes and/or boots shall be plain with normal heels, polished; in work areas, heads shall be uncovered at all times, with hair neatly combed or gathered up; nails shall be cut in the normal manner. However, if there is special working clothing for certain occupations, such clothing may be worn subject to the approval of the manager in question. Trousers, sleeveless or very open shirts, blouses or dresses shall not be worn. Skirts, which are slit or a hemline above the knee, shall not be worn. Sandal-style shoes shall not be worn."



### ***3. The Expanding Scope of Headscarf Ban after the Post-modern coup of February 28, 1997 and the Extension of the Headscarf Ban***

The military intervention of 28 February 1997 introduced a new epoch for Turkey in which efforts were made to sweep religiously devout people from politics, economy and social life. The anti-democratic impact of the intervention resulted in closing the ruling party and banning any political actions of its leaders. It also brought a return to inflexible and discriminative bans applied to veiled women who wished to study and work. The most persistently applied article of the decrees of national security board on 28th February 1997 is the 13<sup>th</sup> article on the prevention of outdated clothing.

On 13 March 1997 a briefing was given by senior army officials and retired senior colonels of the National Security Council (MGK), to university rectors not to accept students with headscarf to study at the university to protect laicism. Afterwards, students with a headscarf were not allowed to enter their schools' territories including cafes. The rectors who did not apply the ban were removed from their offices or forced to resign. The judges of the administrative court who decided that educational rights can not be restricted without a law clearly relating to were sent exile.<sup>15</sup>

The bans swiftly multiplied following the 28 February military intervention, producing an entirely arbitrary designation of "public space" within which women with headscarf were not allowed to appear. This space supposedly includes all state-allied or state-regulated institutions, and requires that women with headscarf are excluded from all state and private training and education institutions. The ban applies not only to teaching staff or students, but also cleaning staff, and covers all the territory of such institutions. In order to ensure the prohibition is strictly applied, security officials, cabins and turnstiles were placed at the main entrances of the institutions.

One of the most shameful manifestations of this trend were the "persuasion rooms" equipped with cameras at Istanbul University to which women could be removed and subjected to persuasion to take their scarves off.<sup>16</sup>

### ***4. The discriminatory applications that have been expanded in every sphere of life since April 2010***

In 2010 the situation, redolent of periods in various societies when black citizens were not admitted to whites only schools, churches, restaurants and buses, is that with the exception of one or two schools, women who wear the headscarf are not admitted to any university or its residential quarters as students, visitors or even as parents of the students.<sup>17</sup> There have been no changes to the enforcement of the headscarf ban. As an example, a student who wore a wig to take the university entrance exam was hindered to sit in the classroom.<sup>18</sup> The students who wear hats as they are not allowed to enter schools with headscarves were subjected to

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<sup>15</sup> 9 June 2000; Judges, who gave visa to headscarf, were fired. While the High Council of Judges and Prosecutors (HSYK) removed two judges from office in Kastamonu (city of Turkey) "because of the ongoing investigation on them," the Administrative Court of Samsun changed the offices of 5 judges. It is declared that the offices of the judges in Samsun were changed because of the decisions of them which gave visa to headscarf. In the HSYK meeting, the situation of 7 judges was evaluated. [arsiv.ntvmsnbc.com](http://arsiv.ntvmsnbc.com)

<sup>16</sup> *Eski başörtülü öğrencilerin başörtülü fotoğrafı yıllıktan çıkarıldı* [Photographs of former headscarfed students removed from yearbook], *Zaman* [Time] daily newspaper, 5 December 2005.

<sup>17</sup> Higher Education Council (YÖK) circular, No:B.30.O.Hkm.06.01.001-3699/20644, 15 September 2000

<sup>18</sup> İstanbul University Cerrahpaşa Medical School Deanship instituted an inquiry about nine students who wear hat for not obeying the clothing regulations. (Date 22.12.2009 and numbers 2307 and 2306)

disciplinary proceedings because of their hats. The Report for Freedom of Religion and Consciousness of the United Nations in 2008 cited a case in which a student who wears a wig has been removed from examination.<sup>19</sup> **The Higher Education Council, which controls all universities in Turkey, has issued circulars banning the wearing of wigs, berets and hats which some students used in order to avoid the ban.**<sup>20</sup>

The application is the same for visitors as well. Women with headscarf are currently cast away even from the universities' guest houses.<sup>21</sup> Such bans vary according to time, place, and the implementing officials. Violations range from taking out a driver's license to participating in a celebration or festival to appearing in court. Hatice Hasdemir was ejected from the court where she was appearing as defendant.<sup>22</sup> Although he booked a place, Ahmet A. is not allowed in Bodrum Mavi Kumsal Hotel because of his wife's headscarf. Beside, authorized officers sent a paper to tourism agents writing that women with headscarves would not be allowed in, and they replaced the paid cost.<sup>23</sup> Student Tevhide Kütük was forced to leave the stage during an award ceremony because of her headscarf on, even though the ceremony was taking place out of the school in a public cultural center.<sup>24</sup> Abdullah Yıldız, a male teacher who took the second place from the results list in a national teaching exam, was not permitted to work overseas because his wife wore a headscarf.<sup>25</sup> A municipality has not accepted the marriage application of a woman wearing headscarf. Another municipality rejected to issue a student card that is used by students for discount in public transport. In that case, although their faces are not covered, students face with warnings from the bus drivers that they should remove their scarves in order to be identified.<sup>26</sup> An apartment manager presented a doorkeeper with a contract that included the following clause: "The doorkeeper, his wife and daughters cannot wear headscarves or similar dressings" She was later accused of violating a contract when his covered relatives came to visit him.<sup>27</sup> Similarly a doctor who demanded to play tennis at a private club was rejected by the officials with the claim that her dressing was not modern enough.<sup>28</sup>

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<sup>19</sup> Report of the Special Reporter on freedom of religion or belief, Asma Jahangir Addendum, Promotion and Protection of all Human Rights, Civil Rights, Including the Right to Development Summary of Cases Transmitted to Governments and Replies Received, A/Hrc/10/8/Add.1 16 February 2009, Parag.198

<sup>20</sup> YÖK circular, No: B.30.2.MAR.0.00.00.01/2959, 27 March 2002.

<sup>21</sup> University Guesthouses are Banned for the Headscarfed, Çinar family who made reservation for the Marmara University guesthouse, were rejected to enter into the guesthouse because there are headscarfed members in the family. The family will start an investigation about the university after spent the night in streets in a cold winter day. The reception official said that there was an oral order about this situation that commanded by the rector. 1 February 2010, Zaman [Time] Newspaper,

<sup>22</sup> "Başını aç öyle gel" (Come without headscarf). (2003, November 07). Yeni Şafak "Kamusal Alan Mahkemelere Sıçradı,"("Public space grabbed by courts" 2003 November, 07) Nethaber.

<sup>23</sup> "He was not allowed to enter the Hotel because of his headscarfed wife and he passed the night at the police station, Zaman [Time] Newspaper, 3 June 2008

<sup>24</sup> Başörtülü Öğrenci Kürsüden İndirildi, "*Headscarfed student bring down from stage*" Yenişafak,24.11.07

<sup>25</sup> "Danıştay: Eşi türbanlı öğretmen yurt dışında çalışamaz" ("Council of State: A teacher whose wife is headscarfed may not work overseas.") CNN TURK, 23.02.2006

<sup>26</sup> "Headscarfed student cannot use discount ticket on busses" İzmir municipality which belongs to RPP signed an application of ban again. Student IDs which provide reduced price on municipal busses now banned for headscarfed students. Zeynep Akçakaya who moved from Kütahya to İzmir and who is an 11<sup>th</sup> grade open-high school student, recently applied for the electronic personal student ID card to ESHOT General Manager. And she received a response by e-mail saying that "Your ID card cannot be prepared because of your inappropriate photo." 12 March 2010, Bugün Newspaper

<sup>27</sup> *Başörtüsü yasağı kapıcılık yönetmeliğine girdi* [Headscarf Prohibition included in regulations of porters]

<sup>28</sup> Olimpiyatta serbest ENKA tesislerinde yasak mı?, 4 Haziran 2009, Haber7.com

### ***5. Legal Evaluation of the Headscarf Ban***

When we look at when and in what role women are able to exercise their rights, we can see that women who wear a headscarf are subjected to discrimination across the board in a way that only varies according to the attitude of the official who is inflicting the discrimination. In one case the wife of the Prime Minister of Turkey could not enter the military hospital to visit a famous actor.<sup>29</sup> Young women who are wearing headscarves aren't allowed to enter into institutions belonged to the army including hospitals,<sup>30</sup> and women over 40 would have to put their scarves on in a way dictated by the military in order to enter such places. Since this application is filed, soldiers and their visiting relatives are reported.

The fact that the discriminative measures applied against women who wear the scarf are so variable according to the circumstances and people indicates that the discrimination is not grounded in any fundamental basis of law but justified by vague abstract concepts improvised by the official involved of what a "political symbol" or a "public space" is. A context which everyone is limiting others' rights on the basis of their own assumptions and fears cannot be described as a state of law.

The fundamental principle in the exercise of rights is freedom. The limits of rights are the boundaries where those rights impinge upon the rights of others. One person's decision to cover or to uncover their hair can in no way limit the freedom of another. As indicated in international human rights reports, the choice to adopt or not to adopt a particular manner of dress is an exercise of the freedoms of thought, conscience and religion.<sup>31</sup> Secular states afford equal treatment to all citizens in an impartial manner. For a state to be impartial, it must not discriminate positively or negatively on the basis of belief. The general principles of law require that freedom of religion and conscience require that the believer should be free to fulfill the requirements of their religion without fear of discriminative treatment. In a state governed by the rule of law, people have the right to freely choose whether or not to partake in religious duties. Under contemporary structures, the state is not required to protect religion.

*Covering the head is a reflection of the freedom of religion and conscience, and of the freedom to live according to one's religious beliefs. The fact that Turkey is a secular country should not be an obstacle to veiled women's access to equality of treatment.*

### ***6. Headscarf Ban According to United Nation Covenant and Committee Decisions***

According to the article 2 of the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief of 25 November 1981 states that "No one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other beliefs ... where the expression 'intolerance and discrimination based on religion or belief' means any distinction, exclusion, restriction or

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<sup>29</sup> First Lady Emine Erdoğan was not able to visit famous actor Nejat Uygur who is being treated in the Turkish Military rehabilitation center. Necla Uygur talked about this event to Newspaper Milliyet: "Yes, really such an event has happened. There is nothing to hide. 23 October 2007

<sup>30</sup> "Even if they remove their headscarves certainly do not get to at all military facilities". It is appeared that Retired Airforce General İbrahim Firtına when he was on duty, he gave orders about " The civilian who came to visit their children to hospitals and social facilities , even if they removed their headscarves, would not be accepted in", 2 February 2010. Zaman [Time] Newspaper.

<sup>31</sup> Memorandum to the Turkish Government on Human Rights Watch's Concerns with Regard to Academic Freedom in Higher Education and Access to Higher Education for Women who Wear the Headscarf.

preference based on religion or belief.”<sup>32</sup> Similarly, the United Nations Human Rights Committee interprets the freedom to express religious belief in a manner that may include being able to wear special clothing and head covering.<sup>33</sup> The 1981 Declaration of the General Assembly states in the Article 1(1) that freedom of religion may be exercised “either individually or in community with others and in public or private”.

Furthermore, Article 22 of the Human Rights Committee General Comment states:

“The freedom to manifest religion or belief may be exercised “either individually or in community with others and in public or private”. The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest. ***The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life..***”<sup>34</sup>

In this interpretation dated 20 July 1993, wearing special religious hats or scarves is considered as part of religious life which shall be protected.<sup>35</sup>

It has found that limiting the right to education on grounds of clothing and interferences with expressions of religious belief to be unlawful. The UNHRC has already produced a decision regarding a female student who was dismissed from university because she refused to take her headscarf off. The decision states:

*“The Committee considers that the freedom to manifest one’s religion encompasses the right to wear clothes or attire in public which is in conformity with the individual’s faith or religion. Furthermore, it considers that to prevent a person from wearing religious clothing in public or private may constitute a violation of Article 18 (2) which prohibits any coercion that would impair the individual’s freedom to have or adopt a religion.”*<sup>36</sup>

In this regard the Beijing Declaration article 72. states that: Creation of an educational and social environment, in which women and men, girls and boys, are treated equally and encouraged to achieve their full potential, respecting their freedom of thought, conscience, religion and belief, and where educational resources promote non-stereotyped images of women and men, would be effective in the elimination of the causes of discrimination against women and inequalities between women and men.<sup>37</sup>

*Discriminative attitudes and policies directed against women who wear the headscarf contravene numerous UN conventions and resolutions. Turkey is also a party to the ICCPR,*

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<sup>32</sup> United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, article 2(2) of 25 November 1981.

<sup>33</sup> BM Human Rights Committee, (30 June 1993). Article 18: General Comment 22.

<sup>34</sup> General Interpretation N.22: Religion, Conscience and Expression (Articl.18):.30.07.1993. CCPR/C/21/Rev.1/Add.4, General Comment N:22 para 4.

<sup>35</sup> UN Human Rights Council, <http://www.hrw.org/backgrounder/eca/turkey/2004>, 2004, p 33

<sup>36</sup> UN İHK AUTHOR v Uzbekistan, Communication No.931/2000, U.N. Doc. CCPR/C/82/D/931/2000 URL, [www.unhcr.ch/tbs/doc.nsf/0/622eb4103da2c6a0c1256f9b004fd45?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/0/622eb4103da2c6a0c1256f9b004fd45?Opendocument), 18.01.2005)

<sup>37</sup> The state of Turkey engages that “The empowerment and advancement of women, including the right to freedom of thought, conscience, religion and belief, thus contributing to the moral,ethical, spiritual and intellectual needs of women and men, individually or in community with others and thereby guaranteeing them the possibility of realizing their full potential in society and shaping their lives in accordance with their own aspirations. (Beijing Declaration article 72 parag.12)”

and is required to regulate its domestic legislation and policies in compliance with the United Nations Human Rights Council (UNHRC).

## 7. Assessment of Common Justifications for the Headscarf Ban

Turkey's senior judiciary, bureaucracy and elite justify the discriminatory practices to women with headscarf on the grounds that "if women with headscarf exercise their rights, Turkey's secular regime will be vanished and it will become a country like Iran." But concrete cases and public surveys do not bear out such fears for the majority of the population.<sup>38</sup> Moreover, it must be remembered that in the period of recent history when the headscarf could be worn in higher education and public institutions, no such social or political problems were experienced. As surveys have indicated, the majority population in Turkey is not disturbed by women covering or uncovering their heads. Practices are fully accepted by the public as perfectly normal.<sup>39</sup> It is possible to see women with contrasting styles of clothing sharing each others' company in all parts of the society.

It is sometimes asserted in Turkey that there is a difference between the headscarf (*başörtüsü*) and the *türban*. In fact, the terms headscarf and *türban* simply reveal the prejudices and the agenda of the speaker. Those who want to ban the headscarf, and especially those in the media, prefer to use the word *headscarf*. **For them the headscarf is a head covering for "peasant women," "the uneducated," and "elderly women" while the *türban* is reserved for head covering by "young," "urbanized" and "educated" women. For example, the wife of the janitor is described as wearing a headscarf, while the wife of a parliamentary deputy is wearing the *türban*.** But in practice both forms of head covering are subject to the same discrimination as was illustrated, for example, when a 66-year-old housewife came to attend a ceremony where an award was being given to her husband, however, she was not permitted to park her car in Istanbul University car park.<sup>40</sup> As the study "Turkey's Veiled Reality" indicated, of the 1,112 people participating in the study, 97.7% felt that they were required by their religion to cover their head. Such research undermines the argument that there is some special form of head covering—the *türban*—that has to be prohibited because it is a "political symbol." People, who support the ban, try to provide that usage of the word 'turban' has become widespread in the society, in order to form a negative connotation and stigmatization about the headscarf. "Great majority of women with headscarf state that they wear headscarf because they believe that it is an 'order of Islam' and very small percentage of covered women claim that they wear it because all women their surrounding are covered.

Another argument of opposing people is that 'headscarf is oppresses women, women are forced to wear it, this pressure is not based on State policies but these women are brainwashed

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<sup>38</sup> All public opinion surveys make it clear that people do not feel that there is danger of importing the shariah system into Turkey. Studies carried out by TESEV in 1999 and 2006 showed that assertions that secularism was under threat and that there was support for theocracy in Turkey were not accepted by the majority of the public. Perceptions aside, there is no evidence to indicate that the establishment of a religious state has broad based support. On the contrary, there has been a substantial fall in the rate of those supporting the foundation of a shariah-based state. In both surveys the question "Would you like a shariah-based religious state to be founded in Turkey?" was asked, and the rate of 21% positive response in 1999 had fallen to 9% in 2006. [http://www.tesev.org.tr/etkinlik/Final%20Rapordin\\_toplum.pdf](http://www.tesev.org.tr/etkinlik/Final%20Rapordin_toplum.pdf)

<sup>39</sup> 79.9% of respondents believe that a woman who believes in Allah and the prophet but does not cover her head is a Muslim.(TESEV) A survey conducted exclusively among women with headscarf found that 77.2% of respondents believed that "Women can be devoutly religious without covering their heads." 85.6% of did not consider mode of dress as a determining factor in their choice of friends. (HAZAR)

<sup>40</sup> "Aunt Ayse (old woman) was not permitted to attend the award ceremony for her husband and then she was sent away from even the garden' 06 April 2005, Zaman [Time] Newspaper.

by their families and cultures and they are not strong enough for questioning their traditions or they are not able reach the means that can help them in this questioning.<sup>21</sup> However, in Turkey the fact is that in answer to the question “If most of your family and close friends uncovered their heads, would you also uncover your head,” 94.1% gave the answer “No,” strongly challenge theories that women cover their heads because of supposed “peer pressure,” or “brainwashing” or “unwillingness to contravene social codes.”<sup>41</sup>

It is conceivable that uneducated or inarticulate persons might be subject to the pressure of their families, but this would hardly apply to university students and teachers who are the special targets of the ban. In fact, the ban by depriving young people of their economic and intellectual independence exposes them to a much greater extent to the pressure of their families and society. Moreover, both Turkey and Iran are in the same position in terms of the application of a ban. Both countries approve that the administrative authorities can decide on women’s attire in public sphere. The only subject they do not agree is what the women should wear; while one forces to take scarves on, the other forces to take it off. It is possible to state that they both have the same opinion in fact.

*Clearly, women who are cut off from higher education, who cannot work, and who are deprived of economic independence by a ban are likely to lack the strength to resist external pressures.*

### ***8. The Extent of the Ban, and the Heavy Cost of the Headscarf Ban for Individual Women***

As indicated in the European Unions 2007 Progress Report, the legal framework for gender equality in Turkey is in place. But a significant gulf still divides men and women in terms of economic participation and opportunity, level of education, health and political power.<sup>42</sup> The state does not take effective special interim measures to resolve the general problems of women, and has failed to ensure practical equality for men and women. Turkey lies behind not only the European Union or the other EU candidate states but also a number of Islamic Countries which have not reached Turkey’s level of political development.<sup>43</sup>

In one hand, Women are to this extent already disadvantaged in Turkey, but women with headscarf suffer an additional level of discrimination, because they are actually prohibited from education, working in the public sector and from many private professions, and from being elected to public office. Women who wear the headscarf are restricted to the status of housewife, agricultural laborer, servant, or other such unskilled roles which expose them still further to the disadvantages of living in a male dominated society. In the other, while a woman with headscarf is shut out of the life of society because she observes a religious requirement, a man with the same set of beliefs can easily continue his educational and working life. The ban on headscarf subjects a group of women who are covering their heads to a grave discrimination and exclusion. The situation reminds the United States Supreme Court Justice Louis Brandeis who in a judgment in 1927 stated that “*Men feared witches and burnt women.*”

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<sup>41</sup> TESEV, 2006.

<sup>42</sup> (Türkiye için AB ilerleme Raporu 2007 (Kadın) [http://www.ucansupurge.org/index.php?option=com\\_content&task=view&id=4022&Itemid=72](http://www.ucansupurge.org/index.php?option=com_content&task=view&id=4022&Itemid=72)

<sup>43</sup> Clearly, the Constitution’s tenth article (“Men and women have equal rights. The State bears the responsibility for ensuring that this equality exists in practice.”) is not being implemented in practice. (ESI European Stability Initiative), “Sex and Power in Turkey Feminism Islam and the Maturing of Turkish Democracy”, Berlin İstanbul, 2 Haziran 2007, [http://www.esiweb.org/pdf/esidocument\\_id\\_90.pdf](http://www.esiweb.org/pdf/esidocument_id_90.pdf))

### ***9. Failure Widely to Disseminate the CEDAW Concluding Comments***

The CEDAW Committee requested in 32<sup>nd</sup> session “...the wide dissemination in Turkey of the present concluding comments” but no particular efforts were made in this direction. Turkey has not explained her plans that are geared for necessary solutions to the issues on table, it is not even mentioned on the web page, not announced for the all public institutions, or have not spent special efforts to voice the issue to the public opinion. It is not even presented as acknowledgement to the whole representatives of the parliament but only presented as final interpretation to the women MPs.

Indeed, the General Directorate on the Status of Women, which is responsible for preparing the country report, conducted meetings with civil society groups in April and November 2007. In both meetings, and in written material submitted by non-governmental organizations, the importance of implementing the recommendations and collecting statistical data was emphasized. As submitting a petition to Women Status General Directorate, AKDER has both made contrary suggestions for draft national report and demanded statistical inferences as performing the advisory decisions of CEDAW. However, Turkey did nothing in this connection. Making no effort for the dissemination and implementation of the concluding comments was most probably due to the fact that the State would like to skip the request of the Committee in 2005 for compiling information on the number of women who were discriminated because of either the headscarf or having Kurdish origin.

In fact, the Office of the Chief Prosecutor of the Supreme Court has demanded that the former State Minister Responsible of Women, Güldal Akşit should be banned from politics for five years. It seemed enough by the general prosecutor to demand the political prohibition for Güldal Akşit (former minister) whom gave impartial information about headscarf prohibition to an international commissions which must be responded.<sup>44</sup>

The same de facto press situation about headscarf ban has been experienced by non-governmental organizations. A national newspaper published articles<sup>28</sup> about efforts for preparing a shadow report. The news was entitled ‘Turkey’s headscarf issue to be appealed to UN for first time’ and it was stated in the news that discrimination in Turkey’s public institutions and universities against women who wear the Muslim headscarf will be appealed to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee. Non governmental organizations have drawn up a preliminary assessment report regarding the Turkish government’s sixth report that envisages the implementation of CEDAW. The shadow report was discussed at that 9<sup>th</sup> Women’s Meeting held in Konya between May 10 and 12 and received the support of all the women’s organizations in attendance. There are quotations in the news from the speech of vice-president of AKDER (Women Rights Association against Discrimination). In the day that the news was published, AKDER was subject to ‘examination and inspection’ on the orders of the Ministry of the Interior. Office of governor of Istanbul, Associations Directorate sent a fax and demanded that copies of the reports on the headscarf that AKDER submitted to CEDAW members at the 37<sup>th</sup> session of CEDAW in 2007 are to be submitted within 24 hours to the Ministry<sup>29</sup>. Examination of reports of associations that they submitted for releasing to press, or submitted to the national or international institutions, is not routine procedure, and nor is demanding them in 24 hours. Moreover, Turkey was not examined in 2007 session of CEDAW. Therefore, the association’s effort in that time was not an official application. Despite all these facts, the report was demanded by State authorities and this approach makes preparation of an independent shadow report extremely difficult.

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<sup>44</sup> Constitutional Court, Closure Indictment p 89. Similarly, the statement “The headscarf ban in higher education institutions is a violation of human rights. The headscarf ban is indefensible,” is presented as grounds for closing the governing party, and a five year ban from politics for the parliamentary deputy Mehmet Elkatmiş who spoke the words. (AKP closure indictment).

NGO's have a very important role in making the Convention an instrument of women's empowerment, through advocacy and monitoring their government's implementation of the treaty. The State has, in principle, a responsibility to encourage civil society associations in the preparation of the shadow report, but instead initiates investigations and legal actions which serve rather to prevent usage of effective juristic means that would exclude discrimination against women and that even the utterance of the headscarf ban is a problem in Turkey.

### **10. The Intention of Turkish Authorities not to apply CEDAW's Conclusive Comments and the Unreal Answer of Turkey to the Question of CEDAW in January, 2010.**

The Committee requests the State party to monitor and assess the impact of the ban on wearing headscarves and to compile information on the number of women who have been excluded from schools and universities because of the ban.<sup>45</sup> Turkish Authorities has given misleading answers over the following question of CEDAW: "*Please indicate whether any study has been carried out on the impact on girls' right to education following the Government's decision to ban the wearing of head scarves in school settings.*"

The answer is: *The relevant Ministry does not have any research on the impact of the headscarf ban, within school borders, on girls' school enrolment. However; a review of the girls' enrolment rates by years shows an increase in their enrolment rates (from 87.34 percent in 2003 to 97.83 percent in 2009). Moreover; the article 126 of the By-law on Non-Formal Education Institutions stipulates that "simplicity, cleanness and relevance with the service are essential for the appearance of the trainees". That is why the decision to ban headscarf in activities carried out within the scope of non-formal education has no impact on the educational rights of girls.*<sup>46</sup>

First of all, it needs to be corrected that it is not the number 74th but 126th in aforementioned regulations mentioning the dress code of trainees. Second, the statement in regards to the number increase in girls' registrations up to 97.3% is not accurate in comparison with countries reports and facts. Among thousand-year development plans, there is the attendance of all boys and girls in elementary level education. Educational statistics show that 10% of the children of compulsory school age do not attend schools and that nearly three fourths of these children are girls.<sup>47</sup>

In the section of the education of the country report in which digital data is contradictory,<sup>48</sup> there mentioned the projects supported by the corporation of the state and civil society organizations to keep girls in school. In addition to contradictory data given, students who had to leave school because of the headscarf ban are ignored in the answer. In a country as Turkey in which 62% of women cover their heads, the report claims women are not affected by the application of the ban.<sup>49</sup>

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<sup>45</sup> Committee on the Elimination of Discrimination against Women 32. session 10-28/01/2005, Para.34.

<sup>46</sup> Responses to the list of issues and questions with regard to the consideration of the sixth periodic report Turkey, 21 January 2010.

<sup>47</sup> Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women 6. periodic reports of States parties, p.35.

<sup>48</sup> As another example, the portion of 24.9% is written for "women employment in 2006" in the report, while a decrease in the employment rate of women is mentioned and 22.3% is written as the portion two pages later. Moreover, the statistics of the year 2006 is used instead of the recent statistics of 2009.

<sup>49</sup> Responses to the list of issues and questions with regard to the consideration of the sixth periodic report Turkey, 21 January 2010



## 11. Difficulties in Collection of Statistical Data

Nevertheless, recent studies have established that two thirds of the twenty-two million women in Turkey over the age of 17, that is, fourteen million girls and women cover their heads when they leave their homes.<sup>50</sup> Unfortunately, no investigations have been able to establish how many women suffered from the applications of the ban. It is not even known how many students was wearing the headscarf when the ban began to be implemented in higher education in 1998, or how many left education because of the ban. However, bearing in mind that a single human rights organization received 26,669 applications about the ban in 1998 alone,<sup>51</sup> it must be admitted that the number of women obliged to leave education between 1998 and 2010 must be in the tens of thousands.

Recording to the report named “Current Situation” that AKDER sent to Europe Council in 1998, when headscarf ban was applied in the Medical Faculties of Istanbul University, 139 students lost a year and 84 students lost 4 to 7 months. The number of discipline inquiries opened for students with a head cover was 750 and punitive decisions taken as warning, condemnation, suspension from one week to one year. In the year, 1998 there were about 4000 veiled female students only in Istanbul University and more than 50.000 university students all over Turkey. By the application of the ban they were hindered entering their classes and failed courses because of non-attendance. In 2002, girls were forced to take their scarves off in the University Entrance Exam (ÖSS). After that date, the number of the students who wear a headscarf and tend to apply for the exam to have university education is unknown. Therefore it is not possible even determining the numbers of students with a headscarf that could not take education because of the ban.

677,000 students benefited from the amnesty on university enrolment between 29.06.2000 and 15.03.2005;<sup>52</sup> those who had been required to leave university for various reasons were allowed to return. Of these, 270,000 were confirmed to be women who had been obliged to leave their education because of the headscarf ban. According to the statement of a political party, the number of students who were dismissed from schools is 80,000.<sup>53</sup> But the Higher Education Council had reported students who wear the headscarf as dismissed because of their lack of attendance. 90% of students who were dismissed because of their lack of attendance reported that they were not even allowed to walk into the university because they were wearing a headscarf, and it was the reason why they were dismissed.<sup>54</sup>

The difficulty in assessing the full dimensions of the impact of the ban on women with headscarf in education can also be applied in the area of the employment. No data exists about how many women could have been employed if there had been no ban. Between the years of

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<sup>50</sup> *Milliyet/KONDA* Research Centre, “Türkiye'nin üç sorunu, ‘değerlendirmeler’”[Turkey’s three problems, “evaluations.”] 31.05.2003. In the newspaper’s survey of 03.12.2007, however, claims that the number of headscarfed women had risen to 69.4%. “Gündelik yaşamda din, laiklik ve türban 1”,[Religion, secularism and the headscarf in daily life-1], [www.milliyet.com.tr/2007/12/03/guncel/agun.html](http://www.milliyet.com.tr/2007/12/03/guncel/agun.html).

<sup>51</sup> According to Report on Human Rights Violations in Turkey in 1998, MAZLUMDER Istanbul Branch, The number of girl students not admitted to school or entered as absent was 8,238; the number of students receiving various disciplinary penalties was 1,573.

<sup>52</sup> The Law on the Addition of Temporary Articles to Higher Education Law, Acceptance Date: 15 March 2005, No:5316.

<sup>53</sup> AGAR, Mehmet: “Will it be so bad if we win the headscarf?” 01.10.2004, Zaman [Time] Newspaper.

<sup>54</sup> BULAC, Ali: “AIHM ve Basortusu”, Umran Dergisi, Mayıs 2005, s.33.

1998 and 2000, women with a head cover were subject to disciplinary proceedings<sup>55</sup> and forced to resign. According to the report of the Istanbul branch of the Eğitim Birliği; the number of opened investigations for teachers only in the year 1998 is 2287. At the same year 107 intern teacher's jobs were finished off. Later, the investigations had taken to the criminal court for 81 teachers.<sup>56</sup> Similarly written in a newspaper article, 106 teachers are fired because they wear a headscarf and did not obey the rules of the regulation on them by the investigations in 2000. In the same article it is mentioned that more than 800 teachers -mostly interns- are taken to the disciplinary questioning process due to their head cover and not obeying dress code regulations in 2000 in Istanbul.<sup>57</sup> At the time when proceedings were being actively initiated against employees wearing headscarf between 23.04.1999 and 14.02.2005, 20543 state officers received disciplinary punishments.<sup>58</sup> It is not clear which one of such punishments were related to the headscarf ban. The Grand National Assembly of Turkey (TBMM), the Ministry of National Education and the Labor Ministry have refused to reply to write questions such as "how many women have been punished by exclusion from public employment for wearing the headscarf."

There is not a single institution in Turkey to which women who wear headscarf can apply and expect to recover their rights when they are subjected to any kinds of discrimination. The ban has been in use for so long, and as a result, the energy to attempt to use official channels has lessened. In a survey which asked the question "After the unjust treatment you experienced, did you make a judicial complaint," 76.2% of women with headscarf responded "No." When asked "Why did you not make a judicial complaint," 62.8% said it was because they "did not trust the judiciary (could approach impartially)," and 14.9% of respondents said it was because "they did not believe they would achieve anything."<sup>59</sup> The only common knowledge is that the ban constitutes a learned helplessness over the women who wear an Islamic or traditional headscarf. They tend to take the discriminatory applications for granted as they cannot get education, cannot be employed in a high status job position and cannot actively participate in the political and social life.

As it is mentioned in the EU progress reports of the country, Turkey is a state reaching the concrete statistics on women, their positions and status is almost impossible.<sup>60</sup> And it is

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<sup>55</sup> According to Report on Human Rights Violations in Turkey in 1998, MAZLUMDER Istanbul Branch the number of women civil servants taken from their post, sacked or transferred was 1,052; the number of women subjected to investigation was 7,126.

<sup>56</sup> Eğitimci Birliği Sendikası İstanbul Şubesi, İnsan Hakları Raporu, Union Of Educators Istanbul Branch Human Rights Report, 24 September 1999,

<sup>57</sup> The implementation of the regulations on attire was made in two stages in Istanbul. First, 35 intern teachers were warned not to wear a head cover. Who do not respond to the warning were taken out of office, and then was barred from their professions. 69 teachers were sent to the High Disciplinary Committee of the Ministry after the investigations because of breaking the regulations on attire. The teacher who gave their defenses was also expelled from the professions. 12 April 2000, 106 teachers who wear a headscarf was expelled, <http://webarsiv.hurriyet.com.tr/2000/04/12/197699.asp>

<sup>58</sup> 9361 warnings, 5682 complaints, 3123 salary deductions, 1551 frozen academic record, 639 dismissal civil service, and 187 civil servants had punishments because of various offences. Moreover, it is reported that those who were dismissed when they were at the intern stage were not recorded, and that more than 100 officers were dismissed once the ban started. The disciplinary penalties given were erased by Amnesty no.5525. [www.milliyet.com.tr/2005/03/01/son/sonsiy06.html](http://www.milliyet.com.tr/2005/03/01/son/sonsiy06.html), 01 March 2005. Amnesty of file for 20 thousand civil-servants, Law about Pardon of Some of Disciplinary Penalties of Civil-servants and Public Employees, Acceptance Date: 22 June 2006, No:5525, RG 04 July 2006, N:26218.

<sup>59</sup> "Turkey's Veiled Reality," <http://www.hazargrubu.org/panel/BasortuluGercek1-2007.pdf>.

<sup>60</sup> The Proposal of The Parliament of Europe on the Status of Women in Social, Economic and Political Life in Turkey, 13 February 2007, Strasbourg (2006/2214(INI))

completely impossible to extract any official information about the particular disadvantages to which women with headscarf are exposed.

*Since it is not possible to obtain valid statistical figures on this matter, our request as NGO's is that the CEDAW Committee should evaluate the impact of the headscarf ban on public and political life, and condemn the discriminative policies which have been applied for the past decade and are still in place.*

#### **IV. TURKEY FAILS TO IMPLEMENT ITS OBLIGATION UNDER THE ARTICLES OF CEDAW**

##### **1. Article 1**

##### ***Ineffectiveness of Legal Mechanisms in Preventing Discrimination***

In Turkey the discriminative treatments to which women with headscarf are subjected to are actually inflicted by state institutions and the organs of justice. Independent from the consequence of the violations of basic rights, the discriminatory applications against veiled women are considered as lawful or just ignored. The Rector of the Istanbul University on time, Kemal Alemdaroğlu erased the law article on the freedom of dress in the universities from the new edition of the regulation book, and he had not already applied that article but a ban on every kind of head covers such as wig, hat, beret etc.<sup>61</sup> Judicial bodies have not been taken any actions even in that case where laws were disregarded.

The hundreds of legal actions opened in the hope of securing cancellation of the discriminative policies implemented against the headscarf, all of which have been rejected, demonstrate that a covered woman stands no chance whatsoever of winning a case to halt that discrimination. Courts have even seen fit to deprive students who wear wigs to cover their hair of the right to education.<sup>62</sup> In one of case as acknowledged as a slander by involved parties, a woman applied to the court to redress compensations for violation of her personal rights. The court has denied the request made. In decision stated that *"The applicant has to bear these criticisms even if they are severe in nature the ways in which refers to mind-set under the headscarf. Since the applicant is public servant as a doctor who's studied positive and rational science contrary to her headscarf."*<sup>63</sup> Court of Cassation approves this decision too. This example indicates that there are not any efficient protections for veiled women in Turkey, and also proves that the discrimination is made by judicial bodies. It is possible to find similar examples in the Constitutional Court and the Council of State.

*Civil society organizations want Turkey to indicate what steps it is going to take to "establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions, the effective protection of women against any act of discrimination and how it is intends to establish effective legal protection in this matter. In addition, units that would inform women on their legal rights and support them in their struggle with discrimination and these units should be founded nationwide.*

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<sup>61</sup> AKÇA, Yusuf: "Yükseköğretim Kurulu ve İstanbul Üniversitesi Mevzuatı" C:1 İstanbul Üniversitesi Basımevi, 1998, s. 280 de Ek 16 ve Ek 18 madde arasında Ek 17 madde yer almamaktadır. Akça, Y: *Yükseköğretim Kurulu ve İstanbul Üniversitesi Mevzuatı* [Higher Education Council and Istanbul University Regulations] Volume: 1, Istanbul University Press, 1998, p. 280 Appendix 17 is not deliberately written in current edition of the book, Appendix 18 comes after Appendix 16.

<sup>62</sup> Gaziantep Administrative Court, Case: 2006/2756 and Judgment: 2007/1171, 7 December 2007.

<sup>63</sup> *Judge Said; headscarfed women has to accept faultfindings*, 5 June 2009, Konya 1. Asliye Hukuk Mahkemesi, Konya 1st Court of Distance, 2007/40 E., 2008/159 K, 22.05.2008 Dated,

## 2. Articles 4, 7 and 8

### *The Negative Effects of the Headscarf Ban on Women's Participation in Political Life and Decision Making Processes*

Compared to men, the rate of women's participation in the political spheres and decision-making mechanisms are extremely low that Turkey ranks 107<sup>th</sup> out of 134 countries in the representation of women in these areas.<sup>64</sup> Only 0.6 % of Mayors are women and percentage of women among members of provincial municipal assemblies is only 2.3 % and this rate falls to 1.81 in city assemblies.<sup>65</sup>

Women wearing the headscarf face strict restrictions in political life. Aside from the rights to vote and to be elected as a *muhtar* (the elected head of a village or of a neighborhood within a town or city), a woman who wears the headscarf cannot participate in political life. She cannot become a member of parliament, a governor, a mayor, a head official of a district or a member in local governments. It is specified in U.S.A. Freedoms of Religion Commission 2009 Year International Religious Freedom Report and EU Turkey 2009 Progress Report<sup>66</sup>, that it is forbidden even to be polling clerk for women with headscarf in Turkey.

There is no possibility for being woman candidate with headscarf. One of selected mayoress obliged to use wig<sup>67</sup>. Veiled members of the board of aldermen have been constrained to resign.<sup>68</sup> It is not possible to mention to take place in decision mechanism for the women that are constrained to live spilt twosome.

The clause of taking off headscarf de facto for women who want to be active in politics and do not put any women candidates with headscarf even in candidate list, actually shows that women has no right to stand of elections and has no right to select the candidate they want. There is no obstacle in law to women with headscarf taking such positions, but when the Virtue Party dared to present a woman with headscarf as a candidate, it was closed down in 2001 by the Constitutional Court on the grounds that it was a "focus of anti-secular separatist activities" in the process of 28<sup>th</sup> February coup in 1997.<sup>69</sup> No political parties would now dare to put a woman with headscarf in any positions in their group.<sup>70</sup> This takes the women with headscarf out of the politics and decision-making mechanisms.

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<sup>64</sup><http://www.weforum.org/en/Communities/Women%20Leaders%20and%20Gender%20Parity/GenderGapNetwork/index.htm>

<sup>65</sup> <http://www.unece.org/gender/documents/Beijing+15/Turkey.pdf>

<sup>66</sup> EU Turkey 2009 Progress Report *Accompanying The* Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2009-2010 {COM(2009) 533}. [http://www.ihb.gov.tr/english/turkey\\_progress\\_report\\_2009.pdf](http://www.ihb.gov.tr/english/turkey_progress_report_2009.pdf)

<sup>67</sup> Antep'te türbanlı belediye başkanı çareyi peruk takmakta buldu. [A solution from headscrafed major with "wig"] In city of Antep, headscrafed major remedied to wear wig for headscraf ban, 4.4.2009, Showhaber

<sup>68</sup> AKP'li Zeliha Peşte, türbanını çıkarmayı kabul etmeyip istifa etti. [A member of city council from Ak Party, Zeliha Peşte, reject to take off her headscraft and resign from membership], 08.5.2009, Showhaber

<sup>69</sup> The parliamentary deputy in question, Merve Kavakçı, was democratically elected, but barred from taking her oath as a member of parliament and therefore unable to take up her seat. The European Court of Human Rights found her treatment to be in breach of the convention, but no remedial steps were taken.

<sup>70</sup> In 2008 a parliamentary deputy's opinion that a woman with a headscarf should be able to take up a place in parliament was used by the Supreme Court Chief Prosecutor's Office as evidence for the closure of a party (even though the deputy in question prefaced his words with "This is my personal view, and if you ask for the view of my Party, we have not discussed the matter." Egemen Bağış, quoted in the Indictment for the closure of the AKP party, p. 98

Positive discrimination as gender quotas is proposed as a solution to put an end to the exclusion of women from decision-making. However, it must be remembered that if, for example, a 33% quota was set, the number of women who could benefit from such a provision would only be 38% of total, since women who wear the headscarf cannot take up any significant positions in politics, or act other than casting their vote.

*Civil society organizations demand that the reasons for the total exclusion of veiled women from political life need to be investigated. The Turkish authorities must be asked why they have failed to remove the obstacles which stand between so many Turkish women and the political life of Turkey. We require an explanation why, in a country where quotas have been seriously discussed as a way of increasing the political representation of women, the plight of the country's women with headscarf has been completely ignored.*

### **3. Article 10**

#### ***How the Headscarf Ban is a Bar to Equal Rights in Education***

In this regard the Article 69 of the Beijing Declaration states that: "Education is a human right and an essential tool for achieving the goals of equality, development and peace."<sup>71</sup> **The rate of literacy of women in Turkey was 87.93% in 2006-2007**, while the rate for men was 99.21%.<sup>72</sup> Women's access to education is the lowest in 2010 among the EU Member States and OECD countries.<sup>73</sup>

As it is mentioned in the progress report, in Turkey as a country with a young population of a high percentage, one of the priority developmental problems is unable to increase the schooling ratio for girls.<sup>74</sup> Responding to its low rates of education for women, the Turkish authorities are making efforts, such as the "Haydi Kızlar Okula" [Let's go to School, Girls!] campaign supported by UNICEF support, to increase the school attendance of girls. But at the very same time, they have shut down every branch of education to students with headscarf, so that since 1998 even private high schools and universities which can only be entered by passing an entry exam apply the headscarf ban.<sup>75</sup>

A survey conducted with women with headscarf found that of those who were unable to continue with their education, 60% had abandoned education at the degree or postgraduate level, 24.6% had been unable to enter university because of the headscarf prohibition which prevented them sitting the examination, and 19.3%, who had uncovered their heads in order to continue education, thought that being forced to do this had had an impact on their academic success.<sup>76</sup> The number of students who left school because of the headscarf ban since 1998 is

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<sup>71</sup> Non-discriminatory education benefits both girls and boys and thus ultimately contributes to more equal relationships between women and men".

<sup>72</sup> Prime Ministry General Directorate on the Status of Women, January Report 2008, p.10. Especially in rural areas the population records are not sound, and the real rate may be lower.

<sup>73</sup> 2009 Progress Report *Accompanying The* Communication From The Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2009-2010 {COM(2009) 533}. [http://www.ihb.gov.tr/english/turkey\\_progress\\_report\\_2009.pdf](http://www.ihb.gov.tr/english/turkey_progress_report_2009.pdf)

<sup>74</sup> Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women 6. periodic reports of States parties, p.32.

<sup>75</sup> To be able to prevent failing and repeating this years classes Gülsüm Coşkun worn a wig and has attended the exam that was held in Business college of Istanbul Chamber of Commerce (Istanbul Ticaret odası Anadolu Ticaret Meslek Lisesi ) on 31 May 2008 but she was recorded as 'not attended' on the ground that her hair was not like real hair.(*Vakit* 02 June 2008).

<sup>76</sup> "Turkey's Veiled Reality," <http://www.hazargrubu.org/panel/BasortuluGercek1-2007.pdf>.

unknown. Universities have even removed the pictures of former students with headscarf from the yearbooks.<sup>77</sup>

Concerned at such potentially alarming consequences of the prohibition in Turkey, the CEDAW Committee members stated at their 32<sup>nd</sup> session that “The Committee is also concerned about the impact on girls and women of the ban on wearing headscarves in schools and universities. The Committee is further concerned that stereotypical attitudes continue to create disadvantages for girls in education”.<sup>78</sup> However, no progress had been made in this area to fulfill the recommendations of the “Concluding Comments.”

In 2008, parliament, with the support of two political parties that had got support of quite a high majority (74.5 %) of Turkish voters, amended articles 10 and 42 of the constitution. In imposing the headscarf bans on university students, the claim had been forcefully pressed that wearing the headscarf was a violation of the constitution. The amendments reiterated the constitutional principle that fundamental rights could not be limited other than by provisions of law, and applied that principle explicitly to the sphere of higher education.<sup>79</sup> Following the amendments, circulars and court judgments should not be used to interfere with the right to education. Also, since it is explicitly stated in the grounds for the constitution article concerning “equality before the law” that “discrimination on the grounds of dress may not be applied in the provision of services,” this provision should now not be open to interpretation. Yet most university rectors have not altered their practice and in fact one has stated that students who enter lessons wearing the headscarf will not be awarded the marks they achieve in any examinations.<sup>80</sup> On the 5th June 2008 the Constitutional Court have turned down the law that aimed to prevent discrimination on the basis of clothing, on the ground that it was contradicted with the secular principles of the constitution. However, according to the constitution the court did not have such authority.<sup>81</sup> Thus, it causes the arbitrary ban to last.

*Under these circumstances, civil society organizations would like to know what effective steps the state proposes will do in order to admit young girls who cover their heads into the education system. We urge that the State should be asked what measures it has taken “to ensure that the headscarf ban does not negatively affect equality of opportunity for women in educational institutions. In particular, State should announce what steps it will take to abolish headscarf ban in universities, to start investigation about those who limit usage of right to education and to promote higher participation of women with headscarf, who were deprived of the right to education due to their attire.*

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<sup>77</sup> “Pictures of previous students with headscarf are removed from the yearbook,” 05.12.2005, Zaman [Time] Newspaper.

<sup>78</sup> Committee on the Elimination of Discrimination against Women 32.session 10-28 January 2005

<sup>79</sup> Article 13 of the Constitution provides for the universal norm, in a democratic state, that a fundamental right may be limited only by a provision of law.

<sup>80</sup> Istanbul University rector Mesut Parlak, *Türbanlıya Hakettiği Notu Vermeyiz* [We Will Not Give Women Wearing the Headscarf the Mark They Deserve], 1 February 2008, /

<sup>81</sup> According to the constitutional article of 148 the administrative function and attribution of the Constitutional Court is stated as such, “Constitutional Court examines constitutional changes according to procedure being followed. Examination of the procedure is limited to the number of proposal and voting majority. The decision of Constitutional court is ignoring the enactment of the parliament completely, and it is named as “coup of the court” in Turkey.

#### **4. Article 11**

#### **“The Right to Work as One of the Inalienable Rights of All Human Beings” and “The Negative Effects of the Headscarf Ban to Exercise the Right to Work”**

While the participation rate of males in the workforce is 74.4%,<sup>82</sup> the participation rate of females in the workforce was 24.9% in 2006<sup>83</sup>, and it is decreasing year by year according to the World Gender Map statistics. That situation shows Turkey does not fulfill its responsibilities.

In this regard, “Strategic objective F.1.” of the Beijing Declaration states that, “promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources.” While the participation rates of women in the workforce in Turkey are rather low, dress-based discrimination is one of the reasons for the low rate of employment of women in Turkey. Veiled women are kept away from the employment network regardless of whether they are qualified or not.

As was clearly indicated in the civil society shadow report of 2005, “dress associated with religious belief is one of the basic problems in employment of women.”<sup>84</sup> In principle, rights to be employed which are supposed to prohibit discrimination are provided for in legislation.<sup>85</sup> Right to free choice on profession and occupation is principally secured with the Constitution ruling that public employee procurement shall not be guided by any discrimination other than the qualifications required for the position. According to the Article 70 of the Constitution it is stated that “every citizen has the right to enter public service. No criteria other than the qualifications for the office concerned shall be taken into consideration for recruitment into public service.” However, it became obligatory to be without any head covers after the ban regardless of qualification.

The primary condition of employment of women in public institutions is that their heads should be uncovered. It is compulsory to uncover one’s head in all positions for public offices. The European Parliament has warned of the risks to which women who wear the headscarf are exposed to in their working lives, the Parliament “Requests the Turkish Government to provide accurate data on discrimination against women, including the access of women wearing headscarves to the labor market, in order to establish whether there is a risk of indirect discrimination based on gender.”<sup>86</sup> Similarly, in its 32<sup>nd</sup> session, the CEDAW Committee expressed its concern “about direct and indirect discrimination against women in the labor market, where women earn significantly less than men in both the public and private sector”<sup>87</sup> But as yet, no such measures whatsoever have been taken.

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<sup>82</sup> <http://www.ucansupurge.org/images/stories/ssgss-rapor.pdf>, p: 51.

<sup>83</sup> Sixth Periodic Report of Turkey Prepared to be Submitted to the CEDAW Committee 2008 Ankara, [http://www.ksgm.gov.tr/uluslararasi\\_Belgeler\\_cedaw.php](http://www.ksgm.gov.tr/uluslararasi_Belgeler_cedaw.php)

<sup>84</sup> Shadow Report For CEDAW- Turkey Addressing Combined Fourth And Fifth Periodic Country Report Executive Committee Of CEDAW- Turkey, November, 2004

<sup>85</sup> Article 48 of the Civil Service Law provides for the “general and special conditions relating to appointments to the civil service.” There is no condition concerning form of dress. The Employment Law states that “No discrimination may be made against any person on the grounds of their religious belief.” (5.)

<sup>86</sup> European Parliament resolution on women's role in social, economic and political life in Turkey (2006/2214(INI)), 13 February 2007, para.56.

<sup>87</sup> CEDAW/C/2005/I/CRP.3/Add.8/rev.1 ADVANCE UNEDITED VERSION 28.1.2005 Prg 34.

There is public support for such safeguards. The fact is that a large majority of the population are opposed to the headscarf ban in education and public life.<sup>88</sup> Surveys indicate that 67.9% of the population believes that women who wear the headscarf should be permitted to work as civil servants.<sup>89</sup> In spite of it, the applications of the ban have sometimes gone beyond the offices and sites declared as “public areas” within which the headscarf must not be worn, and have spread into the street. The Council of State (Supreme Administrative Court) has ruled, for example, that punitive sanctions are justified against civil servants for wearing the headscarf even outside work hours and work premises.<sup>90</sup> Lawyers who wear the headscarf are one example of a number of professions in which members are unable to practice even privately because of circulars on matters of dress issued by professional institutions such as the Bar Association. Veiled lawyers are barred from entering court hearings, and may be subject to punitive sanctions if they even vote in bar elections.<sup>91</sup> Other examples of organizations issuing such bans include the main media organizations, and private schools, colleges and crèches. As a result of the othering/ marginalization of veiled women by those media organs which support the ban, commercial organizations have become increasingly reluctant to employ staff who wear a headscarf, lest their organization should become stigmatized or unfavorably categorized and thereby suffer loss of income.

Women who wear the headscarf are increasingly regarded as suitable only for unskilled and low paid work as agricultural laborers or cleaners. A doctor, lawyer or teacher who wears the headscarf is accused of covering herself with a “political symbol” and driven out of her profession.<sup>92</sup> What all this amounts to is that a woman who chooses to wear the headscarf is

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<sup>88</sup> According to research by TESEV (Turkish Economics and Social Studies Foundation) 67.9% of respondents believed that “Female civil servants should be allowed to cover their heads if they wish.” 71.1% believe that “Female university students should be allowed to cover their heads if they wish.” A number of surveys conducted throughout Turkey have shown that more than 70% of the public are opposed to the ban on university students and civil servants wearing the headscarf. (BENLİ Fatma, “Evaluation of the headscarf ban in opinion surveys and reports by human rights organizations.” *Köprü* [Bridge] magazine, p. 84, 2003. p.28) Demanding 100% approval before women who wear the headscarf are relieved from discrimination and permitted to go shopping, go to the hospital and receive an education contradicts what is being said officially about protection of human rights. Another survey stated that 10% of respondents stated that women should not be admitted into hospital for treatment wearing the headscarf, and 5% believed that women should not be permitted to go shopping while wearing the headscarf. (Turkish Social Economic and Political Studies Foundation [TÜSES], “Research Series on the Ethnic/Religious Identities and Political Orientation of Political Party Supporters and Electors in Turkey”).

<sup>89</sup> TESEV, <http://www.tesev.org.tr/etkinlik/Final%20Rapordin%20toplum.pdf>, 2006.

<sup>90</sup> Aytaç Kılınç, a primary school teacher who wore the headscarf but removed it while teaching at school, scored 85 points, third highest in a management examination in 2000, and was appointed as head teacher in the only school in her town. However, since the school was in a military garrison area, she was unable to enter the school because the garrison gate would not admit her with the ID card she had been issued by the National Education Ministry, in which she wore a headscarf. Aytaç Kılınç was not admitted to the school, and following a complaint, was removed from her post. (Gölbaşı Subprovincial National Education Directorate, 20 January 2001) The domestic courts upheld this procedure. (Council of State, Second Chamber. Case: 2004/4051, Judgment: 3366/2005, 26 October 2005)

<sup>91</sup> *Türbana disiplin cezası* [Disciplinary punishment for the headscarf] *Hürriyet* [Liberation] daily newspaper, 26 March 2006, Haber7com, 15 November 2006. Moreover, Istanbul Bar Association, with its membership of 23,164 lawyers, as well as forbidding the headscarf, applied a ban on intern lawyers wearing wigs “in order to evade the headscarf ban.” (Istanbul Bar Association, Intern Training Centre (SEM) Management Board decision 4 February 2008)

<sup>92</sup> The claim that “The headscarf should be prohibited because it is politicized” runs counter to a investigations which have demonstrated that most Muslim women wear the headscarf because it is a deeply held and personal preference, a sincere expression of their religious beliefs, and because they believe it to be one element within the body of requirements of their religion (ÇARKOĞLU/TOPRAK 2006). It is



excluded from the world of employment and condemned to the status of a traditional housewife. The survey entitled 'The Covered Reality of Turkey' shows that the ban on the headscarf has a negative impact on working life of women who wear a headscarf. 20.8% of women participating in the survey claimed that they were not employed due to their headscarf. 17.8% of respondents stated they were forced to work in positions where they would have no contact with the public. 17.1% of respondents said that they had to accept an employment in a lower status than their own profession.<sup>93</sup>

*Our recommendation upon this matter is that in developing policies to increase employment of women in Turkey, the restrictions on dress for female civil servants should be removed, except in so far as they affect their working performance,<sup>94</sup> The Turkish state must be asked what steps it plans to take in order to ensure that women who wear the headscarf do not suffer discrimination in their working life. The State should take some measures for preventing women with headscarf to be subjected to discrimination during employment.*

### **5. Articles 12 and 14**

#### ***The Effects of the Headscarf Ban on the Health, Social Status and Problems of Women in Rural Areas***

Women in rural areas suffer indirect discrimination because of their deprivation of economic material resources. Many women in Turkey are not included in the Social Security network and many have difficulty in accessing health services. The overwhelming majority of women in rural areas cover their heads. The feminization of poverty is a worldwide problem, and certainly in Turkey, rates of poverty among women are significantly higher than for men. Men in Turkey have 92 % of all properties and 84 % of all gross national product.<sup>95</sup> The headscarf ban restricts women's economic freedoms, and causes their further impoverishment. **Women are poorer, and those who cover their heads find that all paths to economic stability and independence are comprehensively blocked to them, as they are locked into poverty by discrimination working at several levels. But for women who cover their heads, the headscarf ban blocks off the only possible path for them up out of their class position.** The ban therefore exercises a particularly harsh grip on women from rural areas.

Denying women who wear the headscarf the right to develop themselves and to gain access to economic resources also limits their access to health services. The idea that the rights of a woman with headscarf are subject to special limitation leads to the imposition of health care restrictions upon them. Problems have also been experienced from time to time with the treatment received by women with headscarf at hospitals attached to universities. As an example, the head office of the Rector of Istanbul University released a circular on 05.10.2002 requiring that aside from student and civil servants, wives of civil servants also have to submit bareheaded photograph to be able to get necessary card for health insurance.

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hardly credible that all of the millions of women who cover their head could be doing so for the same "political reason," but it is also an impossible assertion to test. Of course, from a human rights point of view, provided that individuals are not putting pressure on other individuals, they should be able to cover their head for whatever reason they choose, this should be viewed as a personal choice, and laws should have framed in a manner to respect that choice.

<sup>93</sup> Survey entitled 'The Covered Reality of Turkey- Turkiyenin örtülü gerçeği', Hazar, Istanbul, 2007

<sup>94</sup> From A Human Rights Agenda for the Next Phase of Turkey's E.U. Accession Process, briefing paper, January 2003, and *Human rights agenda for the 31 January 2003 E.U. Troika - Turkey ministerial meeting*

<sup>95</sup> Amnesty International, June 2004, The Report of 'Turkey: Women in combating against domestic violence' / p. 10 (AI Index 44/018/2004)

That provision was started to implement on patients applying to the University Hospitals. When 71-year-old Medine Bircan attended Istanbul University Medical Faculty Hospital she was asked to renew her health card and provide a photograph with her head uncovered and they have stopped the initiation of the new treatment. On the day the card was exchanged for a new one, Medine Bircan died. No proceedings were taken against those responsible, when the case was announced on a TV Channel; the authorities abolished the relevant circular concerning the reactions of society for such a case.<sup>96</sup> There are many examples of the cases in which veiled women faced up with ill-treatments and abused in the hospitals<sup>97</sup> and they had many difficulties.<sup>98</sup>

*The Turkish authorities must be asked what measures they plan to take to safeguard the social rights of women who wear the headscarf. They must make clear what precautions they intend to put in place to prevent arbitrary practices in the provision of health services. The Turkish authorities should explain what provisional measures they are willing to take toward resolving the problems of women in rural areas. The State should explain what measures it has taken to protect women from bowing pressure by providing higher participation of them to social life*

## **6. Article 16**

### **Effects of the Headscarf Ban on Early Marriage, Early Motherhood and Family Relations**

Girls who are forced to wear headscarf or choose to wear it stop to go to high schools since they are aware that they will not be accepted to the universities with their scarf on. The result is the increase in the age of marriage slowed down which means early marriages increased. Early marriage and early childbirth can interfere with the equality of access to rights to choose a profession and work of husbands and wives.

The lower the family's income and educational level, the more likely they are to force their daughters into extremely early marriage. The most effective way of preventing early marriage is to ensure that all young women are afforded access to education opportunities.<sup>99</sup>

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<sup>96</sup> A woman referred to Yeditepe University hospital from another province was refused treatment on the grounds of her dress. ("No Treatment for Headscarfed Women," *Yeni Şafak* [New Dawn] newspaper, 22 June 2004)

<sup>97</sup> "Doctor refused examining a patient who is old as a grandmother, because the patient was wearing headscarf" A General Practitioner in Eskişehir Province refused examining an old woman, because the patient was wearing headscarf. According to the claims of the patient, she went to the hospital for her stomach ache and instead of being examined she had faced questions of Gulsen Y., MD, like 'Why you are covered?' She replied that it was her daily ordinary clothing, and then the doctor asked her identity card. Despite of her illness, Fatma Grand mom had to go home for bringing her identity card. She gave her identity card, and this time the doctor said that the Photos in health insurance card and identity card were not similar and again did not examine the ill woman. Local health authority started an investigation about the issue. 12 October 2010, *Zaman* [Time] Newspaper.

<sup>98</sup> Kalender Tezcan took his daughter, Aynur, to Çapa Medical School Emergency Service, but they did not care of Aynur, because his wife uses clothed in a çarşaf. So "Aynur's brain performed death" Mr. Tezcan said that and he lodge a complaint to Prime Minister. It shows that anti-tesettur is inhuman and grave... Kalender Tezcan brought her ill daughter to the Emergency Service of Medical Faculty of Istanbul. He claimed that doctors dealt with him harshly as soon as he enters the ER. The doctor on duty saw that Mr. Tuscan's wife was wearing chador and his daughter had a headscarf on and the he chided the driver of the ambulance by telling 'Why did you bring them here?', 23 May 2009, <http://platformhaber.net/?p=2118>

<sup>99</sup> Amnesty International report, June 2004, 'Turkey: Women combating against domestic violence' / p. 10.

*What action is to be taken against those who discriminate against a woman, and deprive her of services because she wears a headscarf? The undersigned civil society organizations demand to know what measures Turkey is willing to enact to remove the discriminative policies currently in operation, and what plans and projects will be finally implemented to ensure that women who wear the headscarf can take up the active place in life and in society to which they aspire?*

### **7. CEDAW Committee's General Comment No 19 How the Headscarf Ban Undermines the Struggle against Violence against Women**

Violence against women in Turkey, as in the rest of the world, remains the area of primary concern.<sup>100</sup> According to the research that was conducted by Prime Ministry Directorate General on the Status of Women, titled of 'National Research on Domestic Violence against Women in Turkey, 2008, 41.09 % of women have been exposed to violence committed by their husband/partner.<sup>101</sup> Discrimination against women with headscarf has obstructed the empowerment of women and thereby undermined the methods of combating violence. Interference with the right to education limits the potential of women to achieve economic independence, and to act independently when confronted with domestic violence.

Forbidding women to exercise their basic rights or barring their entrance to public places unless they take off their headscarves is clearly a form of violence. According to CEDAW, "gender based violence is violence that is directed against a woman because she is a woman or that affects women disproportionately."<sup>102</sup> Then again "being denied access to existing rights" is a form of violence against women. In addition, we must accept discrimination on the grounds of clothes worn on the basis of religious conviction as violence.

Physical attack harms physical integrity, but an emotional and psychological attack damages emotional and psychological integrity. As psychiatrists might put it, the attack on the headscarf ban is an attack on personal identity for women who view the headscarf as part of their identity. The anger and frustration that women with headscarf feel at the cutting short of their future plans, the feelings of internal conflict, the strong feelings of having their path blocked when they refuse to take their headscarf off, and the feelings of guilt if they do take it off all amount to a highly destructive experience.<sup>103</sup>

Because the headscarf is adopted for religious reasons,<sup>104</sup> the woman to whom that prohibition is addressed is placed in a dilemma *whether to be veiled or whether to exercise her rights. The veiled woman is obliged to choose one of two rights, both of which are important to her.* For this reason, many women needed psychological treatment and help when the discriminative policy was introduced.<sup>105</sup> Studies which have been carried out indicate that women, who felt

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<sup>100</sup> The General Security Directorate's statistics for crime in 2005 and 2006 state that 333,237 crimes of violence were committed against women. (09.07.2007 "Türk kadını 3 dakikada bir şiddete uğruyor, Yılda 113 Bin 724 Kadın Şiddet Mağduru Oldu" [One Turkish women is subjected to violence every 3 minutes. 113,724 Women became Victims of Violence] kanalturk

<sup>101</sup> <http://www.ksgm.gov.tr/tdvaw/anasayfa> [http://www.ksgm.gov.tr/tdvaw/doc/Main\\_report.pdf](http://www.ksgm.gov.tr/tdvaw/doc/Main_report.pdf)

<sup>102</sup> Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1at 84 (1994), General Recommendation No. 19, Article 6, para. 6.

<sup>103</sup> Ulusoy, Mustafa; The Headscarf Ban as Violence applied to Existential Identity

<sup>104</sup> For many Muslim women wearing a headscarf is a deeply personal choice and a sign of their religious conviction and has nothing to do with Islamic fundamentalism. Helsinki Federation For Human Rights, A French Ban on Religious Symbols Would Violate International Protections of Freedom of Religion

<sup>105</sup> 9.2% of respondents in the "Turkey's Veiled Reality" survey stated that "they were obliged to seek treatment with medicinal drugs because of psychological difficulties." (p.36)

obliged to uncover their heads in order to avoid losing their careers or educational position, were deeply affected by the process. 70.8% of women who had removed their headscarf stated that they felt they had been injured/ shattered by the experience, and 63.2% stated that they felt that they had been subjected to insult.<sup>106</sup> Forcing a woman to either uncover her head or give up her rights is psychological violence, in the same way that forcing a woman to cover her head is psychological violence.

*Civil society organizations now call for the removal of obstacles to the empowerment of women in the struggle against violence. The Turkish authorities must take effective measures to ensure that women have the power to make their own decision, and should be required to provide what has been done in this direction.*

## V. CONCLUDING REMARKS

As contrary to the CEDAW 1/e, ongoing discrimination against women with headscarf in Turkey violates the principle of “to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise”. Turkey as a party to CEDAW and other international agreements has committed to the full protection of all rights of women and girls.<sup>107</sup> However, as it is mentioned in the state report of 2010, women are far behind men in terms of participation in labor force, income and education.

International indexes of gender equality place of Turkey, which is last but 6 out of 135 countries, show that women in country face considerable difficulties in all spheres of life (education, work, family life, health etc). Researches in these areas shows that Turkey provides a good equality on paper in the legislative processes, but such laws are not reflected in practice. The low place of Turkey on the gender equality map shows that the prejudiced discriminatory treatments which include the headscarf ban cause the continuation of violence against women and effects many spheres of their lives in a negative way.

When it is considered that the headscarf is widely adopted as a form of female dress in Turkey, it is recognized that a large proportion of women with headscarf—and especially those living in cities—are negatively affected by such discriminative applications. Surveys indicate that 62% of women in Turkey cover their heads.<sup>108</sup> Consequently, the exclusion and discrimination to which women with headscarf are subjected to will inevitably be reflected at the very least to this extent in the indexes for gender discrimination in the country as a whole. The ban hinders women’s ability to achieve higher socio-economic status through education. Women who wear the headscarf are either obliged to uncover their heads in some areas and cover in others (living through a constant switching of personality and identity) or to resign themselves to life as a housewife.

Indeed, 93.9% of the women interviewed in the survey, which was entitled “Turkey’s Veiled Truth” and conducted with women who wear the headscarf, affirmed that they believed in their lives might have been totally different if it were not discriminated by the application of the ban. 67.6% of interviewees believe that if it were not for the ban, they would be better

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<sup>106</sup> “Turkey’s Veiled Reality,” <http://www.hazargrubu.org/panel/BasortuluGercek1-2007.pdf>

<sup>107</sup> Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women Sixth periodic reports of States parties, p.32.

<sup>108</sup> “Değişen Türkiye’de Din, Toplum ve Siyaset”, [Religion, Society and Politics in a Changing Turkey] TESEV, ÇARKOĞLU/TOPRAK, 2006:58, [http://www.tesev.org.tr/etkinlik/Final%20Rapordin\\_toplum.pdf](http://www.tesev.org.tr/etkinlik/Final%20Rapordin_toplum.pdf), Interviews were carried out with 1492 people over the age of 18 representing a cross-section of Turkey’s urban and rural population.

educated. 63.8% thought they would have more different social life than they do now. 45.1% thought they would be better off economically, and 44.6% thought that they would have had more self confidence.<sup>109</sup>

As that one and other similar surveys have established, Turkey has systematically and persistently shirked its responsibilities to implement all articles of the CEDAW convention by depriving veiled women of opportunities for self-development. The discriminative practices effectively exclude women with headscarf from all educational, employment and political life. Those practices result in serious inequalities for women, and limit their status and their power to access services, resources and opportunities. It is impossible for women to secure genuine equality with men in a context in which women with headscarf are forced by the hand of the state to uncover their heads if they want to exercise their rights, and are excluded from the life of society if they refuse to comply with instructions. There is no question that the discrimination which veiled women are subjected to is a gross and systematic violation of their rights as women.

## **VI- RECOMMENDATION TO THE CEDAW COMMITTEE**

The following are recommendations to CEDAW in respect of discrimination against women who wear the headscarf and especially in respect of violations of CEDAW articles 4, 7, 8, 10 and 11.

We encourage CEDAW to take steps to identify how many women have been affected by this ban, and to pass a resolution requiring the Turkish government to take the following action:

- to ensure that university authorities immediately and comprehensively lift the ban on the wearing of the headscarf in universities for students and staff,
- to develop anti-discrimination legislation,
- to establish an independent commission empowered to investigate claims of discrimination, compensate victims of discrimination, and advise governments on measures to combat discrimination,
- to apply judicial and administrative sanctions against institutions and organizations responsible for discrimination,
- to introduce additional policies and programs to end unfair treatment directed in the educational sphere against women who wear the headscarf
- to lift the ban on wearing the headscarf on all other government premises,
- to ensure equality in employment and access to benefits, irrespective of dress preferences,
- to reinstate all state employees who were dismissed because they chose to wear the headscarf.
- to revise all laws and regulations restricting employment on grounds of dress.

**VII. List of women's associations, law associations, trade unions, human's rights associations and platforms** from Provinces of Ankara, İstanbul, Bursa, Afyon, Antalya, Adıyaman, Batman, Çorum, Diyarbakır, Gaziantep, Kırıkkale, İzmir,

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<sup>109</sup> The field survey entitled "Turkey's Veiled Reality," examination of the headscarf prohibition, Hazar Eğitim Kültür Dayanışma Derneği [Caspian Education and Culture Solidarity Association], İstanbul 2007

Kocaeli, Konya, Samsun confirmed their support to the report by joining workshops and/ or making written contributions:

- 1) AKDER Ayrımcılığa Karşı Kadın Hakları Derneği (Women Rights Association against Discrimination) /İstanbul
- 2) Antalya İnanç Özgürlüğü Platformu (Platform of Antalya for Freedom of Belief) /Antalya
- 3) Gökkuşluğu İstanbul Kadın Kuruluşları Platformu (Women Associations Platform of Gökkuşluğu İstanbul) / İstanbul
- 4) Kocaeli İnanç Özgürlüğü Platformu (Platform of Kocaeli for Freedom of Belief)/ İstanbul
- 5) Temel Hak ve Hürriyetleri Platformu (Basic Rights and Freedoms Platform) / İstanbul
- 6) İnsan ve Medeniyet Hareketi (Human and Civilisation Movement) / İstanbul
- 7) Uluslararası Hukukçular Birliği (The Unity of International Lawyers) / İstanbul
- 8) ICANO Vakıf ve Sivil Toplum Kuruluşları Uluslararası Konseyi (The International Council of Awqaf and Non-govermental Organizations) /Ankara
- 9) MAZLUMDER İnsan Hakları ve Mazlumlar için Dayanışma Derneği Genel Merkez (Organization of Human Rights & Solidarity for oppressed people- Head Office)/ Ankara –İstanbul-Kocaeli
- 10) BEM –BİR SEN Belediye ve Özel İdare Çalışanları Birliği Sendikası (Trade Union of workers of Municipal governing and Special Administrative bodies) Ankara
- 11) DİYANET-SEN (Trade Union for workers of Directorate of Religious Affairs- Branches of Antalya and Konya) / Antalya /Konya
- 12) EĞİTİM-BİR SEN /Antalya /İzmir / İstanbul
- 13) MEMUR- SEN Sendikası (Trade Union of Civil Servants)/Samsun/ Adıyaman
- 14) SAĞLIK SEN Sağlık ve Sosyal Hizmet Çalışanları Sendikası (Trade Union of Workers in Health Service and Social Services) Sendikası /Ankara / Kırıkkale
- 15) TOÇ\_BİR\_SEN Tarım Orman Çalışanları Birliği Sendikası (Trade Union of Workers in Agriculture and Forestry)/Ankara
- 16) AGÜYAD Afyon Güzel Yarınlar Derneği (Beatiful Tomorrows' Association of Afyon)/ Afyon
- 17) AKAD/Antalya
- 18) AKODER Aileyi Koruma Derneği (Association of Protection of Family) İstanbul
- 19) ANÇED Anadolu Çevre Eğitim ve Yardımlaşma Kültür Derneği (Anadolu Environment, Education, Solidarity and Culture Association) /Antalya
- 20) ASDER (Asir Eğitim Kültür Dayanışma Derneği) (Asir Association of Education, Culture and Solidarity) / Antalya
- 21) ASİTANE Kültür Sanat Eğitim ve Dayanışma Derneği (ASITANE Culture, Art, Education and Solidarity Foundation)/ İstanbul
- 22) BESDAV Bülbülzade Eğitim Sağlık ve Dayanışma Vakfı (Bulbulzade Foundation of Education, Health and Solidarity)/ Gaziantep
- 23) BİLKAD Bilgi İletişim Kültür Araştırma Derneği (Association of Information, Communication and Culture) / Konya
- 24) ÖZGÜR-DER Özgür Düşünce ve Eğitim Hakları Derneği (Association for Free Thought and Right to Education) Antalya
- 25) Bir Umut Kültür ve Dayanışma Grubu (One Hope Culture and Solidarity Group) / İstanbul
- 26) Çağrı Kültür Dayanışma Derneği(Cagri Culture and Solidarity Associations) İzmir
- 27) Dayanışma Vakfı (Solidarity Foundation) / İstanbul
- 28) Demokrat Hanımlar Derneği (Association of Democrat Women)/ İstanbul / Bursa
- 29) Demokrat Hukukçular Derneği (Association of Democrat Lawyers) / İstanbul
- 30) Diyalog Grubu (Group of Dialog)/ İstanbul
- 31) DOST Eğitim Kültür ve Sosyal Yardımlaşma Derneği (Dost Association of Education, Culture and Social Solidarity) / Samsun
- 32) ECZADER Dayanışma Dostluk ve Kalkındırma Derneği
- 33) ENSAR Vakfı (ENSAR Foundation)/ Çorum / Antalya
- 34) ERDEMDER Erdem Kültür Ahlak ve Dayanışma Derneği (Erdem Moral Values, Culture and Solidarity Association) / İstanbul
- 35) EVKAD Ev Kadınları Derneği (Association of Housewives)/ İstanbul
- 36) FLAG Floryalılar Grubu (Group of People of Florya/ İstanbul
- 37) Gönüllü Hanımlar Derneği (Volunteer Women Association) /İstanbul
- 38) GÜLDİLİ Hanımlar İlim Kültür Sanat ve Dayanışma Derneği(GULDILI Enlightenment, Culture, Art and Solidarity Association) / Bursa

- 39) Günışığı Derneği (Association of Gunisigi)/İstanbul
- 40) Günışığı Derneği(Association of Gunisigi) / Batman
- 41) Hanımlar Yardımlaşma ve Kültür Derneği (Women association of Culture and Solidarity) / Samsun
- 42) Hanımlar Kültür Yardımlaşma ve Dayanışma Vakfı (Women's Culture, Mutual-aid and Solidarity Foundation) / Diyarbakır
- 43) HAYAT Sağlık ve Sosyal Hizmetler Vakfı (HAYAT Foundation for Health and Social Services) / İstanbul
- 44) HAZAR Eğitim Kültür ve Dayanışma Derneği (Caspian Association of Education, Culture and Solidarity) /İstanbul
- 45) Hukukçu Hanımlar Derneği (Association of Jurist Women)/ İstanbul
- 46) Hukukçular Birliği Vakfı (Jurists Association Foundation) / Ankara
- 47) Hukukçular Derneği Vakfı (Jurists' Association Foundation) / İstanbul
- 48) Hukukçular Derneği (Lawyers Association) / İstanbul
- 49) HUKUKDER Hukukçular Derneği (Association of Jurists)/Ankara
- 50) Hukuki Araştırmalar Derneği (Association of Juristic Research)/Ankara
- 51) İHAD İnsan Hakları Araştırmaları Derneği (Associations for Human Rights' Research) Ankara
- 52) İHMED İnegöl İHL Mezunları ve Mensupları Derneği (Association of Graduates and Students of Imam- Hatip High School of Inegol)/Bursa
- 53) İLKDER İlke Kültür Derneği(Ilke Association of Enlightenment and Culture) /Ankara
- 54) İMHAD İHL Mezunları Derneği (Association of Graduates of Imam –Hatip High School)/İzmir
- 55) İnsan Hak ve Hürriyetleri İnsani Yardım Vakfı (The Foundation for Human Rights and Freedom and Humanitarian Relief) /İstanbul
- 56) KAD-BİR Türkiye Kadınlar Kültür Dayanışma Birliği (Turkey Women Association of Culture and Solidarity) / Ankara
- 57) Kadından Topluma Eğitim Grubu (Group for Education from women to society) / İstanbul
- 58) KARDELENDER Eğitim, Kültür ve Çevre Derneği (KARDELENDER Education, Culture and Environment Association) /İstanbul
- 59) KASAD Kadın Sağlıkçılar Dayanışma Derneği (Women Health Workers Solidarity Association) /İstanbul
- 60) Meşale Eğitim, Kültür, Bilim, Sanat, Çevre, Ahlak ve Yardımlaşma Derneği (Mesale Environment, Education, Solidarity, Culture, Art, Moral Values and Enlightenment Association) / İstanbul
- 61) Nisan Grubu (Nisan Group) / İstanbul
- 62) Özlenen Çocuk Derneği (Association for Longed Children) / İstanbul
- 63) RADYO MERCAN/Antalya
- 64) SANKA Sanatçı Kadınlar Grubu (Group of Women working on Art) / İstanbul
- 65) SEBİLAY Sağlık, Eğitim, Bilgi, İletişim, Ahlaki,Yardımlaşma ve Dayanışma Derneği (SEBILAY Health, Education, Solidarity, Communication, Moral Values and Enlightenment Association) /Antalya
- 66) Sonbahar Girişim Grubu (Sonbahar Group of Promoters)/ İstanbul
- 67) Süreyya Eğitim Kültür ve Dayanışma Derneği (Sureyya Culture, Education and Solidarity Foundation)/ İstanbul
- 68) Turuncu Aylık Kadın Dergisi (Turuncu Monthly Women Magazine)/Ankara
- 69) ULAK Uluslararası İletişimde Kadın Grubu (Group for Women in International Communication)/ İstanbul
- 70) Umutlar Sönmesin Derneği (Association of Hope Against Hope) /İstanbul
- 71) YSG Yaşam Sevinci (Happines of Life)/ İstanbul

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