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DISCRIMINATORY QUESTIONS ON JOB APPLICATION FORMS (A SURVEY AMONG THE TOP 500 INDUSTRIAL ENTERPRISES IN TURKEY)*

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ABSTRACT

Work discrimination is unfair and negative treatment of employees or job applicants based on personal attributes that are irrelevant to job performance. Several studies have revealed that non-work related information is directly or indirectly requested by the job application forms or in the interviews from the applicants extensively during the hiring stage, which creates a potential ground for discrimination. The purpose of this paper is to present the main findings on the prevalence and characteristics of discriminatory questions on the job application forms from a survey among the top 500 industrial enterprises in Turkey, which was undertaken between November 2007 and June 2008. In brief, the present study yielded several main findings. The findings point out that the application forms contain at least two discriminatory questions, with the average being 9.1 per form. As predicted, the results of statistical analysis indicate that international companies compared to national firm ask significantly less discriminatory questions. However, somewhat surprisingly, companies with HR department have significantly more questions on their forms than companies without HR department.

Key Words: *Work Discrimination, Discriminatory Questions, Job Application Forms, Turkey*

1. INTRODUCTION

Over the last decade, there has been increasing concern in the literature about prejudicial attitudes and actions including not treating all similarly situated qualified people equally in employment. This unethical behavior is called work discrimination that is unfair and negative treatment of employees or job applicants based on personal attributes that are irrelevant to job performance (Chung, 2001).

Work discrimination phenomenon is not a marginal fact in today's labor markets. On the contrary, figures indicate that it is prevalent in both eastern and western societies despite anti-discrimination legislation, and societal, organizational and personal ethical values to evaluate people on the basis of their merits rather than their personal attributes and group memberships (Uhlmann, 2006). In the US, for example, statistics by the Equal Employment Opportunity Commission (EEOC) have revealed that work discrimination cases have increased almost 23.2 percent in the past ten years (EEOC, 2008). In 2008, the commission received 95.402 discrimination cases that are more than the number of charges filed in any other one-year period in the history of the agency (Underwood, 2009). Moreover, in New Zealand, a total number of 1326 complaints were reported to the Human Rights Commission (HRC) during the year ending 30 June 2008. Of these complaints 43% (570) were discrimination cases in the field of employment that is the largest area of complaints received by the Commission (NZHRC, 2008).

There are two aspects of work discrimination. The first is employment discrimination that is called "treatment" occurring after the employee is hired (Perry and Hendricks and Broadbent, 2000). Treatment discrimination means treating employees differently for unjustifiable reasons with respect to all terms and conditions of their working such as hiring, salary-raise decisions, promotion, and termination (Culbreth, 2006).

The much of theory and research on work-related discrimination has focused on the employment relationship. Yet, this type of discrimination may also appear in pre-employment that is called "access discrimination" (Chung, 2001). Access discrimination means refusing to employ a candidate because of his or her non-work characteristics such as race, age, sex.

Several studies have revealed that non-work related information is directly or indirectly requested by the job application forms or in the interviews from the applicants extensively during the hiring stage, which creates a potential ground for discrimination. For example, in New Zealand, Hardcourt and Hardcourt reported that 88% of the application forms involved at least one violation of the Human Rights Act, 72% included two or more and 61% contained three or more violations. In the study, authors found that the most common violations were age, gender, nationality, and disability (Hardcourt and Hardcourt, 2002). Furthermore, a study Australia by Lynne Bennington and Ruth Wein (2001) showed that the respondents, varying between 44 to 2 per cent, reported to have discriminatory and illegal questions on age, marital status and race in the interviews (Bennington and

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Wein, 2001). A research among 88 organizations located in the Southeast, Florida by Vodanovich and Lowe demonstrated that the application blanks included at least two "inadvisable" items with the average being 7.4 items per form (Vodanovich and Lowe, 1992). Finally, a survey of 151 job application forms by Clark (1990) concluded that over 96 percent of the forms contained at least one inappropriate question, with the average being 5 per form (Clark, 1990).

There are a wide range of individual and societal factors creating discriminatory practices. Social psychology put forward social stereotypes and prejudicial attitudes as primary causal elements in generating discrimination. Especially in recruitment decisions, managers may define specific social stereotypes as necessary or essential for job performance instead of viewing the applicants as having different strengths and weaknesses (Uhlmann, 2006). Furthermore, there are also some contributing factors (such as racism and sexism) in the appearance of discrimination in labor market (Thomas, 2001).

In many societies, comprehensive legislations have been passed in order to prevent and combat discrimination in all aspects of employment. While some countries such as Canada, US and Australia have special laws to protect employees towards discrimination, many (like New Zealand) have general acts such as Human Rights Act prohibiting discrimination in a variety of relationships including employment (Harcourt and Lam and Harcourt, 2005). There are also key business ethics principles enforcing universal employment norms and practices without discrimination (Wu and Lawler and Yi, 2008).

Turkey has not yet a specific anti-discrimination law for the protection of workers against discriminatory actions by employers. Nevertheless, a few regulations in different laws prohibit discriminatory practices. For example, article 10 of the 1982 Constitution sets out a basic principle prohibiting discrimination on the ground of language, race, color, sex, political opinion, philosophical belief, religion, sect and other differences. A similar regulation has been inserted into the Turkish Labor Code (article 5) in May 2003. However, the Labor Code doesn't include any clause protecting job seekers from discriminatory practices. Moreover, there is no an independent supervision authority monitoring the complaints related to discrimination. Consequently, there is an enormous need to make detailed regulations in recruitment and employment contracts (Sesen, 2006).

The purpose of this paper is to present the main findings on the prevalence and characteristics of discriminatory questions on the job application forms from a survey among the top 500 industrial enterprises in Turkey, which was undertaken between November 2007 and June 2008. The study focuses to analyze discriminatory questions in seven categories: sex, age, martial status, family status, religious belief, health status, and the other discriminatory questions. The paper comprises 4 sections. Following the introductory section providing a conceptual framework, the section 2 gives a general description of the survey sample and data collection process. The third section presents the findings and discussion. Finally, the last section of this paper concludes and summarizes the results.

2. METHODS

2.1. Sample

The sample for this study consisted of 287 job application forms from Istanbul Chamber of Industry's annual surveys of "500 Largest Industrial Firms of Turkey" (ICI 2007).

The analyzed job application forms were aggregated by twenty-one different branches from seven regions. The biggest groups in the sample were metal (54 forms), textile (45 forms), food (44 forms), and petroleum and chemistry firms (35 forms). The smallest ones were paper (1), health (1), sugar (1), newspaper (2) and shipping firms (2). The companies ranged in size from 100 employees to more than 5000 employees. 12% of the samples had operations in more than one country (Multinational Companies-MNC). There were 3 public sector and 5 cooperative companies, and the rest was private enterprises. 79.1 percent of sample had a Human Resource (HR) department.

2.2. Data Collection

The data were collected using a questionnaire developed by the researcher to analyze discriminatory questions on the job application forms. The questions in the study were inspired from a survey conducted by Harcourt and Harcourt (2002). The job application forms were obtained by master students directly from organizations or downloaded from their Internet sites. The questionnaire was divided into 3 parts with 21 questions.

In the study, the discriminatory questions were organized into fifteen main categories (as shown Table I), and examined in the context of article 10 of the 1982 Constitution and article 5 of Turkish Labor Code.

Statistical analyses were performed by the SPSS version 10.0. The frequencies were used to describe the extent and nature of discriminatory questions on the forms. The cross tabulations addressed significant correlations between the variables.

3. RESULTS

3.1. Prevalence of Discriminatory Questions

The prevalence of discriminatory questions on the job application forms varied between 1.4% and 97.6% among all samples. The average number of discriminatory questions on the forms was 9.1. The results indicated that 100% of the forms contained at least two discriminatory questions, and 284 forms included three or more. Table I indicates a summary of the findings. As Table shown, the most asked questions on the forms concern age, gender, university graduated from, past workplace, marital status, and birthplace.

TABLE I
DISCRIMINATORY QUESTIONS ON JOB APPLICATION FORMS

n=287	Frequency	Percent
Age	280	97.6
Gender	264	92
General family status	127	44.3
How many children applicant has	91	31.7
Occupation of spouse	81	28.2
Name of spouse	69	24
Occupation of parents	53	18.5
Workplace of spouse	46	16
Name of applicant's children	22	7.7
How many dependants applicant has	25	8.7
Average family income	19	6.6
Rent or own home	15	5.2
Education of applicant's children	14	4.9
Marital status	260	90.6
Blank space	17	5.9
Only married/single	213	74.2
Widow	82	28.6
Divorced	76	26.5
Engaged	7	2.4
Marriage plan	2	0.7
Pregnant plan	0	0
Nationality	192	66.9
Birthplace	237	82.6
Health	101	35.2
Disability	60	20.9
Surgical operation	37	12.9
Religious or ethical belief	3	1
Newspaper and magazines	4	1.4
TV channels and shows	10	3.5
Membership		
Associate membership	114	39.7
Political party membership	13	4.5
Military service	207	72.1
Smoking habit	93	32.4
Alcohol use	4	1.4
Past workplace	273	95.1
Past salary	116	40.4
Conviction records	96	33.4
University graduated from	278	96.9

3.2. Discriminatory Questions

3.2.1. Sex

Sex discrimination means treating applicants or employees less favourable on the grounds of their gender. National statistics in some countries show gender-oriented discrimination trends. In the US, in 2008 the EEOC received 28.372 sex-based discrimination cases that represented 29.7 percent of all complaints. In New Zelland, 12.4 % of complaints reported to HRC were related to sex (HRC, 2007). In 2007-08, the Australian Human Rights Commission (HREOC) received 438 complaints on sex discrimination, and the majority of them were related to employment (87 percent) (HREOC, 2008).

In addition, several studies have presented evidence of sex based discrimination in the pre-employment period. Hardcourt and Hardcourt concluded that 48 percent of job application forms included one or more questions on the gender of applicant. Similarly, an Australian study found that seventeen of the forms asked about gender (Hardcourt and Hardcourt, 2002).

Consistent with other studies, the present study found that there was a greater frequency of questions related to gender in the sample group (92%). But this isn't surprising, as in Turkey, female workers are seen by most employers as more suitable to some gender-specific jobs such as nursing, teaching, and office secretarial work. Consequently, the occupational sex stereotypes are mirrored in the preference of Turkish employers seeking personnel. This view is supported by the findings of a survey conducted by Elif Sesen. She noted that 20% of total job ads in weekend supplements of a Turkish included sex preference (Sesen, 2006).

On the other hand, the questions related to sex were more common in national companies (93.2%) than in international ones (82.9 %). Moreover, the questions about gender were more prevalent among companies with HR department (92.1%) than companies without HR department (75%).

3.2.2. Age

Age discrimination can be defined as deciding not to hire a job applicant because of his or her age, whatever this age may be. It is the most prevalent discrimination issue, and affects both old and young people in labor market. According to the EEOC records, in 2008 the commission received 24.582 age discrimination cases, a 29% increase from the prior year and a 65% jump from the number of filings in 2005 (EEOC, 2009).

In addition to these statistical figures, there are also a number of studies presenting data on the age discrimination in the recruitment stage. For example, Bennington and Wein (2001) indicated that 44 per cent of participants said that they were asked their age in the interviews (Bennington and Wein, 2001). Hardcourt and Hardcourt (2002) found that 128 (56%) job application forms included one or more unlawful questions about the applicant's age (Hardcourt and Hardcourt, 2002). Moreover, a random survey of application forms among 283 SHRM member organizations conducted by Jolly and Frierson reported that 50% asked for age with questions about age, birth date or years of secondary school. Lastly, Vodanovich and Lowe showed that 54.5 % of the forms contained questions on age (Vodanovich and Lowe, 1992).

Our findings raised the point that asking questions related to age were the second most widespread item on the forms (97.6%). Moreover, several differences among companies were determined regarding age. For example, companies with a HR department had a 12.8 percent higher incidence of age questions on their job application forms than ones without a HR department. In addition, international companies (88.6%) were found to ask questions on age slightly less than national ones (96.8%).

The main reason that why older workers suffer from age discrimination is that employers suppose the applicant to be too old to perform job properly. Yet, the possible factor for young people is that they may be considered as insufficient work experience (Plumier, 2005).

3.2.3. Marital Status

The EEOC regards that the questions concerning marital status on the application forms are considered discriminatory if they are not relevant to the job. The researches show that particular types of information including marital status are required from the applicants during the hiring process. In the study by Bennington and Wein (2001), 29 per cent of respondents reported that they were asked to provide information on their marital status in the interviews (Bennington and Wein, 2001). Similarly, Hardcourt and Hardcourt (2002) found 34% of all forms asking for marital status at least once (Hardcourt and Hardcourt, 2002).

The present study suggested that the job application forms inquired from the applicant his or her marital status with various questions. Generally, 90.6% of the forms required the information about the applicant's marital status. While almost 3 in 4 forms involved only one question including the

married or single options, 17 forms had a blank space for marital status. Moreover, a number of forms additionally compromised more detailed options such as widow, divorced and engaged about the applicant's marital status.
Several explanations for the findings are possible. In Turkey, the Labor Code provides wide rights to married women and mothers that imposes additional expenses or burdens to the employer. For example, a woman worker with one year from the date of her marriage has the right to terminate the contract and claim seniority compensation from her employer. Moreover, mothers have sixteen weeks of maternity leave and in some cases, an additional period of maternity leave up to six months. Consequently, some Turkish employers have a tendency to hire the singles female without marriage and pregnancy plans at least for several years. Consistent with this view, two application forms had a question about the applicant's marriage plan while "engaged" appeared among the marital status options on the seven forms.
The findings also pointed out the questions about marital status were more common in national companies (92.1%) than multinational firms (80%).

3.2.4. Family Status

Job application forms also may request family status information from applicants. Bennington and Wein (2001) have shown that in the interviews, the applicants had several questions about their family status including about child-care responsibilities (10%), elder care responsibilities (4%), and pregnancy plans (2%) (Bennington and Wein, 2001). The survey on the job application forms reported that five per cent of forms asked the applicant how many dependants he or she has (Hardcourt and Hardcourt, 2002).
Our study showed that 44.3 percent of the job application forms included several questions about the applicant' family status and financial situation. The most asked question to the candidates was the number of children (31.7%), followed by the questions about the occupation of parents (18.5 %), and the occupation (28.2 %), name (24 %) and workplace (16 %) of the applicant' spouse. Besides, some forms asked various questions with regard to average family income (19 forms) and rent or own home (15 forms).
Commenting on the results, there might be several plausible explanations for why Turkish employers collect the information related to family status from the applicants. First, employers could be more likely to exclude workers with more family responsibilities for avoiding paying more. However, they might wish to know more information about their prospective workers due to paternalistic sentiments. Actually, the questions on family responsibilities were found to be less prevalent especially among the small enterprises (63.6%) (where it is expected that employer have more paternalistic attitudes) than larger firms (43%).

3.2.5. Religious or Ethical Belief

Religious or ethical belief discrimination means to treat someone differently or unfairly due to their religious or ethical belief background. Although anti-discrimination laws prohibit employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment, figures point out that the discriminatory incidents on religious or ethical belief are becoming an important issue. Last year, the EEOC received a record 3.273 religious-based charges. That is up 13.6 percent from 2007, and more than double in the number of complaints in 1992.
Similarly, the studies report that the recruitment process in some companies requires job applicants to reveal their beliefs. For instance, Bennington and Wein (2001) suggested that 4 per cent of respondents said to have questions about their religion views in the interviews (Bennington and Wein, 2001). Hardcourt and Hardcourt (2002) noted that five application forms (%2) included questions about the religious views or background of candidate (Hardcourt and Hardcourt, 2002).
In agreement with previous studies, the present study has found that there were several questions on the application forms dealing with the religious or ethical belief of candidate, either directly or indirectly. The general rate among all samples was 4.9%. While 3 forms consisted of a specific question asking the applicant's religion, a number of companies were found to require some information likely (such as drinking alcohol, and following newspapers, magazines, TV canals and shows preferred by the applicant) to divulge the applicant's religious belief. In Turkey, some 99 per cent of the population belongs to the Islam religion, and the religious values forbid alcohol use. Also there are separated private media and journalistic readings for the religious groups. Consequently, the rationale is that such inquiry might disclosure the applicant's belief and constitute a ground for discriminatory practices because such items may be regarded as a degree of religiousness in the traditional culture.

It was also found a relationship between the study variables. For example, while none of international employers asked for the applicant's religious belief directly, three national employers had a direct question related to the religion of applicant on their job application forms.

3.2.6. Health Status

In job application process, many employers inquire information in relation to applicant's health status including disabilities, limitations, and health problems. In Britain, a survey among nearly 500 companies found that 63% had some form of pre-employment health screening (Barnes, 1991). Similarly, Hardcourt and Hardcourt indicated that 35 percent of job application forms included at least one question on the application's health or disabilities (Hardcourt and Hardcourt, 2002).

On the other hand, there is sufficient evidence to suggest that especially disabled people is considered to be more vulnerable to discrimination than the others during the hiring process. Kennedy and Olney suggested that almost 10 percent working adults with disabilities were more exposed to job discrimination in the US (Chamberlain, 2001). In 2008, the EEOC received 19.453 disability discrimination complaints, and it represents 20.3 per cent of total cases (EEOC, 2009).

In our study, there were 135 (47%) forms that asked at least one discriminatory question about the health of applicant. While the most frequently question asked to the applicants was whether or not they had any important health problem or issue (35%), 1 of 5 job application forms made direct inquiry about the disability status of the applicant.

In the study, several relationships between the variables were determined also. Companies with HR department had the questions about health issues more often (51.1%) than companies without HR department (12.5%). Furthermore, international employers were found to ask fewer health questions on their forms (48%) than national employers (40%).

3.2.7. Other Discriminatory Questions

The present survey determined other discriminatory questions on the job application forms analyzed. Firstly, it was found that while 273 forms (95.1%) seek information on the applicant's past workplace, 40.4% requested the past salary information.

Moreover, the job application forms contained two questions about the nationality of applicant. While 66.9% of job application forms involved a request for information about the applicant's exact nationality or citizenship, a question about birthplace was included in 237 forms. Meanwhile, 165 forms asked for both the birthplace and nationality.

On the other hand, there were questions on the forms about the organizational memberships of applicant. While relatively a few forms (13 forms) required the applicant's politic party membership, 114 forms had a question for association membership. Both organizational membership and politic party membership were included in 4.5 percent of all forms.

Finally, there were various discriminatory questions not related to job requirements such as military service (72%), conviction or court records (33.4%) and smoking habit (32.4%).

4. CONCLUSIONS

The present study investigated the level and characteristics of discriminatory questions on the job application forms among a sample from the top 500 Industrial Enterprises in Turkey.

The findings point out that 100% of the application forms contain at least two discriminatory questions, with the average being 9.1 per form. As predicted, the results of statistical analysis indicate that international companies compared to national firm ask significantly less discriminatory questions, which could be explicated on the basis of organizational values of global firms. The studies show that the effects of MNC home-country cultural and ethical values have a strong impact on their human resource policies in host countries where anti-discrimination legislation is absent (Wu and Lawler and Yi, 2008).

However, somewhat surprisingly, companies with HR department have significantly more discriminatory questions on their forms than companies without HR department, which may be explained as follows: First, HR managers may not be aware that the current discriminatory items on the application forms are non-work related injuries. Or, maybe the forms have not a high priority within the company (Clark, 1990).

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