

August 2020

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Recommended Citation

Yargıç, Sinem (2020). Women's Representation in the Turkish Parliament: An Analysis of CEDAW Committee Documents. *Journal of International Women's Studies*, 21(6), 376-390.

Available at: <https://vc.bridgew.edu/jiws/vol21/iss6/24>

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Women's Representation in the Turkish Parliament: An Analysis of CEDAW Committee Documents

By Sinem Yargıç¹

Abstract

According to article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), States parties shall take all appropriate measures to ensure that women enjoy equality with men in political and public life. The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) declares in its General Recommendation No. 23 that while removal of de jure barriers is necessary, it is not sufficient to achieve full and equal participation of women in political and public life.

That is why under article 4 of CEDAW, the CEDAW Committee encourages adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women in order to give full effect to article 7 of CEDAW concerning the participation of women in political and public life. The CEDAW Committee makes reference to setting quotas within a range of measures to achieve equality of political participation.

Turkish women acquired the right to vote and to be elected in 1934 and representation of women in the Turkish Parliament began in 1935. Turkey also acceded to CEDAW in 1985. However, the political representation of women in the Turkish Parliament is still insufficient. In its last concluding observations on Turkey, the CEDAW Committee declared that it was concerned about the low participation of women at all levels of decision-making including the parliament which was below the global average.

This article analyzes the issue of women's representation in the Turkish Parliament in light of CEDAW. It focuses on CEDAW Committee documents issued during seven reporting cycles. The article begins by examining Turkey's national reports and CEDAW Committee reports related to seven reporting cycles, and then proceeds to discuss the main problems concerning women's parliamentary representation on the basis of these documents.

Keywords: CEDAW, Parliamentary representation, Gender, Document analysis, Women's Representation, Turkish Parliament, Women in Turkey

Introduction

The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee), the monitoring body of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), states that “ the concept of democracy will have real

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and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both ” (CEDAW Committee 1997: para.14).

According to the CEDAW Committee, the formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of both men and women in the public are defined as essential prerequisites to true equality in political life (CEDAW Committee 1997: para.15). That is why under article 4 of CEDAW, the CEDAW Committee encourages the adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women in order to give full effect to article 7 of CEDAW concerning the participation of women in the political and public life.

As defined in General Recommendation No. 25, temporary special measures are measures of a temporary nature that aim “ to accelerate the improvement of the position of women to achieve their de facto or substantive equality with men, and to effect the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women, as well as to provide them with compensation ” (CEDAW Committee 2004: para.15).

The CEDAW Committee also refers to setting quotas within a range of measures to achieve equality of political participation (CEDAW Committee 1997: para.15)². These temporary special measures include “a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems ” (CEDAW Committee 2004: para.22).

The CEDAW Committee also points out that political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates (CEDAW Committee 1997: para.22).

In accordance with General Recommendation No.23, States parties should ensure that their constitutions and legislation comply with the principles of CEDAW; take all appropriate measures, including the enactment of appropriate legislation that complies with their constitution, to ensure that political parties respect the principles contained in article 7 of CEDAW and identify and implement temporary special measures to ensure the equal representation of women (CEDAW Committee 1997: paras.41-43).

Under the obligatory reporting system set out in article 18 of CEDAW, States parties submit a national report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the Convention and on the progress made in this respect to the CEDAW Committee every four years.

During the constructive dialogue, CEDAW Committee members discuss these reports with the delegations of States parties. At the end of the examination, the CEDAW Committee issues its findings known as concluding observations which determine the progress made, areas of concern and recommendations for improvement.

Women had the right to vote and to be elected to the Turkish Parliament in 1934 and the parliamentary representation of women began in 1935. Turkey also acceded to CEDAW on December 20, 1985. However, women’s political representation in the Turkish Parliament remains insufficient.

² According to General Recommendation No.23, the wide range of measures encompass “ recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies”.

This article analyzes the issue of political representation of women in the Turkish Parliament in light of Turkey's CEDAW obligations. Firstly, I will examine Turkey's national reports and CEDAW Committee reports issued during the seven reporting cycles from 1987 until 2017. Secondly, I will evaluate the main problems concerning women's parliamentary representation on the basis of these documents.

The issue of women's parliamentary representation in the documents from seven reporting cycles

As of 2017, Turkey presented five State reports to the CEDAW Committee which are related to seven reporting cycles³. Since the adoption of its first concluding observations on Turkey's initial report in 1990, women's representation in politics and temporary special measures have been the areas of concern for the CEDAW Committee.

Turkey submitted its initial report on January 27, 1987. The CEDAW Committee considered it at the 161st and 165th meetings on January 29 and 31, 1990. During the 161st meeting, the Turkish representative declared that " various efforts had been made to introduce legislation whereby, in elections, 20 to 30 percent of each party's candidates would be women, but that recommendation had yet to be accepted" (CEDAW Committee 1990a: 3).

During the constructive dialogue, CEDAW Committee members demanded to know what was being done to increase the number of women in parliament and why the proposal for a quota system was not received favourably (CEDAW Committee 1990b: 54). Specifically, they asked the Turkish representative why the legislation whereby at least 20 to 30 percent of the candidates of each party should be women had been unsuccessful, given the information provided in the initial report which referred to national legislation (CEDAW Committee 1990a: 11)⁴.

In addition to national legislation, the CEDAW Committee also demanded to know what political parties were doing with respect to the number of women parliamentarians. (CEDAW 1990a: para.54). The Turkish representative declared that " no quota had been introduced so far in party administration or on electoral lists, and only recently one party introduced a 25 percent quota for party bodies at all levels " (CEDAW Committee 1990b: 57).

Turkey presented its combined second and third report on September 3, 1996. This report was considered by the CEDAW Committee at the 318th and 319th meetings on January 17, 1997. In this report, Turkey argued that "the most effective means for women to become members of the parliament is the quota system or nomination by party headquarters" (CEDAW Committee 1996: 44).

However, it was also noted that despite some certain positive applications of some political parties for encouraging women's participation in political life, they didn't yet reach the desired level (CEDAW Committee 1996: 20,45)⁵. Hence, Turkey's argument was not supported by actual practice because of the different applications of political parties.

The combined second and third periodic report, also offered no new constitutional or legislative proposal concerning the quota system, which was described as the most effective means

³ Although there are seven reporting cycles, there are only five national reports because Turkey submitted two periodic reports as combined documents. They are the combined second and third periodic report, and the combined fourth and fifth periodic report.

⁴ CEDAW Committee member Fenger-Moller referred to paragraph 17 of the relevant document (CEDAW/C/5/Add.46/Am end.I) while asking this question.

⁵ One political party adopted a 25 percent women's quota in the formation of party council while some others reduced the candidates' application fee for women by 50 percent for the 1995 parliamentary election.

for women to become members of the parliament.⁶ Instead, the quota system seemed to be viewed primarily as an issue for political parties to solve although their viewpoints and implementations differ, as can clearly be seen in practice.

While noting the positive approach of some political parties concerning quotas, CEDAW Committee members underlined the need for Turkey “to take a systematic approach towards affirmative action” (CEDAW Committee 1998: 6, 8).

Turkey submitted its combined fourth and fifth periodic report on July 31, 2003. This report was considered by the CEDAW Committee at the 677th and 678th meetings on January 20, 2005. The report signalled that Turkey’s perception had changed concerning political parties’ different quota applications. Specifically, whereas previous periodic report had claimed the quota system was the most effective means for increasing the number of women parliamentarians, the new report acknowledged that it was insufficient.

It was declared that “although some political parties set quotas for administrative organs of their party, in practice these quotas remained trivial and insufficient in increasing women’s representation in the parliament” (CEDAW Committee 2003: 18). Since political parties were not using quotas in determining their candidate lists and only one political party represented in the parliament implemented a 10 % quota for women, different quota applications of political parties were ineffective⁷.

Turkey’s combined fourth and fifth periodic report emphasized the importance of the constitutional amendments adopted by parliament on May 7, 2004. Specifically, a paragraph was added to article 10 regarding equality before the law, stating that “Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice” (TBMM: 4). In addition, a sentence was added to article 90 regarding ratification of international treaties: “In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail” (TBMM: 42).

One of Turkey’s representatives claimed that these constitutional amendments were “the most significant reflection of changes in policies concerning women” since Turkey also became responsible for taking the measures necessary to guarantee de facto equal rights and opportunities for women in all areas and international conventions, including CEDAW, prevailed over all national legislation (CEDAW Committee 2005a: 2).

CEDAW Committee members welcomed the constitutional amendments since they could lead to immediate and urgent application of temporary special measures in areas such as politics. However, several members also pointed out that the original amendment to article 10, which explicitly mentioned temporary special measures, had not been adopted by parliament. They also demanded to know whether the existence of another provision in article 10, which stated that no privileges were allowed, “would not obstruct the application of temporary special measures and whether the reporting State would consider reformulating the sentence to clarify their application” (CEDAW Committee 2005a: para.15)⁸.

⁶ The report noted that Law no 4121 in 1995 had lifted the ban on establishing women’s and youth branches in political parties. Concerning legislative amendments, the report only mentioned that, after this constitutional amendment, “work on the amendments to be made in pertinent laws are being carried on”.

⁷ The other three parties that implemented quotas of 25 percent to 35 percent failed to gain parliamentary representation.

⁸ According to paragraph 4 of article 10, “No privilege shall be granted to any individual, family, group or class”.

During the constructive dialogue, Turkey's representative argued that, although article 10 did not explicitly mention positive discrimination, it assigned the government specific responsibility for ensuring equality between men and women in practice. (CEDAW Committee 2005a: 6). She also underlined that “ it was for the government to decide how it would meet its responsibility and to ensure that it met its constitutional obligations” (CEDAW Committee 2005a: 10).

Regarding women's low participation rate in politics, this representative stated that “ Quotas might be a solution but participation in political life was not the only way to measure the participation of women in society. There were no real barriers to women's participation in political life and a woman who so desired had just as much chance to succeed as a man” (CEDAW Committee 2005b: 2). She also pointed out that Turkey was fully aware of its responsibility to promote gender equality and of the option of implementing specific measures at its discretion.

Hence, Turkey's representative did not interpret the wording of the constitutional amendment as an obligation to adopt a quota system. Despite referring to a quota, it was not interpreted as a *sine qua non* or primary measure for ensuring equality between men and women in practice. While noting the specific responsibility of government for ensuring equality between men and women, she also underlined the government's discretionary power to determine the measures to meet its responsibility.

Concerning quotas, the other Turkish representative declared that temporary special measures, such as quotas in the electoral law to promote women's political participation, would be possible given the Constitutional Court's discretionary power to interpret the Constitution in light of CEDAW⁹ (CEDAW Committee 2005b: 3). This representative underlined the role of the Constitutional Court in interpreting constitutional provisions.

Clearly, constitutional courts play critical role in protection of human rights in the national legal order. Yet, beyond this, in states based on the principles of the rule of law, human rights and democracy, constitutional courts should not just limit their judicial interpretations to protecting human rights, they should also promote them.

However, this does not undermine the role of parliaments in protecting human rights in the national legal order. As the competent body enacting laws and constitutional amendments, the Turkish Parliament should primarily enact laws that introduce a clear quota system or amend the relevant laws to include quota. In other words, there should firstly be a legislative act by the parliament to introduce temporary special measures like quotas in the legal order.

On the other hand, while discussing the combined fourth and fifth periodic report, some CEDAW Committee members evaluated the constitutional amendment to article 10 as “a revolutionary provision” that should be interpreted “not as an impediment to, but as a firm constitutional basis for adopting temporary special measures and, where appropriate, as imposing an obligation on Turkey to adopt them” (CEDAW Committee 2005a: 8)¹⁰. CEDAW Committee members also emphasized the importance of temporary special measures like quotas to ensure women's equal representation in political life (CEDAW Committee 2005b: 2).

⁹ The Turkish representative pointed out that the Constitutional Court had upheld an enterprise's right to ignore the normally guaranteed principle of equality of treatment and implement measures aimed at correcting gender imbalance in a case involving a complaint of discriminatory treatment in favour of women.

¹⁰ Mr Flinterman declared that article 10 should be read in light of Turkey's international obligations, including CEDAW, article 4 of which - as further elaborated in general recommendation No. 25- required States parties to adopt temporary special measures.

Consequently, although both the CEDAW Committee and Turkey agreed on the importance of constitutional amendments, they differed in their interpretations on the wording of the constitutional amendments related to the necessity of temporary special measures like quotas.

In its concluding observations, the CEDAW Committee commended Turkey on its constitutional amendments. It declared that article 10 now explicitly set out Turkey's responsibility to ensure women's enjoyment of equality and constituted a firm basis for adopting temporary special measures aimed at accelerating de facto equality between men and women (CEDAW Committee 2005c: 60). It recommended Turkey to introduce temporary special measures to increase the number of women in parliament (CEDAW Committee 2005c: 63).

Turkey's sixth periodic report, submitted on October 24, 2008, was considered by the CEDAW Committee at the 937th and 938th meetings on July 21, 2010. Turkey reiterated that the constitutional amendment to article 10 in 2004, provided the legal basis for implementing temporary special measures for the first time in the history of the Republic of Turkey and the implementation of temporary special measures was prevailed in accordance with the amended article 90 which granted superiority to CEDAW over national regulations. (CEDAW Committee 2010a: 13).

The report provided on-going efforts in education and employment as examples of temporary special measures policies (CEDAW Committee 2008: 18, 52). However, Turkey also declared that women's political participation had still not reached the desired levels, and that there was no temporary special measure in place to increase women's representation in political mechanisms (CEDAW Committee 2010a: 33)¹¹.

Turkey argued that a real increase in women's involvement in decision-taking mechanisms could only be achieved through full gender mainstreaming, which entailed a "mentality transformation". There was thus "a need to equip the professionals at public institutions, universities, professional organizations and the private sector with gender perspective" (CEDAW Committee 2010a: 33).

Given the constitutional amendments of 2004, parliament should also have experienced a mentality transformation through amendments to legislation regarding political parties and parliamentary elections, or new legislation introducing a quota system. However, the sixth periodic report made no reference to either. Instead, the report admitted that there were "no legal and binding regulations either at constitutional and/or political party law level, on quotas and other temporary special measures" (CEDAW Committee 2008: 25).

Parliament could have introduced a new constitutional amendment explicitly requiring a quota system to increase women's parliamentary representation. This would also be in line with general recommendations and previous concluding observations of the CEDAW Committee. Instead, however, it preferred to adopt a constitutional amendment with a new provision to article 10, affirming that measures taken to achieve substantive equality shall not be deemed contradictory to the principle of equality¹².

According to the justification for article 1 of the bill, this amendment enables the state to take measures to ensure equality between women and men. Any measures taken for this purpose shall not be interpreted as contrary to the principle of equality (TBMM 2010: 3).

Given the criticism of some CEDAW Committee members regarding the formulation of article 10 while discussing previous periodic reports, this constitutional amendment can

¹¹ It was pointed out that although women's parliamentary representation rate increased from 4.4 percent to 9.1 percent after the 2007 parliamentary elections, it was not still at the desired level.

¹² Act no 5982 to amend several provisions of the Constitution was adopted by parliament on May 7, 2010.

be seen as a positive step for clarifying the application of temporary special measures in Turkey.

The CEDAW Committee evaluated the constitutional amendment positively because it could allow the greater use of temporary special measures if approved by referendum in September 2010. However, it also invited Turkey to include information on the amendment's impact on the use of temporary special measures in various areas in its next periodic report. (CEDAW Committee 2010b: 2, 4).

Concerning article 4 of CEDAW, the CEDAW Committee declared that Turkey had made limited application of temporary special measures, and that it was specifically concerned about education and employment (CEDAW Committee 2010b: para.18). Regarding article 7, the Committee pointed out that women continued to be seriously underrepresented in Turkish political and public life, and expressed its concern about the absence of temporary special measures like quotas by referring to the lack of legal provisions or binding regulations for applying such measures. (CEDAW Committee 2010b: 7).

Turkey's seventh periodic report, submitted on November 26, 2014, was considered by the CEDAW Committee at the 1415th and 1416th meetings on July 13, 2016. The report noted that some political parties started to employ quota/parity applications within the recent years (CEDAW Committee 2014a: 12).

Turkey evaluated the increase in women's political representation as "a fruit of social expectation with regard to women's involvement in politics, women's positive attitudes and approaches towards politics and the special measures introduced by the political parties to increase women's representation". These measures included exempting women from nomination fees and placing them at the top of candidate lists. (CEDAW Committee 2014a: 16).

The report mentioned that women's parliamentary representation rates had increased constantly after the 2002, 2007 and 2011 parliamentary elections (CEDAW Committee 2014b:4)¹³. Turkey considered the approximately 10 percent increase since 2002 as a significant development and pointed out that women's representation rate reached 14.73 percent after the 1 November 2015 parliamentary elections (CEDAW Committee 2016a: para.62). Nevertheless, it also noted that the number of women parliamentarians was still far from satisfactory (CEDAW Committee 2014a: para.95)¹⁴.

Given article 10 of the Constitution, the working group of the CEDAW Committee demanded to know why no efficient measures had been taken, such as statutory quotas or other numerical targets, to ensure in practice the equal representation of women in various entities, particularly in parliament (CEDAW Committee 2015: 3).

Turkey responded by referring to several support programs, mainly developed in education, employment and social policy. It also argued that amendments to the Constitution, civil law, penal law and labour law within the last decade were "testimony of the commitment to increase the participation of women in all aspects of life as well as ensuring that women take their deserved place in the society" (CEDAW Committee 2016a:

¹³ The parliamentary representation rate of women was 4.4 percent in 2002, 9.1 percent in 2007 and 14.4 percent in 2011.

¹⁴ Turkey declared that " Even though the number of female candidates and representatives in local and national politics is on the rise, the numbers are still far from satisfactory ".

12-13). However, there was still no reference to new legislation concerning political parties and parliamentary elections.

Based on the committee members' questions and comments during the constructive dialogue, the CEDAW Committee especially focused on the application of temporary special measures in practice when they analyzed Turkey's testimony about its commitment.

Some members, for example, declared that "Although the constitutional amendments enacted in 2010 provided for the possibility of adopting temporary special measures aimed at accelerating de facto equality between women and men, they were not expressly recognized in the Constitution itself, which limited their application in practice". They also pointed out that "such measures had only been applied in respect of employment and education" (CEDAW Committee 2016b: 7).

Concerning legislative amendments, some CEDAW Committee members also highlighted other legislation that the report did not mention. In particular, laws governing political parties and parliamentary elections made no reference to temporary special measures to ensure equal representation of women and men. They considered this fact and the general lack of measures to promote women's political participation as a cause of concern. Accordingly, they demanded to know whether Turkey planned to introduce temporary special measures to remedy women's limited political representation (CEDAW Committee 2016b: para.35, 2016c: para.12).

The Turkish representative stated that Turkey was committed to raising women's parliamentary representation to 25 percent and there were signs of progress everywhere in that regard. She also noted that measures to increase women's participation in political life had also been incorporated into the Tenth Development Plan, under which a project for political leadership and gender equality would be finalized in 2017¹⁵ (CEDAW Committee 2016c: para.13).

In its concluding observations, the CEDAW Committee declared that Turkey's understanding and use of temporary special measures appeared to be limited to monetary transfers to women who found themselves in disadvantaged situations (CEDAW Committee 2016d: 7). It also expressed its concern about the low participation of women at all levels of decision-making, both national and local, including the government and the parliament which was below the global average and had even decreased following the November 2015 elections (CEDAW Committee 2016d: 12-13).

The CEDAW Committee recommended Turkey to adopt temporary special measures, including quotas, benchmarks with specific time frames and training to achieve the equal and full participation of women in political and public life.

Problems concerning women's parliamentary representation

On the basis of five national reports and CEDAW Committee documents covering issues and questions in relation to periodic reports, the summary records of meetings and concluding observations, the political representation of women in the Turkish Parliament emerges as one of the main issues between Turkey and the CEDAW Committee from 1987

¹⁵ The Tenth Development Plan made no explicit reference to quotas in politics, although it mentioned that women's participation in decision-making mechanisms would increase (Türkiye Cumhuriyeti Kalkınma Bakanlığı 2013: 40-41).

until 2017. The issue of temporary special measures, including quotas, has been a permanent discussion point that starts in one reporting cycle before continuing in the next one.

During seven reporting cycles, two main dimensions have been considered by the CEDAW Committee. One is Turkish political parties' approaches to women's parliamentary representation while the other is national legislation, including the Constitution.

Even while discussing Turkey's initial report in 1990, CEDAW Committee members asked Turkey's representative "what had been done to increase the number of women participating in political life, why the legislation whereby at least 20 to 30 percent of the candidates of each party should be women had been unsuccessful", and "what political parties were doing with respect to the number of female members of parliament" (CEDAW Committee 1990: paras.53, 54).

Turkey's approach to the role of political parties in increasing women's parliamentary representation varied across the periodic reports. While examining the combined second and third periodic report, for example, Turkey's representative argued that "the most effective means for women to become members of the parliament is the quota system or nomination by party headquarters" (CEDAW Committee 1996: 44). However, this argument was not supported in practice because political parties varied in how they implemented such ideas. Certain applications were initiated in some political parties, however "these applications have not yet reached the desired level" (CEDAW Committee 1996: 20, 45).

In the combined fourth and fifth periodic report, instead of underlining the role of political parties, Turkey emphasized the importance of constitutional amendments to introduce temporary special measures like quotas. This was because the quotas applied by political parties had failed to improve women's parliamentary representation. The report also noted that some parties had only set quotas for their administrative organs but not to determine candidate lists (CEDAW Committee 2003: 18)¹⁶.

In the seventh periodic report, Turkey again emphasized the role of political parties for increasing women's political participation. It concluded that the increase in women's political representation was "a fruit of social expectation with regard to women's involvement in politics, women's positive attitudes and approaches towards politics as well as the special measures introduced by the parties to increase women's representation". These measures included putting women at the top of candidate lists and exempting women from candidate nomination fees. (CEDAW Committee 2014a: 16).

The periodic reports also indicate that political parties' approaches to women's parliamentary representation vary because of their different choices and applications concerning quotas. Both the periodic reports and party statutes show that only some parties prefer to apply quotas for their administrative organs and candidate lists for parliamentary elections. The quota percentages also vary because parties adopt quotas on a voluntary basis¹⁷.

¹⁶ The report noted that "For instance, although some parties set quotas for administrative organs of their party, in practice these quotas remained trivial and insufficient in increasing women's representation in the parliament. Only one party represented in the parliament implemented a 10% quota for women. Other three parties with quotas of 25% to 35 % are not represented in the parliament, therefore, they are ineffective. Quota system has not been used by political parties in determining their candidate lists."

¹⁷ After the parliamentary election on June 24, 2018, CHP, İYİ and HDP, which all applied quotas for determining their candidate lists, gained seats in parliament. According to their statutes and declarations, their quotas were respectively 33 percent, 25 percent and 50 percent. However, CHP's quota only applied to 15 percent of all

The combined fourth and fifth periodic report acknowledged that quotas be ineffective, if the political parties that apply them fail to gain parliamentary seats (CEDAW Committee 2003: 18). Additionally, women critically depend on being given electable slots in party candidate lists to win parliamentary elections.

After the end of seventh reporting cycle, Turkey held a parliamentary election on June 24, 2018, in which there were only 996 women candidates out of 4,851 (YSK 2018a)¹⁸. Given that some were standing as independents, only 985 women of 4,783 party candidates were women.

Moreover, the five political parties represented in the parliament only placed 36 women at the top of their candidate lists (Tahaoğlu 2018)¹⁹. The election resulted in 104 women being elected, meaning 17.33 percent parliamentary representation (YSK 2018b)²⁰. In short, given that women constitute half the population, their representation rate continues to be insufficient (TBMM 2020)²¹.

Taken together, the periodic reports and the June 24, 2018 parliamentary election results demonstrate that the issue of temporary special measures, including quotas, cannot only be left to political parties because their approaches and implementations differ widely.

Regarding women's parliamentary representation, Turkey and the CEDAW Committee also prioritized different criteria during the seventh reporting cycle. Turkey noted that women's representation rate was constantly increasing by referring to the rising representation rates in the 2002, 2007 and 2011 parliamentary elections. It underlined that women's parliamentary representation reached 14.73 percent after the 1 November 2015 parliamentary elections. Compared to 2002, women's representation rate had risen by 10 percent after the 1 November 2015 parliamentary elections. Turkey concluded that the approximately 10 percent increase since 2002 was a significant development (CEDAW Committee 2016a: 13).

In contrast, the CEDAW Committee was concerned by women's low participation rate at all levels of decision-making, including parliament, which remained below the global average and had even decreased following the November 2015 parliamentary elections (CEDAW Committee 2016d: 12-13). The CEDAW Committee compared it with the previous

candidates chosen by the party's central committee while İYİ's quota only applied to candidates chosen by the method determined by the party's general executive committee. Women candidates of CHP, İYİ and HDP represented respectively 22.67 percent, 26.5 percent and 38.17 percent of the total number. The two other political parties that gained parliamentary seats did not apply quotas for determining their candidate lists. Women candidates of AKP and MHP represented respectively 21 percent and 12.67 percent of the total number (Yüksek Seçim Kurulu 2018a).

¹⁸ 20.53 percent of the candidates were women.

¹⁹ CHP, İYİ and HDP placed respectively 6, 6 and 18 women at the top of their candidate lists whereas AKP and MHP placed respectively 4 and 2 women at the top of their candidate lists.

²⁰ With the approval of constitutional amendment by referendum on April 16, 2017, the number of the MPs increased from 550 to 600. After the June 24, 2018 parliamentary elections, 104 women became MPs. AKP had 53 women MPs which was 17.97 percent of its total 295 MPs. CHP had 18 women MPs which was 12.33 percent of its total 146 MPs. HDP had 26 women MPs which was 38.81 percent of its total 67 MPs. MHP had 4 women MPs which was 8.16 percent of its total 49 MPs. İYİ had 3 women MPs which was 6.98 percent of its total 43 MPs.

²¹ As of 2020, TBMM has 102 women MPs of the total 589 MPs. Women's parliamentary representation is 17.32 percent.

parliamentary elections of June 2015 when determining the decrease in women's representation²². It also took into consideration the global average²³.

It is, however, important to note the response of Turkey's representative during the constructive dialogue. The Turkish representative declared that the government was committed to raising women's representation rate to 25 percent and there were signs of progress everywhere in that regard (CEDAW Committee 2016c: 3).

Despite the goal of increasing the parliamentary representation rate to 25 percent during the seventh reporting cycle, women only achieved 17.33 percent representation after the June 2018 parliamentary elections. Clearly then, instead of depending on the inconsistent choices of political parties regarding quotas, Turkey should ensure that its national legislation, including the Constitution, complies with CEDAW.

Regarding constitutional amendments, both Turkey and the CEDAW Committee agreed on the importance of the 2004 amendments to articles 10 and 90. In the combined fourth and fifth periodic report, the Turkish representative declared that "the amendment to article 10 of the Constitution was ground-breaking as comparable legislation did not exist in many countries" (CEDAW Committee 2005a: 6).

Some CEDAW Committee members even saw the constitutional amendment as a revolutionary provision that should be interpreted as a firm constitutional basis for adopting temporary special measures rather than an impediment (CEDAW Committee 2005a: 8). The CEDAW Committee evaluated the 2010 constitutional amendment to article 10 positively because it could allow the greater use of temporary special measures (CEDAW Committee 2010b: 4). Yet, Law no. 2839 on the election of the members of the parliament and Law no. 2820 on political parties have still not been amended since the adoption of the constitutional amendments. That is, although the constitutional amendments enable Turkey to adopt temporary special measures like quotas, the relevant legislative amendments have not been enacted.

To increase women's parliamentary representation, Turkey should amend its current legislation on political parties and parliamentary elections or enact new legislation to introduce a quota system. If it amends the relevant legislation on the basis of gender equality, such legislative amendments will be both compatible with its constitutional provisions and CEDAW obligations.

In this context, it should be noted that the Ministry of Family and Social Policy in 2018 adopted its "Strategy Document and Action Plan on the Empowerment of Women 2018-2023". The document declares that participation in decision-making mechanisms is one of its five fundamental political axes (Türkiye Cumhuriyeti Aile ve Sosyal Politikalar Bakanlığı Kadının Statüsü Genel Müdürlüğü 2018b: 20).

The main aim of the section called "participation in decision-making mechanisms" is to increase women's representation in decision-making mechanisms at both local and national levels, and to ensure women's active participation in decision-making processes. The first of three strategies is to enhance monitoring of women's representation in decision-

²² After the June 7, 2015 parliamentary elections, women's representation reached 17.82 percent after 98 women were elected as MPs. After the November 1, 2015 parliamentary elections, however, it fell to 14.73 percent after 81 women were elected. (Türkiye Cumhuriyeti Aile ve Sosyal Politikalar Bakanlığı Kadının Statüsü Genel Müdürlüğü 2018a: 53-54).

²³ As of 1st January 2020, the global average of the percentage of women in national parliaments is 24.9 percent according to the Inter-Parliamentary Union (Inter-Parliamentary Union 2020).

making mechanisms and introduce legislation and administrative arrangements for supporting women (2018b: 209-211).

All national legislation is to be reviewed during 2019-2020 to increase women's representation in decision-making process. To reinforce women's representation, draft bills are to be prepared for legislative arrangements during 2020-2022 (2018b: 212).

The Constitution and all national legislation are to be reviewed in light of international conventions and instruments to which Turkey is a party. This is to be done by a working group comprising representatives of relevant institutions and bodies under the coordination of the General Directorate of Women's Status of the Ministry of Family and Social Policy²⁴. With a view to increasing women's representation in national and local politics, draft bills are to be prepared for revising current legislation by taking into account the results of reviews made by the relevant institutions (2018b: 213)²⁵.

The Strategy Document and Action Plan represents progress by Turkey as it is an important document that paves the way for empowering women in the national order. The commitments declared in the report indicate the "mentality transformation" that Turkey emphasized in its sixth periodic report (CEDAW Committee 2010a: 33). Temporary special measures like quotas can be included in national legislation based on Turkey's commitments declared in the document.

Despite this positive step, if Laws no. 2839 and no. 2820 are not amended, the only solution will be to draft a new constitutional amendment that explicitly introduces quotas. Such a constitutional amendment would also respond to CEDAW Committee members' previous criticisms about the formulation of the constitutional amendment to article 10.

During the constructive dialogue, some members pointed out that "although the constitutional amendments enacted in 2010 provided for the possibility of adopting temporary special measures aimed at accelerating de facto equality between women and men, they were not expressly recognized in the Constitution itself, which limited their application in practice" (CEDAW Committee 2016b: 7). A new constitutional amendment that explicitly stipulates quotas will mean that, the issue will no longer be a controversial theme of discussion.

Conclusion

Although Turkey acceded to CEDAW in 1985, women are still not adequately represented in the Turkish Parliament. In its most recent concluding observations on Turkey, the CEDAW Committee expressed its concern about women's low participation at all levels of decision-making, including parliament, which was below the global average.

In its concluding observations for 2005, 2010 and 2016, the CEDAW Committee recommended Turkey to adopt temporary special measures, including quotas, to enable women to achieve equal and full participation in political and public life in accordance with CEDAW and its general recommendations.

²⁴ The relevant bodies and institutions are the Parliamentary Committee on Equality of Opportunity for Women and Men, the Ministry of Justice, the Ministry of Interior, the Ministry of National Defense, the Union of Municipalities of Turkey, universities, non-governmental organizations and professional organizations.

²⁵ The responsible institutions for the preparation of the draft bills are the Ministry of Justice and the Ministry of Interior. The relevant institutions are the same ones mentioned for reviewing national legislation.

Despite some positive improvements that Turkey has achieved over these seven reporting cycles, Turkey has generally considered that temporary special measures like quotas, should primarily be introduced by individual political parties. However, given that political parties' approaches and applications regarding quotas differ, the issue cannot be solved by depending on political parties that only apply quotas on a voluntary basis.

In its seventh periodic report, Turkey claimed that the special measures introduced by political parties were one reason for the increase in women's political representation. Nevertheless, it did not clarify why temporary special measures like quotas were not included in the legislation on political parties by a legislative amendment. Unless Law no. 2820 on political parties is amended, the application of temporary special measures will continue to depend on the choices of individual political parties.

Concerning the constitutional amendments of 2004, the amendment to article 10 provided the constitutional basis for adopting temporary special measures while article 90 granted superiority to CEDAW over national laws. In practice, however, temporary special measures like quotas have not been adopted in politics.

Laws no. 2839 and no. 2820 have not been amended to introduce quotas based on constitutional provisions. In last reporting cycle, CEDAW Committee members therefore demanded to know whether Turkey planned to introduce temporary special measures to remedy women's limited representation in politics.

According to the CEDAW Committee, States parties should ensure that their constitutions and legislation comply with the principles of CEDAW and take all appropriate measures, including the enactment of appropriate legislation that complies with their constitution. In light of its CEDAW obligations, Turkey should amend its relevant legislation on parliamentary elections and political parties on the basis of its constitutional provisions.

If the relevant legislative amendments are not enacted on the basis of current constitutional provisions, then, the only solution will be to enact a new constitutional amendment that expressly recognizes a quota system. This would be compatible with Turkey's obligations under CEDAW.

Realizing Turkey's commitments declared in the Strategy Document and Action Plan is very important. Turkey should focus on completing its work on reviewing national legislation until the eighth reporting period.

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