

MEASUREMENT OF HUMAN RIGHTS: THE CASE OF FUNDAMENTAL
RIGHTS SECTOR IN TÜRKİYE

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ABSTRACT

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Türkiye's accession process to the EU is the longest compared to other candidate countries and one of the leading factors resulting in this uniqueness is the perception on state of human rights in Türkiye. Considering that protection of human rights is a prerequisite for the membership, it is imperative for Türkiye to improve its track record of human rights while the state of human rights is under constant monitoring of the EU. The main instrument for monitoring of the state of human rights in Türkiye is the annual Country Reports and recent reports highlight "a serious backslide" in human rights situation. On the contrary, the monitoring conducted under Instrument for Pre-Accession for the projects funded in Fundamental Rights Sector, based on indicators defined in the strategic documents indicates a slight progress. This contradiction reveals once again that the measurement of human rights is an elusive task. There are numerous challenges related to measurement of human rights. These challenges stems from information effects, which involve issues related to collecting and quantifying data, and changing standards, which arise from the broadening of human rights standards. The quantification of human rights data poses additional implications that hinder the effectiveness of measurement, leading to

doubts about validity, reliability and transparency of human rights indicators. The indicators in the fundamental rights sector fail to meet these three standards and fail to measure actual enjoyment of the rights by the citizens of Türkiye.

Keywords: Indicator, Human Rights, Measurement, Validity, Reliability

ÖZ

İNSAN HAKLARININ ÖLÇÜLMESİ: TÜRKİYE TEMEL HAKLAR SEKTÖRÜ ÖRNEĞİ

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Türkiye'nin AB'ye katılım süreci diğer aday ülkelerle karşılaştırıldığında en uzun olanıdır ve bu durumun önemli bir nedeni Türkiye'deki insan haklarının durumuna ilişkin değerlendirmelerdir. İnsan haklarının korunmasının üyelik için bir önkoşul olduğu göz önünde bulundurulduğunda, Türkiye'nin insan hakları sicilini geliştirmesi bir zorunluluktur. Bu nedenle, insan haklarının durumu AB tarafından sürekli olarak izlenmektedir. İnsan haklarının izlenmesi için başlıca araç yıllık Ülke Raporlarıdır ve son raporlar "ciddi bir gerileme" olduğunu vurgulamaktadır. Buna karşılık, Katılım Öncesi Yardım Aracı altındaki Temel Haklar Sektöründe finanse edilen projeler için stratejik belgelerde tanımlanan göstergelere dayalı olarak yapılan izleme, hafif bir ilerleme olduğunu göstermektedir. Bu çelişki, insan haklarının ölçülmesinin zorlu bir görev olduğunu bir kez daha ortaya koymaktadır. İnsan haklarının ölçülmesiyle ilgili birçok zorluk bulunmaktadır. Bu zorluklar, veri toplama ve sayısallaştırma ile ilgili sorunları içeren bilgi etkilerinden ve insan hakları standartlarının genişlemesinden kaynaklanan değişen standartlardan doğar. İnsan hakları verilerinin nicel hale getirilmesi, ölçümün etkinliğini engelleyen ek sonuçlar doğurarak insan hakları göstergelerinin geçerliliği, güvenilirliği ve şeffaflığı konusunda şüphelere yol açar.

Temel haklar sektöründeki göstergeler bu üç standardı karşılayamamaktadır ve Türk vatandaşlarının insan haklarından ne ölçüde yararlandıklarını ölçmekte başarısız olmaktadır.

Anahtar Kelimeler: Gösterge, İnsan Hakları, Ölçme, Geçerlilik, Güvenilirlik

To Esin, Toprak and Asya

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LIST OF ABBREVIATIONS

AD	: Action Document
EC	: European Commission
ECtHR	: European Court of Human Rights
EU	: European Union
ICCPR	: International Covenant on Civil and Political Rights
ICESCR	: International Covenant on Economic, Social, and Cultural Rights
IPA	: Instrument for Pre-Accession
ISP	: Indicative Strategy Paper
NGO	: Non-Governmental Organization
TCC	: Turkish Constitutional Court
U.S.	: United States
UN OHCHR	: United Nations Office of High Commissioner for Human Rights
UN	: United Nations

CHAPTER 1

INTRODUCTION

Türkiye's association with the European Union (EU) is unique as it is the longest compared to other countries that have already completed accession negotiations. On average, accession takes 9 years. Malta's accession took 14 years, which is one of the two longest accessions (Leppert, 2022).

Whereas, Türkiye's association with the EU traces back to the Ankara Agreement signed in 1964. Subsequent milestones include the endorsement of the Additional Protocol in 1973 and the establishment of the Customs Union in 1996. This progress led to Türkiye being designated as a candidate country during the Helsinki Summit in 1999. Negotiations officially commenced on October 3, 2005, following the decision made at the Brussels Summit in 2004 (AB Başkanlığı, 2023).

The extended duration of Türkiye's accession process can be attributed to various factors, such as Türkiye being "too big, too poor and too muslim" (Richburg, 2002). Supporting the claim partially, McLaren argues that Türkiye faces the obvious potential difficulty of being predominantly Muslim (McLaren, 2007 p. 258).

It's also observed that factors such as "the economic advantages of Turkish EU accession, cultural disparities, political beliefs, and citizens' overall attitudes toward the EU" contribute to the negative stance toward Türkiye's EU membership (Gerhards & Silke, 2011, p. 3). The political stances of EU member states on the Turkish membership (Müftüler-Baç, 2018 p. 124) is another factor contributing to the negative trend.

These obstacles can be described as political and social factors that hinder or impede Turkish accession. However, the EU negotiation process also possesses a technical

aspect, necessitating the fulfillment of specific benchmarks. On this technical side, a prominent argument on the long lasting accession process revolves around the state of human rights in Türkiye. Particularly following the 2016 coup attempt, EU criticism regarding Türkiye's human rights situation intensified. The EU's official position after 2016 can be summarized as "Rule of law, justice, and fundamental values have top priority in the accession process and that rules out EU membership for Turkey in the foreseeable future" (Müftüler-Baç, 2018 p. 120)

The importance of fundamental rights has consistently been paramount in the EU accession process and is not merely a concern arising in the aftermath of the coup attempt.

The political criteria integral to the Copenhagen Criteria, which should be fulfilled by the candidate countries, were outlined during the Copenhagen Summit in 1993 and encompass democracy, the rule of law, human rights, and the presence of institutions ensuring minority rights (European Council, 1993).

In addition, the Negotiation Framework places obligations on human rights at the core of the negotiations and stipulates that the negotiations will be suspended if a candidate country seriously and persistently breaches obligations on human rights (The Council of the European Union, 2005).

Therefore, the state of human right has always been under constant monitoring of the EU along with the other aspects of the accession negotiations.

The main instrument for monitoring of the state of human rights in Türkiye is the annual Country Reports (formerly known as Progress Report). The recent European Commission (EC) annual Country Reports highlight "a serious backslide" with regard to the human rights in relation to Chapter 23 on Judiciary and Fundamental Rights.¹ Council Conclusions of June 2018 also affirms that the human rights in Türkiye has been deteriorating (General Affairs Council, 2018).

¹ The comments in the EU Country reports receive backlash of Turkish authorities.

The legislative track of the EU also expresses criticism of Türkiye and reports that the situation regarding fundamental rights is deteriorating in the country (European Parliament, 2023). The Council of the EU, due to the “backsliding by Türkiye on democracy, rule of law and fundamental rights”, stated that “the accession negotiations have been at a standstill” since June 2018² and no new chapters will be closed or opened unless Türkiye makes progress on the political criteria (The Council of the European Union, 2018).

Hence, safeguarding and enhancing human rights represent a prerequisite for EU membership. Therefore, arguments advocating for the exclusion of Türkiye from enlargement initiatives, focusing on the state of human rights, are technically³ consistent.

However, there is another track of monitoring the state of human rights in Türkiye, which is the monitoring conducted under Instrument for Pre-Accession (IPA).

Türkiye's candidate status paved the way for it to benefit from the IPA. While the Union's financial assistance to Türkiye dates back to the 1960s, structured assistance began with the first IPA period (IPA I) in 2007. Türkiye continued to receive financial assistance under IPA II between 2014 and 2020, and as of 2021, it receives assistance from IPA III.

The state of human rights holds strategic importance within the IPA framework as well. The primary documents of the IPA also establish the state of human rights as a precondition for the continuation of financial assistance.

IPA II Regulation includes a statement by the European Parliament on the suspension of the IPA assistance “if a beneficiary country fails to observe the basic principles enunciated in the respective instrument and notably the principles of democracy, rule of law and the respect for human rights” (IPA II Regulation, 2014).

² <https://www.consilium.europa.eu/en/policies/enlargement/Turkiye/>

³ Based on the assesment of the EU bodies.

The statement of the Parliament was transformed into a condition in the preamble of the IPA III regulation (point 40), paving the way for the suspension of the funds in case of degradation (IPA III Regulation, 2021).

The Annual Financing Agreements of IPA and the Framework Agreement on the IPA III operate on the same principle. These agreements establish the framework for the provision of financial assistance. They also incorporate provisions for the suspension of funds in the event that a beneficiary fails to fulfill its obligations regarding human rights (*Financing Agreement-2014*, 2015). The Framework Agreement outlines provisions for adjusting the assistance in case of a significant regression in human rights (*Framework Agreement on IPA III Assistance*, 2022).

Monitoring under IPA is carried out using indicators outlined in the strategic documents of IPA. The fundamental rights sector, along with other sectors, was defined in the Indicative Strategy Paper (ISP) for Türkiye and includes a set of indicators, primarily quantitative in nature, as opposed to the qualitative nature of Country Reports.

Article 7 of the Implementing Regulation of IPA II mandates the establishment of the IPA Monitoring Committee, comprising representatives from the EC, National IPA Coordinator, and relevant authorities. The Committee's responsibility is to assess “the effectiveness, efficiency, quality, coherence, coordination, and compliance of all projects” funded under IPA. Additionally, the regulation necessitates the establishment of Sectoral Monitoring Committees dedicated to monitoring each sector within the IPA framework (IPA III Implementing Regulation, 2021).

These structures oversee the progress of projects funded under IPA, primarily through sectoral indicators.

The specifics of these indicators and the overall situation of fundamental rights sector will be discussed in the relevant section of this thesis. However, in general, Türkiye's performance, based on certain indicators in the fundamental rights sector,

can be viewed as stable or even progressing, while others support the arguments presented in the Country Reports.

For instance, “the number of judgements of ECtHR finding Turkey in breach of the ECHR (ECtHR)” (European Commission, 2015) has decreased over the years, from 94 in 2014 to 73 in 2022, indicating progress. Conversely, “the number of violation judgments rendered by the Turkish Constitutional Court (TCC)” (European Commission, 2015) has increased from 2,166 in 2018 to 35,407 in 2023, suggesting a regression.

Thus, the qualitative assessments by EU bodies and the quantitative sectoral indicators of the Fundamental Rights Sector often conflict, making it challenging to accurately gauge the state of human rights in Türkiye.

However, achieving a sound measurement of human rights has the potential to enhance EU-Türkiye relations and meet the negotiation precondition.

Firstly, sound measurement facilitates the identification of progress or regression. Based on this assessment, both the EU and Türkiye can collaborate on targeted interventions to address human rights gaps.

Secondly, sound measurement within the Fundamental Rights Sector, utilizing indicators, may supplement the qualitative assessments of the EC. This quantitative verification could help mitigate subjectivity, as indicated by Turkish officials, and potentially soften criticisms in the Progress Reports based on demonstrated progress through the indicators.

To ensure sound measurement, it's essential to identify and rectify issues related to both the measurement of human rights and the indicators themselves. Consequently, this study aims to address the question: "What are the shortcomings of the indicators of the fundamental rights sector?"

The focus of the study will be on IPA II sectoral indicators. IPA I was project-based without a sectoral approach, which hindered the measurement of impact.

On the other hand, IPA III projects have not yet been implemented, thus they have made no contribution to the improvement of human rights in Türkiye so far. Therefore, the study will be limited to IPA II sectoral indicators for a comprehensive analysis.

In order to do sound analysis of the indicators and human rights measurement, it is imperative to elaborate on the concept of human rights. Literature on human rights underscores that the definition of human rights is subjective and often influenced by a Western perspective, which tends to narrow the scope of human rights to civil and political rights. Drawing from the Turkish case, in the second part, I will assess what aspects of human rights are measured in Türkiye.

The third part of this study involves an analysis of the concept of indicators, including their definitions, the advantages they offer, and the associated problems. This analysis is crucial as the measurement of human rights is a risky endeavor (McNitt, 1988 p. 93) as there are numerous challenges related to the process of measurement primarily stemming from information effects, which involve issues related to collecting and quantifying data, and changing standards, which arise from the broadening of human rights standards (Haschke & Arnon, 2020).

The quantification of human rights data poses additional implications that hinder the effectiveness of measurement, leading to doubts about validity, reliability and transparency of human rights indicators (Merry, 2016). This section will also analyze the effectiveness of employing composite indicators in the Fundamental Rights Sector by examining one of the prominent human rights measurement mechanisms, the Freedom in the World index.

The fourth part will outline the framework for IPA, focusing on the measurement at the level of strategic documents, projects within the IPA Fundamental Rights Sector, as well as the indicators used in this sector along with their corresponding scores. The fifth part will delve into the discussion of shortcomings found in the Fundamental Rights Sector indicators.

Identifying these shortcomings is crucial for several reasons. Firstly, indicators are not just units of measurement but they set standards (Davis et al., 2012 p. 8-9). Thus,

the utilization of accurate indicators will promote progress and transformation. Secondly, for the EU, they will facilitate the sound design of financial assistance to achieve tangible results and implement relevant interventions in line with the alignment principle. Thirdly, for Türkiye, employing the correct indicators for the new IPA III term will help address pressing human rights needs and counteract negative perceptions

The fundamental assumption of this study is that indicators are valuable tools. Human rights indicators have demonstrated their utility in numerous instances, and as a key international human rights mechanism, the United Nations Office of the High Commissioner for Human Rights (UN OHCHR) conducted a study to identify universally applicable human rights indicators, despite recognizing their limitations (United Nations, 2012). Hence, enhancing the measurement of the human rights impact of EU-funded fundamental rights projects is significant and warrants improvement.

CHAPTER 2

HUMAN RIGHTS

The human rights literature encompasses various approaches, definitions, and categories, reflecting the complexity of the concept. Despite frequent references to human rights, it remains a contested notion, subject to differing interpretations and perspectives.

Given that the study focuses on analyzing the measurement of human rights in Türkiye within the framework of the Fundamental Rights Sector, it is crucial to delineate the scope of this sector. Moreover, the act of measurement requires the establishment of the boundaries of the concept of “human rights” (Green, 2001 p. 1066). Definitely, the boundaries and scope play a critical role in determining which indicators are most appropriate for assessing human rights within the Fundamental Rights Sector.

2.1. The Definition, Scope and Categories of Human Rights

As a legal definition, UN OHCHR defines human rights as “universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity” (United Nations, 2012 p. 9).

Indeed, human rights do not necessarily need a legal status provided by the laws. Landman argues that human rights are often regarded as moral principles that may or may not be recognized legally, yet states are bound by political norms to respect, protect, and fulfill them in their treatment of individuals. Human rights are not solely dictated by domestic laws but can also stem from international instruments (Landman & Carvalho, 2009 p. 9).

The boundaries of human rights are also subject to contestation. A cursory review of the literature reveals a dichotomy between civil and political rights and economic, social, and cultural rights (ESCR). While some scholars assert that civil and political rights alone constitute true human rights, others argue that ESCR should also be included. This dichotomy is intertwined with underlying political debates.

Those on the left are tend to include economic rights, income, health and physical conditions in their definition of human rights (McNitt, 1988 p. 92). They highlight the importance of economic fairness and equality, asserting that all humans should have access to fundamental necessities like food, shelter, and clothing, just as they are entitled to the protection of their civil and political rights (Fraser, 1995 p. 3).

Conversely, within the liberal democratic tradition, the scope of human rights is confined to civil and political rights. Adhering to classical liberal philosophy and natural rights theory, liberals argue that humans possess "inalienable rights," which primarily include civil and political rights such as the right to life, right to private property, right to free speech, and other protections against state and societal interference (Fraser, 1995 p. 1). This assumption also implies that civil and political rights are seen as prerequisites for achieving ECSR (Moyn, 2018 p. 131-132).

Following international documents can facilitate the delineation of human rights boundaries, as these rights have been defined and codified in key human rights documents:

The main instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR); the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Convention on the Elimination of all Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial

Discrimination; and the Convention on Rights of Persons with Disabilities (Green, 2001 p. 1067).

“The core human rights treaties, the ICCPR and the ICESCR, can be seen as the hard law whereas the remaining treaties adapt and modify the hard law for the needs and circumstances of a particular group” (Apodaca, 2014 p.6).

However, it must be acknowledged that even with the assistance of international instruments, defining and establishing the boundaries of human rights remains challenging. This is because human rights, as outlined in these international instruments, are inherently subjective, value-based, and subject to significant politicization (Thede, 2001 p. 266).

On the other hand, there is a consensus that human rights impose obligations on the state, requiring it to respect, protect, and fulfill these rights.

“The obligation to respect rights entails refraining from actively depriving people of their guaranteed rights. States should not deny or restrict access to the enjoyment of rights” (Landman & Carvalho, 2009 p. 23).

The obligation to protect rights involves preventing other actors from violating the human rights of people. The obligation to fulfill rights means that states should establish governance systems, allocate resources, and provide the means necessary for people to enjoy their human rights (Landman & Carvalho, 2009 p. 23-24). In short, the obligations approach requires states and other duty bearers not to violate or interfere (and prevent interference by the third parties) with the human rights, and to take action to realize them (United Nations, 2012 p. 9).

The UN OHCHR takes an idealistic stance by identifying human rights as universal, regardless of political, economic, and social systems. These rights are considered inalienable, inherent to all human beings. They are also interrelated and interdependent, meaning the enjoyment or realization of one right may depend on the enjoyment and realization of other rights. Additionally, “human rights are viewed as

indivisible, emphasizing that all civil, cultural, economic, political, and social rights are equally important, and the enjoyment of one right should not come at the expense of other rights” (United Nations, 2012 p. 11). However, this idealistic stance is subject to criticism, particularly regarding the universality of human rights, which is rejected by some scholars (Cingranelli, 1988 p. 8).

Various perspectives on human rights also gave rise to distinct categories of rights. From the perspective of states' duties regarding human rights, rights can be classified into Negative Rights, Positive Rights, and Solidarity Rights. Negative rights entail that the state must abstain from violating or obstructing the realization of a right (Apodaca, 2014 p. 7). Civil and political rights are frequently considered within the category of negative rights (Landman & Carvalho, 2009 p. 23-24). Within the realm of negative rights, personal integrity rights, such as the right to life and the inviolability of the human person, are particularly significant, given their universal nature and the requirement for absolute protection (Hafner-Burton & Ron, 2009 p. 364). Positive rights necessitate that states take action to ensure that individuals can enjoy their rights, such as the rights to vote, fair trial, and education (Apodaca, 2014 p. 7). It is important to note in this context that, states have an obligation to prevent violations by the third parties such as an employer holding workers in slavery like conditions (Green, 2001 p. 1067-1068). ESCR fall under the category of positive rights because realizing these rights often requires states to invest resources and take active measures to ensure their enjoyment by individuals (Landman & Carvalho, 2009 p. 23-24). Solidarity rights impose both positive and negative duties on states and aim to ensure individuals' access to public goods such as development and a healthy environment (Apodaca, 2014 p. 7).

Landman categorizes human rights based on their measurement into three dimensions: rights in principle, rights in policy, and rights in practice. Rights measured in principle refer to human rights codified in international law. The enjoyment of these rights requires formal recognition by states through ratification of relevant covenants and their incorporation into national laws. Rights measured in policy reflect the idea that states should actively implement policies to ensure the enjoyment of rights. This entails making sure that rights are available and accessible

to all individuals within the state's jurisdiction (Landman & Carvalho, 2009 p. 19-23).

Rights measured in practice are those that people actually enjoy, irrespective of the formal commitments made by a state. It is common to find a gap between the promises or commitments made by states and the actual realization of these rights by individuals (Landman, 2004 p. 916).

Another categorization suggests that successive generations of people have advocated for distinct categories of rights. Civil and political rights are defined as first-generation rights, while ESCR are categorized as second-generation rights. Solidarity rights, which encompass collective and environmental rights, are identified as third-generation rights (Landman & Carvalho, 2009 19-20).

Another categorization is based on the different capacities of states to facilitate the enjoyment of rights. Some rights require states to make investments, and the level of enjoyment may vary from country to country due to budgetary limitations. International mechanisms acknowledge that certain rights are subject to progressive realization when resources are lacking, whereas other rights require immediate realization (United Nations, 2012 p. 10).

Civil and political rights are subjected to the immediate realization (Landman & Carvalho, 2009 p. 22-23). Whereas, ESCR can be subjected to progressive realization as the enjoyment of by the all individuals may not be possible in a short time period (Fukuda-Parr, 2001 p. 240-242).

However, “this flexibility should not be misinterpreted as depriving the obligation of all meaningful content. States are still obliged to move as expeditiously and effectively as possible towards meeting the standards and use maximum available resources” (Green, 2001 p. 1070).

In light of the diverse interpretations of human rights and the ongoing debates surrounding their boundaries, it can be argued that there exist various definitions and

approaches to the concept, leading to further disagreements. In such a contested landscape, the task of measuring human rights and utilizing indicators becomes notably challenging. The following section will delve into the human rights indicators, covering their definitions, classifications, standards, and shortcomings.

CHAPTER III

HUMAN RIGHTS INDICATORS

From a technical perspective, it's evident that measurement offers benefits to both the observer and the subjects being observed. However, can measurement be effectively applied to a domain that is highly subjective and subject to differing interpretations? Is it genuinely meaningful to establish indicators for human rights?

The literature supports the notion that measurement in the context of human rights meets three key preconditions. Firstly, there exists an accountability relationship where states obligated by human rights conventions must report periodically on their efforts to uphold these rights. Secondly, in the international arena, significant distance separates parties involved due to factors like geography, language, culture, and economic disparities. Thirdly, there is mutual distrust between human rights monitors and governments regarding the accuracy of self-reported rights fulfillment. Additionally, states often mistrust those monitoring their human rights performance. These conditions collectively highlight the complex nature of applying measurement to human rights indicators (Rosga & Satterthwaite, 2012 p. 301-302).

On one hand, international law establishes standards for human rights despite the absence of a robust philosophical foundation for the concept of human rights. Violations of these rights persist, committed by both state and non-state actors. Individuals and groups can report on these violations, and practitioners have developed methodologies for documenting and reporting them. Therefore, measuring the state of human rights is not only possible but also valuable and necessary (Landman, 2004 p. 910-911).

The significance and necessity of indicators gained traction during the 1990s. International human rights organizations began to prioritize the study of human

rights indicators, adding to the groundwork laid by civil society organizations (CSOs) and academia in earlier years.

3.1. Brief History of the Indicators

Before 1970s, the studies of the measurement of human rights focused on political violence. Afterwards, measurement of human rights emerged as a serious topic. The main contributors to these studies were mostly Non-Governmental Organizations (NGOs) such as Amnesty International and Human Rights Watch, which adopted monitoring systems to track the human rights violations for advocacy purposes. In addition, Freedom House started annual publications in 1978. These studies were followed by the studies of the academics, mainly collections or reviews of the human rights measures (Landman & Carvalho, 2009 p. 2; McNitt, 1988 p. 89).

Treaty bodies also made important contributions to the development of the indicators for measuring the compliance with the international standards (Stremlau, 2019 p. 1381). In early 1990s, the Special Rapporteur on the Realization of ECSR recommended to explore the potential of the indicators to measure the progress towards the realization of the rights. The most significant effort was undertaken by the OHCHR to systematize the work of indicators. The studies begun in 2005 and produced the *2012 Human Rights Indicators: A Guide to Measurement and Implementation* (McGrogan, 2016 p. 388-389).

These endeavors facilitated the improvement of the human rights indicators, aiding in the identification of necessary standards and offering insights into the lifecycle of such indicators.

3.2. Definition, Standards and Trajectory of Indicator

Merry's definition of an indicator, which is widely recognized among scholars, acknowledges the term's vagueness and its potential to encompass both quantitative and qualitative techniques for organizing knowledge. According to Merry, an indicator is:

a named collection of rank ordered data that purports to represent the past or projected performance of different units. The data are generated through a process that simplifies raw data about a complex social phenomenon. The data, in this simplified and processed form, are capable of being used to compare particular units of analysis (such as countries or institutions or corporations), synchronically or over time, and to evaluate their performance by reference to one or more standards (Merry, 2016 p. 12).

The particularity of the human rights indicators, on the other hand, lies in human rights values and standards. They measure the degree of the fulfillment of the obligations flowing from the international standards (Skempes & Bickenbach, 2015 p. 4), are used to assess and monitor promotion and protection of human rights (Villarino & Vijayarasa, 2018 p. 993) and “used in measuring the extent to which a legal right is being fulfilled or enjoyed in a given situation” (Green, 2001 p. 1065).

Indicators are tools that represent social phenomena, but they are not the only means of representation. In addition to indicators, narrative texts or impactful photographs/videos can also be used to depict social phenomena. Each of these methods simplifies the message. The uniqueness of indicators lies in their ability to represent and convey compiled numerical data. Indicators fulfill the need for numerical, rank-ordered, and comparable data (Davis et al., 2012 p. 7).

However, not every unit of measurement qualifies as an indicator because indicators are expected to meet specific standards. There are three primary standards: Validity, Reliability, and Transparency.

Validity of an indicator depends on whether it accurately measures the intended concept or phenomenon. It should align with the definition of what it aims to measure (Apodaca, 2014 p.13-14) .

There should be, in principle, a relationship of equivalence between a measure and its concept. A valid measure should be free from errors, be it random or nonrandom. While achieving perfect validity is challenging, taking precautions may ensure optimum level of validity. Understanding the relationship between the measure and its concept is not straightforward. To avoid distorting this relationship, it's crucial to

carefully consider the measurement process during the construction of a measure (Shively, 2009 p. 48-51).

Reliability refers to the “stability, consistency, and reproducibility of the measurement. A reliable indicator yields consistent results when measurements are repeated” (Apodaca, 2014 p. 13-14). Reliability can also be associated with unpredictability in the relationship between the concept and its measurement, or from variability in the "true value" of the concept being measured. There are several factors that influence reliability. For instance, official statistics might lack reliability due to an unusual frequency of clerical errors or because of fluctuations in how categories are defined over time. Attitude measures could be unreliable if a question is difficult for respondents to comprehend, leading them to interpret it differently at different times. Additionally, errors may occur when individuals input their responses into the computer. Ensuring reliability typically involves careful work or double-checking procedures (Shively, 2009 p. 45-47).

Transparency requires that indicators disclose their definitions, sources, data collection methods, and coding rules used in their production. Without transparency, indicators may be biased or untrustworthy. In summary, indicators must meet these standards of validity, reliability, and transparency to effectively represent and measure social phenomena (Apodaca, 2014 p.13-14).

While these standards, validity, reliability, and transparency, are crucial for developing an ideal indicator, not all indicators may fully meet these criteria. Some human rights indicators, for instance, might focus on limited dimensions, resulting in a "slippage" where they fail to comprehensively measure the intended concept they are meant to represent. This issue highlights the complexity and challenges in developing effective indicators for human rights measurement (Barsh, 1993 p. 91).

Hence, the development of robust and ideal indicators necessitates going through specific phases. The development of indicators typically involves several phases: Conceptualization, Production, Uses of Indicators, Effects and Impacts of Indicators, Contestation (Davis et al., 2015 p. 11-17).

Conceptualization: This phase involves identifying the name and underlying theory of the social change or phenomenon to be measured by the indicator. It sets the foundation for what the indicator aims to capture.

Production: During this phase, useful datasets are identified for measurement, including potential proxies that can stand in for the phenomenon being studied.

Use of Indicators: Indicators serve as a source of knowledge and can be used for various purposes, such as forming beliefs, developing or testing scientific hypotheses, and informing decision-making. The uses of indicators can evolve beyond their original intentions, influenced by their circulation in media, among NGOs, and in political debates.

Assessment of Effects and Impacts: Evaluating the effects and impacts of indicators can be challenging but important. Studies suggest that indicators circulated through news and media can increase their acceptance and influence.

Contestation: Once created, indicators can become resistant to change. However, there are instances where indicators are contested, reflecting differing interpretations or critiques of their validity, reliability, or relevance.

Throughout these phases, indicators evolve and interact with various stakeholders and contexts, shaping perceptions, beliefs, and actions related to the measured phenomena. Understanding this life cycle can inform efforts to develop, interpret, and use indicators effectively in social and policy contexts.

It's important to recognize that different social and policy contexts may require the adoption of diverse types of indicators, whether quantitative or qualitative. Additionally, the choice of indicators may vary based on the specific aims of their utilization.

3.3. Types of Indicators

At a broad level, indicators can be categorized as quantitative and qualitative. Quantitative indicators present numerical data, while qualitative indicators provide

non-numerical information that captures qualities or perceptions. Some indicators may combine both quantitative and qualitative data to offer a comprehensive perspective on the phenomenon being measured (Davis et al., 2015 p. 4).

Merry's classification of indicators encompasses three categories. "Counts" refer to numerical data representing quantities of people, things, events, or laws. "Ratios" compare two numbers and enable cross-country comparisons by evaluating one number against another. "Composite indicators" are widely recognized and produce single scores or rankings that facilitate comparisons. Examples include well-known indices like the Rule of Law index and Freedom in the World.

Delamonica adopts Merry's categorization but labels counts as "first-order indicators," ratios as "second-order indicators," and composites as "third-order indicators." (Delamonica, 2023 p. 1158).

The UN OHCHR categorizes indicators into three main types: structural, process, and outcome indicators.

Structural Indicators: These indicators show the level of ratification and adoption of international human rights mechanisms, as well as the existence of basic institutional mechanisms associated with these international mechanisms.

Process Indicators: Process indicators measure states' efforts to translate human rights commitments into tangible results. They assess policies, specific measures, public programs, budget allocations, and other actions taken by states on the ground to realize a particular right.

Outcome Indicators: These indicators are designed to measure the real extent of people's enjoyment of a specific human right. They assess the impact of states' policies and actions on the realization and enjoyment of rights.

This categorization provides a comprehensive framework for evaluating different aspects of human rights implementation, from the adoption of international standards

to the tangible outcomes experienced by individuals and communities (Satterthwaite & Rosga, 2008 p. 40-42; United Nations, 2012 p. 34-37).

However, regardless of the types of indicators utilized, endeavors to measure human rights may inevitably encounter limitations stemming from inherent shortcomings in the indicators themselves, which can arise due to various factors.

3.4. Shortcomings of the Indicators

To uncover the shortcomings of the indicators used in assessing fundamental rights, this study will examine the issues highlighted in existing literature. The aim is to identify specific shortcomings that can also be observed in the Turkish context, providing valuable insights and guidance.

The study of the problems associated with the indicators is a twofold study. At one hand, there are technical problems that an in depth analysis may provide solutions. On the other hand, the very nature of the indicators and their employment is presented as a problem in itself by the critical approach.

3.4.1. Critical Approach to Human Rights Indicators

The critical approach does not aim to enhance measurement techniques, nor does it advocate for the rejection of indicators. Instead, it scrutinizes the attributes assigned to indicators and contends that they are more than mere units of measurement. The critical perspective argues that indicators are products of Western ideology, not universally applicable, inherently political rather than purely technical, and often serve the interests of their creators as tools of foreign governance. Another key issue highlighted is not with the indicators themselves but with the nature of measurement, encapsulated by the paradox of measurement.

3.4.1.1 The Paradox of Measurement

The act of counting is a political decision because states choose to count what they deem important. Objects or phenomena that are quantified become targets for intervention, whereas those left uncounted remain overlooked. Unquantified

elements typically lack the chance to become subjects of reform or improvement efforts (Merry & Wood, 2015 p. 206-207). Thus, the choice of what to measure reflects specific political preferences. This results in the measurement of what aligns with ideological aspirations rather than capturing the full spectrum of human rights realities.

In addition to political preferences, the perception of what is countable or measurable also influences the selection of indicators and contributes to the paradox of measurement. It is simpler to measure what is already acknowledged as measurable, whereas quantifying aspects that have not been measured before poses greater challenges in translating them into numerical data (Merry & Wood, 2015 p. 207). Focusing solely on measuring what is already familiar or easy to measure can prioritize certain elements, giving them prominence. Meanwhile, neglecting to measure other potentially more important or problematic aspects can lead to categorizing them as irrelevant or less significant (Delamonica, 2023 p. 1155). As stated by the UN High Commissioner for Human Rights Navi Pillay, “we treasured what we measured, rather than the other way around” (Merry & Wood, 2015 p. 207).

Ultimately, emphasizing what is easily measurable and prioritizing it as "what is measurable" rather than "what truly matters" can diminish the moral discourse within the realm of human rights. This approach shifts the focus away from fundamental ethical considerations, potentially undermining the core values and principles of human rights advocacy (McGrogan, 2016 p. 402) and the results of measurement efforts fall short of reflecting the actual state of human rights.

3.4.1.2 The Objectivity of the Indicators

“The technical is always political.” (Merry, 2016 p. 19)

“Human rights are values – they cannot be approached as value-free.” (Theede, 2001 p. 264)

There is a common assumption or perception that human rights indicators are inherently technical and objective in nature. They are often viewed as bureaucratic

tools rather than political ones, leading to the belief that they are free from the problems and controversies typically linked to political decision-making (Boggio, 2020 p. 898).

However, indicators for human rights are inherently political. Their definition can be contentious, and their use often aligns with the political objectives of different parties. Thus, the idea of impartial indicators is deceptive, as these metrics are heavily influenced by political dynamics and agendas (Thede, 2001 p. 264).

The values, interest or the political preferences of the producers are embedded in the indicators. These indicators reflect the social and cultural contexts of the actors who developed them (Merry, 2016 p. 4-5). This process may occur intentionally or unintentionally, but ultimately, the outcomes of the indicators are shaped by the producer's perspective. Indicators set standards and embody a theoretical claim or an ideology about what constitutes a good society (Davis et al., 2012 p. 9). Those who create indicators aim to measure the world, but in practice, they often end up shaping or influencing the world they are attempting to measure (Merry, 2016 p. 19-20).

It's important to note that human rights indicators and indexes are predominantly developed in affluent Western capital cities. As a result, these indicators tend to construct a world view that reflects Western perspectives (Stremlau, 2019 p. 1379-1381) such as liberal norms (Cruz, 2017 p. 730).

The promotion of using indicators by Western countries is not surprising given that indicators serve as one of the technologies of governing at a distance. Acknowledging indicators as a tool of global governance implies that the actors promoting these indicators should be considered as governors, even if they might not otherwise be recognized as wielders of power in global governance, or only to a limited extent. Thus, indicators assist Western countries in shaping and consolidating power in the global arena (Davis et al., 2012 p. 13), granting privilege of rulemaking beyond their sovereignty (Büthe, 2012 p. 39).

3.4.1.3. Universality of the Indicators

The claim of universality attributed to indicators is challenged by the qualitative approach. This approach argues that "meaning" can only be grasped through

subjective methods, leading to results that are not directly comparable. For instance, the interpretation of concepts like freedom may vary significantly across different cultures and contexts (Barsh, 1993 p. 96).

The local context may be unfamiliar with or may outright reject the standards imposed by global instruments (Merry & Wood, 2015 p. 206).

Translation and commensuration may be used to make sure that human rights indicators are applicable locally, but these processes pose additional challenges. Translation faces various hurdles such as conceptual, cultural, and linguistic differences. Commensuration involves simplifying and decontextualizing concepts to make them quantifiable. Both translation and commensuration redefine concepts, but in distinct manners. Translation shifts something from one context to another, while commensuration places several different elements together in one context and attempts to combine them based on their similarities, disregarding their difference (Merry & Wood, 2015 p. 207).

In addition to questioning the objectivity and universality of indicators, the critical approach highlights another important aspect. Thede argues that indicators can become autonomous from the methods and analysis used to create them. This means that the process of creating the indicator becomes invisible, and the indicator is used independently of the analysis that produced it. As a result, inappropriate statistics or indicators may be used without proper questioning or scrutiny (Thede, 2001 p. 267). After a certain time period, the indicator itself becomes the “fact” (Stremlau, 2019 p. 1391).

Alongside gaining autonomy, indicators also acquire power and can become resistant to change. This phenomenon is described by Merry as "the quiet power of the indicators" (Merry, 2016 p. 8).

Therefore, according to the qualitative approach, the true essence of indicators is revealed “only when the curtain on the seductive magic of indicators is pulled” (Boggio, 2020 p. 897).

3.4.2. The Technical Shortcomings Associated with the Indicators

Apart from the criticisms raised by the qualitative approach, there are several commonly cited issues with human rights indicators that impact their validity, reliability and transparency.

Indicators serve as tools for measurement, but the process of measurement inherently has limitations. Barsh states that the measurement involves an instrument (the indicator) and an observer, both has the potential to introduce errors in data (Barsh, 1993 p. 90) thus leading to erroneous measurement (Haschke & Arnon, 2020 p. 33).

Firstly, human rights indicators are unable to fully encompass the entirety of human rights or the contextual complexities surrounding human rights issues. The measurement attempts are often limited to a subset of rights, whereas human rights law encompasses a vast array of rights, at least covering nine major international covenants and conventions (Brook et al., 2020 p. 69).

Additionally, contextual challenges arise with the specific rights that are included in measurement attempts.

Converting human rights into quantitative data requires presentation in numbers (Merry & Wood, 2015 p 205-206) and subject matter of an indicator (human rights in this case) must be technically and practically convenient for quantification (Satterthwaite & Rosga, 2008 p. 29).

However, quantification of the human rights distorts the complexity of the human rights (Merry, 2016 p. 1-2), strips them away from their context (McGrogan, 2016 p. 405) and their meanings are narrowed (Thede, 2001 p. 266).

It may lead to “oversimplification, homogenization, and the neglect of the surrounding social structure” (Merry, 2016 p. 1-2).

Secondly, human rights measurement is heavily dependent on data collection and often relies on reported violations. Despite efforts by human rights organizations to

document violations, it is impossible to measure and report all instances of human rights abuses. Therefore, what is reported represents only selective observations rather than a comprehensive account of all violations (Arnon et al., 2023, p. 167).

Underreporting is a significant factor that hampers accurate measurement of human rights violations (Landman, 2004 p. 923-924). As an example, because of the state coercion (Stohl et al., 1986 p. 594), the victims of the violations may be afraid to report (Apodaca, 2014 p.5) and “only a small percentage of the incidents come to light” (McNitt, 1988 p. 95).

Additionally, collecting data can be expensive, posing challenges for poor countries and non-governmental organizations (NGOs) that may struggle to allocate resources for comprehensive data collection activities (Merry & Wood, 2015 p. 206).

On the contrary, considering that indicators can be used for propaganda (McNitt, 1988 p. 94), over-reporting may also occur due to exaggerated reports of violations (Landman, 2004 p. 923-924).

State bias is an additional factor exacerbating the challenges of data collection. None of the states want to be perceived as human rights violator (Villarino & Vijayarasa, 2018 p. 1013).

Therefore, it is not a secret that many of the states are tend to conceal their human rights violations, deny or try to justify their wrongdoings on the accounts of security (Clay et al., 2020 p. 716) as” human rights is a label for a specific political struggle/negotiation over the border between security and politics” (Wæver, 1995 p.59).

Consequently, it is highly likely that states do not produce or maintain accurate, honest, and transparent data that would enable a sound measurement of human rights (Brook et al., 2020 p. 68).

Especially, “violations of civil and political rights, such as the number of deaths in custody, may never be accurately collected or reported by states” (Satterthwaite & Rosga, 2008 p.14).

In addition to the absence or concealment of data, states may also manipulate data to improve their rankings, such as for securing more foreign funding or support (Stremlau, 2019 p. 1382). Instead of improving the actual enjoyment of rights, states may prioritize achieving better results in indicators to project a favorable image without addressing underlying issues affecting the enjoyment of rights (Satterthwaite & Rosga, 2008 p. 32-33).

Therefore, the credibility of the data provided by states is questionable. While some data provided by states may be considered credible, not all credible data is made public or readily accessible (Clay et al., 2020 p. 717).

Arnon's and Haschke's analysis (Haschke & Arnon, 2020 p. 35-42) offers a systemic approach, with additional factors effecting the validity and reliability of the indicators. Their argument revolves around the seven themes of biases.

1. Changing Standards

The definition of what constitutes a human rights violation has evolved since the inception of human rights measurement. Acts by states that were once not considered violations are now recognized as such. Initially, human rights monitoring focused on grave incidents like extrajudicial killings, but now even the use of excessive force is deemed a violation. Over time, human rights standards and expectations from states have become more stringent.

As a consequence, genuine improvements in human rights conditions can be obscured by these changing standards.

Therefore, measuring the state of human rights in a country across different time periods may not yield reliable results due to shifting definitions and expectations regarding human rights violations.

2. Information effects

Over time, the monitoring capacity of human rights monitors such as NGOs and scholars has improved. Even if their perception of human rights remains consistent, they have enhanced their ability to identify violations.

They now "look harder and look in more places" to collect data on human rights abuses.

3. Reporting Bias I

The mandate and the agenda of the monitoring organization potentially may introduce bias to the measurement of the human rights. As an example, Human Rights Watch may not report incidents that were reported by Amnesty International as these incidents do not receive attention by the Human Rights Watch. Therefore, reporting organizations cannot claim that their reports are truly reflecting the state of human rights in a country.

4. Reporting Bias II

In relation to the changing standards bias, international human rights NGOs may introduce bias in their reporting. These NGOs have incentives to report human rights violations. Given that the human rights situation improves all around the world, these NGOs may face difficulties to mobilize their members and attract donations. In order to maintain the support they receive, international NGOs change their standards and continue to report "bad news".

5. Access Effects

The extent of data that can be gathered varies from one country to another. As mentioned earlier, governments may have reasons to obstruct or manipulate data, and victims themselves may be motivated not to report violations. This variability makes comparing countries risky. Moreover, the availability of information can change over time depending on a country's political climate. Therefore, attempting to identify trends in human rights over different time periods can lead to inaccurate conclusions. It's worth noting that the "access effect" reflects the fluctuating availability of data from countries, while the "information effect" stems from improvements in monitoring capabilities.

6. Transparency Effects

Transparency effects fall under the category of information effects. Unlike access effects, certain countries might deliberately offer more accurate, reliable, and comprehensive data regarding human rights conditions. Consequently, these countries could receive lower scores compared to others that do not provide as much data.

7. Coder Effects

Another possible source of bias, often overlooked in existing literature, concerns the coders responsible for assigning scores to individual human rights reports. Coder effects arise from the bias introduced by inconsistent application of coding rules as defined in code books. This inconsistency in applying coding rules may result from turnover among coders and their evolving interpretations of those rules over time.

Human rights indicators neither encompass the entire range of rights protected under international instruments nor comprehensively measure all violations of the rights they aim to assess. As a result, measuring the complete spectrum of human rights and all their violations remains a challenging and elusive task (Clay et al., 2020 p.717).

In conclusion regarding the problems associated with indicators, it should be noted that despite inherent limitations in their nature and technical challenges hindering accurate measurement, the demand for indicators is growing due to several advantages they offer. This suggests that the benefits provided by indicators outweigh potential risks posed by the aforementioned problems.

3.5. The Advantages of the Indicators

The use of human rights indicators offers several advantages, with some of the most commonly addressed ones including:

- “Demonstration of compliance with obligations, fulfillment of rights, and government efforts toward these goals;

- “Capturing progress over time and across countries and simplify the monitoring process”.
- “Allowing for comparison across countries and over the years.” (Rosga & Satterthwaite, 2012 p. 297-299; Villarino & Vijayarasa, 2018 p. 989; Nelken, 2015 p. 321; Stremlau, 2019 p. 1382; Landman & Carvalho, 2009 p. 4-5; Andreassen & Sano, 2007 p. 278; Apodaca, 2014 p. 2-8)

The list is not limited to those benefits. Firstly, indicators hold states accountable (Merry, 2016 p. 3-4), urges for the alignment with global standards (Nelken, 2015 p. 319). The employment of indicators may “give early warning of potential violations of human rights, and suggest preventive action” (Harrison, 2011 p.166) and decrease the level/number of human rights violations by preventing denial or ignorance of the violations through the statistical data (Apodaca, 2014 p.2). Studies have demonstrated that being aware of being observed can cause adjustment of the behavior to align with the observer's expectations (Büthe, 2012 p. 44-45).

Secondly, assuming that the indicator can provide accurate data, indicators enable informed decision-making and facilitate policymaking. By distilling information, indicators can aid decision-making when detailed contextual information is lacking (Merry, 2016 p. 1-4). Consequently, relying on indicators should theoretically reduce the resources (such as time and money) needed for decision-making (Nelken, 2015 p. 321). This characteristic can also be identified as a hallmark of modern welfare states, where reliance on statistical information is integral for identifying problems and formulating policies (Bogdandy & Goldmann, 2012 p. 52).

Thirdly, the use of indicators can facilitate and justify the development of aid programming. The availability of indicators has created a new demand from international donors such as the UN, World Bank, and individual countries like the UK and Canada to incorporate human rights assessments into their aid programs. International donors use indicators to identify intervention methods that address the needs of partner countries for improving human rights (Landman & Carvalho, 2009 p. 3). In this sense, indicators hold significance because donors require and value them for their perceived precision and scientific legitimacy. Indicators help donors justify their expenditures, the extension of aid, and the methods of intervention. The

use of indicators in distributing foreign aid also creates an incentive for aid recipients. Given that a favorable ranking in indicators can attract more foreign aid or investment, indicators incentivize recipients to strive towards achieving the ideal societal standards defined by donors (Nelken, 2015 p. 319 -321).

Fourthly, the neutrality of indicators can be particularly valuable in driving difficult changes. The existence of an indicator, as a technical measurement, can depoliticize contentious issues. This allows governments to frame their policy alignments as technical and apolitical measures aimed at improving human rights conditions in their countries (McGrogan, 2016, p 400).

Landman seeks to categorize the advantages associated with using indicators in human rights contexts: “(1) Contextual description and documentation, (2) Classification, (3) Monitoring, (4) Mapping and pattern recognition, (5) Secondary analysis and policy prescription, (6) Advocacy and political dialogue” (Landman & Carvalho, 2009 p. 4-5).

The benefits of using indicators are particularly relevant to the work of NGOs and human rights defenders. Indicators provide NGOs with robust, evidence-based arguments to influence state policies (Harrison, 2011 p.166) and assist them in designing and proposing policies for the enhancement of human rights (Thede, 2001 p. 259). Incorporating measurement into their activities provides NGOs with further benefits, including ensuring continuous and growing support, fulfilling the moral obligations of NGOs, fostering more collaboration both regionally and transnationally, and addressing an increasingly diverse array of human rights issues (Raine, 2006 p. 1).

Given all these benefits, the significance of quantitative research in the study of human rights should not be underestimated. The use of quantitative research yields significant insights and advancements in our knowledge and understanding of human rights (Apodaca, 2014 p.2).

A prominent example highlighting the benefits of using indicators is the production of global indexes by NGOs. These indexes have served as key references in

numerous human rights studies. Nonetheless, despite their advantages, they have faced scrutiny and criticism due to their inherent limitations.

3.6. Case Study of Indexes

Studying composite indicators or indexes can offer valuable insights into the arguments presented by the critical approach, as well as the challenges associated with indicators and the benefits of using them. The case study will concentrate on Freedom in the World Index.

3.6.1. Freedom House and the Freedom in the World Index⁴

Freedom House is one of the leading human rights organizations, alongside others like Amnesty International and Human Rights Watch. Its reports are highly regarded and frequently referenced in human rights studies for assessing the state of human rights across countries.

However, Freedom House also faces substantial criticism. Many allegations suggest that they manipulate data to favor United States (U.S.) interests, rely heavily on dissidents' claims in their reports, and overlook the perspectives of governments in question.

The Freedom House was founded in 1941, but its conceptual roots date back to the 1930s. The organization's name was a direct response to the Nazi Party's headquarters, known as the Braunes Haus (Bradley, 2015 p. 32). Initially, the organization was conceived as a campaign against Nazism (Davis et al., 2015 p. 6). After WWII, the threat of communism replaced Nazism (Bradley, 2015 p. 32), and Freedom House continued to advocate for the same fundamental ideology (Davis et al., 2015 p. 6), the advancement of freedom worldwide. While the concept of freedom itself is not explicitly defined, Freedom House emphasizes liberal democracy (and to a lesser extent, a market economy) as essential prerequisites for freedom (Bütke, 2012 p. 48).

⁴ Christopher Bradley's analysis of Freedom House provides a detailed insight to Freedom House and in this section his study was taken as a basis.

Since its founding, the NGO has concentrated on three primary areas: research, advocacy, and activism. Despite the organization's renowned research efforts, advocacy remained a central focus due to the limited staff capacity. Bradley notes that "Freedom House has often been smaller in size than its reputation might imply" (Bradley, 2015 p. 33).

The NGO's reputation is primarily attributed to the Freedom in the World Index, which was first introduced in 1955. In the postwar era, Freedom House aimed to promote its ideology and started publishing the "Balance Sheet of Freedom," featured in the Freedom House Newsletter and Year-end Review. Each sheet summarized "gains" and "losses" in global freedom. The production of these sheets was relatively informal and in-house, lacking sophisticated mechanisms. Despite a quantitative approach, the Balance Sheet did not include numerical ratings initially. Early versions of the sheet did criticize deficiencies in the U.S., particularly regarding racial discrimination, but its primary focus was on Soviet encroachments, dictatorships, and perceived injustices abroad (Bradley, 2015 p. 32-33).

The Balance Sheet of Freedom evolved into the Comparative Survey of Freedom in 1972, which adopted a more formalized and quantitative structure. This survey was part of the broader Map of Freedom initiative, which color-coded countries as "free," "not free," or "partly free" based on the survey's findings. Both the map and survey were based on the work of academic Raymond Gastil, who was commissioned by Freedom House to conduct this research.

In 1978, the Freedom in the World Indicator replaced the Survey. This indicator continued the practice of labeling countries based on their freedom status. Since then, the Freedom in the World Index has become the flagship product of the organization, symbolizing its commitment to assessing and promoting freedom worldwide (Bradley, 2015 p. 35).

The Freedom in the World Indicator primarily emphasizes "negative rights," which are largely based on the rights outlined in the ICCPR. Freedom House tends to overlook other types of "freedom," such as those outlined in the ICESCR. The

indicator focuses on measuring the actual extent of freedom experienced by individuals, rather than solely assessing formal protections of rights like constitutional provisions (Bradley, 2015 p. 41).

In the Freedom in the World Index, countries are categorized as "free," "partly free," or "not free" based on their scores for civil liberties and political rights. The ratings for political rights and civil liberties are determined by a series of questions, resulting in subscores ranging from 0 to 40 for political rights and 0 to 60 for civil liberties. These subscores are then converted into a scale from 1 to 7, where 1 represents the best score and 7 represents the worst. Countries with average ratings of 1.0 to 2.5 are classified as "free," those with ratings of 3.0 to 5.0 are considered "partly free," and countries scoring between 5.5 and 7.0 are labeled as "not free." (Büthe, 2012 p. 48). The results of the Freedom in the World Indicator are complemented by a detailed narrative country report, which provides additional context and explanations for the rankings (Bradley, 2015 p. 39).

While the Freedom in the World Index is widely respected and used, it does have several shortcomings leading suspicion about the validity, objectivity and transparency.

Firstly, the indicator is not fully transparent. The indicator seeks to assess freedom across countries, but the methodology and data sources used for measurement are not transparent. In recent years, there have been efforts to release some intermediate levels of the indicator's ratings and improve transparency in the methodology, but significant transparency gaps still remain (Bradley, 2015 p. 36).

Secondly, the validity of the indicator can be called into question because the data collected for the indicator itself may be questionable or unreliable. Previous versions of the index used a loose and intuitive rating system that relied on hunches and impressions. Data collection primarily involved gathering information from public sources (Bradley, 2015 p. 36-39).

Furthermore, while the operationalization of the scale ranks is comprehensive, it is also somewhat vague. The scales encompass a range of human rights dimensions, but

these specific dimensions are not clearly specified (Stohl et al., 1986 p. 598-599). Therefore, there are concerns about whether the index can accurately measure the full breadth of freedom in countries comprehensively.

Thirdly and most significantly, the objectivity of the indicator is highly questionable. The index is criticized for serving U.S. interests. Indeed, given the history of the index, it's evident that both the indicator and the Freedom House organization align with U.S. interests. The NGO's campaigns historically targeted U.S. international rivals, including Germany in the 1940s and the USSR until the 1990s. However, the allegations extend beyond mere alignment of interests between the U.S. and the NGO's objectives.

“Not Free” countries have lodged complaints against Freedom House with the UN, alleging that it is not an independent NGO but rather an instrument of the U.S. government” (Bradley, 2015 p. 34). This assertion is based on the financial relationship between the NGO and the State Department, as well as individuals from high-level positions within the NGO's board having ties to the U.S. government.

Until the mid-1990s, the NGO heavily relied on funding from the U.S. government. Members of the NGO recognized that this funding could introduce bias but viewed it as a necessary compromise because it enabled the NGO to expand its global impact (Bradley, 2015 p. 43). “Prominent politicians like former Secretary of Defense Donald Rumsfeld and his deputy Paul Wolfowitz have held positions or advisory roles at the NGO. Additionally, there has been a flow of staff between the U.S. government and the NGO” (Stremlau, 2019 p. 1384).

Freedom House responded by “stating that it keeps funding for the Freedom in the World indicator separate from government funds to ensure the indicator's autonomy. Additionally, the organization pointed to its track record of criticizing the U.S. government as evidence of its independence” (Bradley, 2015 p. 44). However, these explanations did not dispel the conspiracy theories surrounding Freedom House's independence from the U.S. government.

In summary, the case of Freedom House confirms that indicators are influenced by the interests of their producers and the context in which they are produced (Bradley, 2015 p. 28).

The methodology used to produce the scores is not transparent, and the data sources used are highly questionable, resulting in the questioning of the validity, objectivity and transparency of the index. Despite these issues, the indicator has clearly been widely used and, by all indications, has been influential, including in public discourse (Büthe, 2012 p. 48).

This scenario exemplifies the arguments of the critical approach. Over time, the indicator has gained significant influence and acceptance without thorough scrutiny of its methodology. It has become widely accepted as a reliable measure without adequate questioning or transparency regarding how its scores are derived.

Composite indicators have additional shortcomings. They are often self-referential, meaning they aggregate and analyze data from each other, sometimes leading to different interpretations of the same events. Furthermore, producers of composite indicators may exaggerate human rights situations in certain countries to garner media attention and increase their popularity, as the impact and visibility of these indicators can hinge on the severity of their findings (Stremlau, 2019 p. 1380-1383). In 2005, a survey of American and Western European "opinion leaders" indicated that Amnesty International held a stronger reputation compared to many prominent corporations (Hafner-Burton & Ron, 2009 p. 361).

3.7. Conclusions on the Indicators

As conclusion it should be stated that the indicators have certain shortcomings affecting the validity, reliability and transparency.

Indicators do not capture the complete scope of human rights or all aspects of specific rights. They oversimplify the rights in question and remove them from their original contexts. The data used for measurement is often insufficient to make

accurate assessments. Combined with changing standards, cross-country comparisons or changes in a country over the years become a challenging task. Moreover, ensuring the objectivity and universality of the indicators cannot be guaranteed.

Despite their limitations, the use of indicators and indexes has increased significantly without sufficient attention paid to these limitations (Satterthwaite & Rosga, 2008 p. 3) and the employment of indicators and indexes continues to expand (Barsh, 1993 p. 91).

Nevertheless, the benefits provided by indicators, including their ability to facilitate decision-making and hold states accountable for wrongdoing, outweigh their limitations. In fact, many of the issues associated with indicators are not unique to them but also extend to the broader international human rights protection system (Villarino & Vijayarasa, 2018 p. 1016). Therefore, instead of disregarding the study of human rights indicators, efforts should be made to develop more robust methodologies.

Efforts aimed at enhancing methodologies should undoubtedly take into account the policy context within which indicators operate. Given that this study focuses on identifying the shortcomings of indicators in the Fundamental Rights Sector under IPA, the following section will delve into the financial cooperation between Türkiye and the EU, as well as into Fundamental Rights Sector.

CHAPTER 4

TÜRKİYE AS A BENEFICIARY OF IPA AND FUNDAMENTAL RIGHTS SECTOR

4.1. Türkiye as a Beneficiary of the IPA⁵

Türkiye has been receiving financial support from the EU since the signing of the Ankara Agreement, with the majority of this support provided after 1999. Following the granting of candidate status, Türkiye began receiving financial assistance in the form of grants under a unified framework. Between 2002 and 2006, the volume of financial support reached €1.3 billion. After the start of accession negotiations, the amount of financial assistance provided to Türkiye increased significantly compared to previous periods (Avrupa Birliği Başkanlığı, 2024b).

Financial assistance became more systematic with the establishment of the IPA in 2006. Since then, it has evolved into the primary financial and technical assistance instrument for candidate and potential candidate countries, aiding them in aligning with Union standards (AB Başkanlığı, 2021). The objective of IPA was defined as “supporting candidate countries in their gradual alignment with EU standards and policies, with the aim of eventual membership” (IPA I Regulation, 2006). IPA funds are structured to cover 7-year periods in alignment with the European Union budget cycle. The initial implementation, IPA I, spanned from 2007 to 2013. Following this, IPA II was crafted for the 2014-2020 period, building strategically upon the experience and outcomes of IPA I (AB Başkanlığı, 2021).

Türkiye received €4.7 billion under IPA I and continued to receive financial assistance under IPA II, which introduced a sectoral approach. This approach aimed

⁵ A more detailed information can be found at <https://www.ab.gov.tr/5.html>.

at “ensuring a more long-term, coherent, and sustainable strategy, fostering increased ownership, facilitating donor cooperation, eliminating duplication of efforts, and enhancing the efficiency and effectiveness of pre-accession funds” (European Commission, 2014 p. 3). The assistance under IPA I was provided on a project basis, targeting specific individual interventions. Therefore, the novelty of IPA II was to ensure consistency and complementarity between projects, aiming for improved impact by coordinating efforts and ensuring that projects work together effectively.

Under IPA II, there were 9 sectors defined in the ISP, namely “democracy and governance; rule of law and fundamental rights, environment and climate action; transport, energy, competitiveness and innovation; education, employment and social policies; agriculture and rural development; territorial and regional cooperation” (European Commission, 2014).

The total amount allocated for Türkiye was initially expected to be more than 4 billion euros, a figure similar to the IPA I allocation. However, due to negative assessments by the European Parliament and the European Council regarding the state of human rights and the rule of law in Türkiye (Barigazi, 2017), the EU made significant budget cuts, reducing the total allocations to 3.2 billion euros. Within this allocation, the Rule of Law and Fundamental Rights sector was allocated 455.6 million euros.

Starting with 2021, Türkiye continues to receive financial assistance under IPA III. IPA III introduced another novelty, preserving the sectoral approach, clustered different sectors and identified 5 windows namely, “Rule of Law, Fundamental Rights, and Democracy, Good Governance, Acquis Alignment, Good Neighborly Relations, and Strategic Communication, Green Agenda and Sustainable Connectivity, Competitiveness and Inclusive Growth, territorial and regional cooperation” (IPA III Regulation, 2021) .

Türkiye received a total of EUR 9.2 billion from IPA, with 48.2% allocated during IPA I and 25% during IPA II. This allocation represents the highest share awarded to a beneficiary country for EU accession preparations. Through nearly 900 projects,

these funds have significantly bolstered administrative and institutional capacity of Türkiye (AB Başkanlığı, 2021).

4.2. Fundamental Rights Sector

The importance of protecting human rights is clearly emphasized in the legal documents governing the accession process and IPA. The promotion and protection of human rights are prerequisites for both the accession process and the continuation of financial cooperation between candidate countries and the EU. Drawing from lessons learned in previous accession cycles, the EU introduced the "fundamentals first" principle in 2012. This principle prioritizes the opening and closing of Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom, and Security) early in the negotiations. This approach allows “maximum time for establishing necessary legislation, institutions, and a solid track record of implementation” (European Commission, 2012).

Therefore, the reforms in these areas and the financial assistance provided to improve fundamental rights play a crucial role as facilitators of the reforms and are important determinants of the outcome of the accession process. That is why financial assistance has always been provided for reforms related to human rights under IPA.

The Fundamental Rights sector was initially defined in the last two years of IPA I. The Multi-Annual Planning Document (2011-2013) emphasized that to increase the impact of IPA and focus on achievable results, the Commission would concentrate on targeted sectors. Acknowledging that the number of fully developed sector programs for candidate countries was limited, the Commission began transitioning to a sectoral approach by prioritizing key sectors. The Justice, Home Affairs, and Fundamental Rights sector was among the seven sectors identified in the document (European Commission, 2011 p. 3-4). The budget allocation for the Justice, Home Affairs, and Fundamental Rights sector was 439.7 million euros for the years 2011-2013. Combined with the previous years of IPA I, the total allocation for this sector amounted to 813.3 million euros (European Commission, 2011 p. 12).

During the IPA II period, which is the main focus of this thesis, a comprehensive sectoral approach was introduced. Building upon the logic of IPA I and the "fundamentals first" principle, the topics related to Chapters 23 and 24 were grouped together under the sector named "Rule of Law and Fundamental Rights." It's important to note that this sector was further divided into sub-sectors. According to the ISP for Türkiye, the identified sub-sectors were (1) Home Affairs and (2) Judiciary and Fundamental Rights. Within the latter sub-sector, Fundamental Rights was established as a sub-field (European Commission, 2014 p. 22).

The scope of financial assistance in various areas and sectors is determined by documents published by the EC. For IPA II, the scope was defined by the ISP. The ISP includes a problem analysis for each sector, defines subjects for potential interventions, and sets objectives and high-level indicators to measure progress in the sector. Initially published in 2014, the ISP was revised in 2018. Since the latest document is the most current and effective, this study will be based on the revised version from 2018. The expected results defined in the ISP follows as:

“Improved capacities of institutions, including CSOs, in charge of protecting and guaranteeing the respect and defense of Fundamental rights; Improved legislative and regulatory framework in line with EU and international standards” (European Commission, 2014)

The adoption of the sectoral approach necessitated the creation of new bodies for financial cooperation, specifically Lead Institutions, which are responsible for overall programming and monitoring within their respective sectors. The Directorate for European Union Affairs (formerly a Ministry) serves as the lead institution for Fundamental Rights sector. This institution is responsible for programming and monitoring of projects within the sector (AB'den Sağlanacak Katılım Öncesi Fonların Yönetimi Hakkına Başbakanlık Genelgesi, 2015).

4.3. The Fundamental Rights Projects of IPA II⁶

The total number of projects programmed under the Fundamental Rights sector was initially 19⁷. However, due to cancellations, the number of active projects has

⁶ The data in this section relies on the official website of the Lead Institution.
<https://ipatemelhaklar.ab.gov.tr/en/ipa-fundamental-rights-projects/>

decreased to 13 as of 2024. Out of these, 8 projects have been completed successfully, while 5 projects are still being implemented⁸ (Avrupa Birliđi Başkanlıđı, 2024a). The names, budgets and the beneficiaries of the projects are provided in Table 1.

The projects within the Fundamental Rights sector primarily focused on institutional capacity building and provided training to public officials, lawyers, and law enforcement bodies.

However, there were no projects aimed at achieving high-level alignment with the *acquis* through amendments to laws. Instead, the projects concentrated on improving practices and establishing new mechanisms.

Many projects were also limited in scope to women's and children's rights, without directly addressing broader rights specified in international instruments.

In fact, this has been the focus of EU-funded projects since Türkiye began receiving greater volumes of financial assistance from the EU. Bahçecik argues that “EU actors seek to reconstitute state actors through practices, rather than merely by changing their identities or the political norms they adhere to” (Bahçecik, 2014, p. 70).

Based on his analysis of projects targeting the National Police, he states that “objectives like democracy, human rights, and the rule of law were translated into specific projects aimed at improving police practices, which essentially means capacity building. Political issues rendered into technical problems that can be solved with scientific and capacity-building measures” (Bahçecik, 2014 p. 92-93). Therefore, the focus on the capacity building is not a deficiency but a deliberate choice by the EU.

⁷ The figure is calculated on the basis of number of the projects outlined in the annual Financing Agreements that can be found at <https://www.cfcu.gov.tr/financing-agreements> .

⁸ Based on the institutional records of the Lead Institution.

However, this approach compromises the essential qualities of the indicators in the sector, particularly by introducing issues of validity.

Moreover, the scope of the programmed projects did not effectively establish a comprehensive sectoral approach to achieve the targets identified in the ISP.

Table 1. List of the Projects under Fundamental Rights Sector

Project	Programming Year	Beneficiary	Total Budget (€)
Enhancing the Capacities of both Chief Civil Administrators about Crowd Control and the Civil Inspectors about Effective Investigation	2014	Ministry of Interior	1.500.000
Strengthening the Capacity of Bar Associations and Lawyers on European Human Rights Standards	2014	Turkish Bar Associations	3.890.000
Strengthening the Civilian Oversight of Internal Security Forces Phase III	2014	Ministry of Interior	5.400.000
Empowerment of the Role of Ombudsman Institution in Protection and Promotion of Human Rights	2015	Ombudsman Institution	1.915.210
Independent Police Complaints Commission and Complaints System for TNP, Gendarmerie and Cost Guards	2015	Ministry of Interior	2.000.000

Increasing the Organizational Capacity of the Women and Children Sections (WCS) of the Gendarmerie General Command	2015	General Command of Turkish Gendarmerie	5.568.500
Strengthening A Culture of Democracy in Basic Education Institutions	2015	Ministry of National Education	4.000.000
Establishing Strong Monitoring, Evaluation and Coordination Mechanism for National Roma Integration Strategy (for the Action Plans)	2016	Ministry of Family, Labour and Social Services	1.875.000
Implementing Gender-Responsive Planning and Budgeting in Türkiye	2016	Ministry of Family, Labour and Social Services	3.300.000
Support for Children Rights in Türkiye	2017	Ministry of Family, Labour and Social Services	3.400.000
Technical Assistance for Strengthening Fundamental Rights Sector Coordination	2017	Directorate for EU Affairs	1.400.000
Supporting the Effective Implementation of Turkish Constitutional Court Judgments in the field of Fundamental Rights	2019	Constitutional Court	4.950.000
Improving the Capacity of Lawyers and Bar Associations on Promotion, Protection and Monitoring of Children's Rights	2020	Turkish Bar Associations	3.070.000

4.4. Fundamental Rights Indicators

Fundamental Rights Sector indicators can be grouped under in to categories: those in the ISP and those under Action Documents (AD).

The indicators defined in the ISP are as follows:

- “Council of Europe and UN monitoring mechanisms related indicators on human rights;
- Extent of progress made towards meeting accession criteria
- Composite indicator Freedom of Press and Press Freedom
- Number of human rights cases, including individual cases, addressed, by e.g. the National Human Rights and Equality Institution of Türkiye;
- Gender inequality index.
- Percentage of referred cases of gender based violence investigated and sentenced
- Number of women and men directly benefiting from Justice, Rule of Law and Security Sector Reform programmes funded by the EU
- Number of women, children, minorities and vulnerable groups that benefit from legal aid” (European Commission, 2014).

To conduct a thorough analysis of the indicators in the ADs, it's important to understand the programming process. This process typically begins with the collection of project proposals presented in the form of Action Fiches.

Each Action Fiche includes a narrative section that establishes the project's relevance to international and national standards, as well as to the priorities of the accession process.

Additionally, the Fiche contains a logical framework matrix (Log Frame) that outlines the overall objective, specific objectives, and outputs of the project. Indicators, baselines, and targets for each level are specified within this Log Frame.

Following the assessment of Action Fiches based on relevance criteria, selected projects are summarized in an AD. The Log Frame of the AD is essentially a compilation of the Log Frames from the selected projects, presenting an overview of the objectives, outputs, indicators, baselines, and targets for the projects included in the document.

This structured approach allows for a clear understanding of how each project contributes to broader sectoral goals and outcomes (AB Başkanlığı, 2023). If there is only one project included in the AD, then the Log Frame remains the same as proposed in the corresponding Action Fiche.

The log frame approach utilizes the theory of change concept. A theory of change outlines how a particular intervention or series of interventions is anticipated to bring about a specific development outcome, utilizing a causal analysis rooted in existing evidence (United Nations Development Group, 2016).

The theory of change explains how the outputs of a project (the immediate results of project activities) contribute to the project outcome (the specific objective of the project). Ultimately, the project outcome, over time, contributes to achieving the impact (the overall objective) (Rogers, 2014).

Measuring progress at the sector level should prioritize outcomes and impacts of projects. Monitoring the implementation of activities and using output-level indicators alone cannot sufficiently assess sector achievements. For instance, sectoral success should not be gauged solely by the number of judges trained in international standards, but rather by the quality or quantity of judgments aligned with those standards.

Thus, the analysis will focus on impact and outcome level indicators. However, for the programming years 2014, 2015, 2016, and 2017, which encompass multiple projects per AD, the output indicators in these documents reflect project outcomes and will be considered in the analysis.

Additionally, scores will be highlighted using green, yellow, and red colors to indicate achievement levels (achieved, no progress, or backsliding).

The targets remain as defined in the ADs. The indicators in the ADs and the scores as of 2023 are provided in Table 2.

Table 2. The Fundamental Rights Sector Indicators

No	Indicator	Target	Data (2022-2023)
1	Progress made towards meeting accession criteria	N/A	Serious Backsliding as indicated in the country reports
2	Qualitative improvement of the human rights situation in Türkiye between 2017 and 2020 based on e.g. independent human rights reports.	N/A	Negative assessment by many NGOs
3	Qualitative improvement of children's rights in Türkiye	Increase in positive findings/observations by international bodies on children's rights and particularly on children in contact with the law	N/A The project started to be implemented in 2023.
4	Number of judgments of ECtHR finding Türkiye in breach of the ECHR	N/A	73 ⁹ (2022 data, 2023 data not available yet) (Improvement compared to the baseline of the year 2014 that is 94)
5	Number of applications made against Türkiye before the ECtHR	N/A	12551 ¹⁰
6	Decreased number of ECtHR cases under supervision by the Committee of Ministers	N/A	458 ¹¹ (Progress opposed to baseline of 1237)

⁹ Data available at <https://www.echr.coe.int/statistical-reports>

¹⁰ Data available at <https://www.echr.coe.int/statistical-reports>

¹¹ Data available at <https://www.coe.int/en/web/execution/Turkiye>

7	Number of applications to the TCC	N/A	109.779 ¹² (backsliding as opposed to baseline of 20578)
8	Decreased number of violation judgments rendered by TCC	10% Decrease	35.407 ¹³
9	The increased compliance rate of inferior courts by the judgments of the TCC	N/A	N/A The project is still under implementation.
10	Decreased number of applications complaining about non-execution of TCC judgements.	N/A	N/A The project is still under implementation.
11	Decreased rate of non-execution of TCC judgements	N/A	N/A The project is still under implementation.
12	Decreased number of inadmissible individual applications	10% Decrease	74180 (122% Increase)
13	Degree of progress in the implementation of the Action Plan on prevention of ECHR violations	to be defined during the inception period	The implementation of the plan was completed.
14	Number of cases launched against media workers, human rights activists and trade unionists	N/A	N/A
15	Positive assessment on the situation of human rights by international and domestic stakeholders	N/A	Negative assessment by the NGOs and EC.
16	Human rights based approach encouraged when investigating cases of disproportionate use of force by police	Crowd Control Guide for chief civil administrators, Inspection and Investigation Guide for civil inspectors and Draft law and regulation on crowd control and effective investigation are in place	Guideline in place, part of the in-service trainings
17	Increased awareness among chief civil administrators and civil inspectors	Number of chief civil administrators and civil inspectors trained	900 trained

¹² Data available at <https://www.anayasa.gov.tr/tr/yayinlar/istatistikler/bireysel-basvuru/>

¹³ Data available at <https://www.anayasa.gov.tr/tr/yayinlar/istatistikler/bireysel-basvuru/>

18	Increase in the number of investigations with regards to cases of disproportionate use of force if any	Number of investigations with regard to cases of disproportionate use of force	N/A
19	Increase in the number of convictions as a result of successful evidence based investigations	Number of convictions	N/A
20	Legislative framework on Local Prevention and Security Councils drafted	The draft legislation has been finalized for submission to related state authorities by the last quarter of the project in 2017.	Drafted
21	Organizational strategy on crime prevention and security drafted by the MoI	“Crime Prevention and Security Strategy of the Ministry of Interior” has been approved by the Ministry and declared to public via the website of the Ministry.	N/A
22	Action plan for the adoption of the strategy on oversight of internal security forces adopted in line with the strategy developed	A citizen-focused “National Crime Prevention and Security Action Plan” that accounts for local security needs has been prepared by considering action plans created by Local Prevention and Security Councils.	N/A
23	50% of the public officials of the Local Prevention and Security Councils benefitted from the training programs	240 personnel to be employed at the newly established Local Prevention and Security Councils received training.	Achieved
24	60% of the Local Prevention and Security Councils became functional in line with the legislative framework by the end of the project	Local Prevention and Security Council became operational in 16 provinces.	Achieved
25	Number of cases the human rights centers within the Bar associations given their increased capacity	100 cases	518
26	Substantial number of Bar association staff/lawyers	150	9751

	gained experience in analysing cases according to EU human rights standards via access to the training programme "European Programme for Human Rights Education of Legal Professionals (HELP)"		
27	Increase of public access and public trust in the human rights centers given their increased analytical and investigative capacity	3500	838
28	Number of Networks with international HR institutions and HR institutions of other EU countries	12	7
29	A critical mass among lawyers in Türkiye, are trained on human rights and ECHR.	7000 lawyers are trained	4.000
30	Increase of the admissibility rate at the ECtHR	Increased by 5%	N/A
31	Strengthened networking by the human rights centers of the bar associations with other lawyers in	Continuation of sustainable operation of online fora at least 500 members	Achieved through an online tool
32	Risk areas are identified in cooperation with HR boards	7 annual reports prepared by the TBB	3
33	Regulations of bar associations revised to establish proper functioning of the HR boards	Regulation in place	Regulations adopted
34	Public access to an effective complaints system of the newly established human rights institutions including Ombudsman Institution and Human Rights Institution of Türkiye as well as the establishment of an equality an anti-discrimination body	N/A	Both institutions active
35	Improved promotion of women's rights	N/A	N/A
36	Increased awareness of NGOs with regard to women's rights	N/A	N/A
37	Capacity improvement of the women NGOs	N/A	N/A

38	Public access to a complaints system which is open, fair, effective and consistent with EU standards	Not specified in the AD	In place (Law Enforcement Surveillance Commission's central registry)
39	Decrease in the rates of complaints/cases filed against law enforcement agencies in their response to public events/social disturbances	Not specified in the AD	N/A
40	8 % increase in cases investigated by the WCS	16%	The number reached to 40 thousands as opposed to baseline of 27 thousand
41	Percentage of investigations fully abiding with the standard operational procedures developed according to new advocacy and communication strategy.	100%	Achieved
42	Statistics regarding school drop – outs.	Not specified in the AD	N/A
43	Percentage of administrative responsiveness to the recommendations of the OI is increased by %5	40%	%77 ¹⁴
44	Number of complaints received by the Ombudsman Institution increased by %5.	6.100	17.816 ¹⁵
45	Percentage of inadmissible complaints is decreased by %5	30%	%27 ¹⁶
46	Framework programme and corresponding action plan available	N/A	Available
47	Number of pilot schools implementing the programme	N/A	373
48	Number of children involved broken down by gender	N/A	48.470
49	Number of MoNE staff involved broken down by gender	N/A	2.126

¹⁴ Data available at <https://www.ombudsman.gov.tr/Yayinlarimiz/YillikRapor>

¹⁵ Data available at <https://www.ombudsman.gov.tr/Yayinlarimiz/YillikRapor>

¹⁶ Data available at <https://www.ombudsman.gov.tr/Yayinlarimiz/YillikRapor>

50	Extent of gender-responsive budgeting at local and national level	N/A	Achieved
51	Degree of implementation of the National Roma Integration Strategy at national and local level	N/A	Completed. New plan under preparation.
52	Number of staff trained on social inclusion	750	200
53	Functioning monitoring and evaluation mechanism of the Roma integration strategy and related action plans in place	1	In place
54	Number of staff at national level trained/informed on GRB	175 (2023)	1070
55	Number of staff at municipal level trained/informed on GRB	296 (2023)	415
56	Number of strategic plans with gender sensitive components (national level);	10 (2023)	2
57	Number of strategic plans with gender sensitive components (municipal level);	21 (2023)	N/A
58	Degree of well-being of the children benefiting from child care services.	Not Available	N/A
59	The extent to which the action plan for combatting child labour has been implemented.	100%	%90
60	Number of staff trained.	2000	N/A
61	Number of new alternative care services models developed.	Will be specified	N/A
62	Number of children receiving care under alternative care models.	Will be specified	23284
63	Number of NGOs engaged in formal/informal consultation with relevant authorities.	Will be specified	54
64	Number of cases of child labour.	Will be specified	N/A
65	Number of early marriages.	Expected to continue the downward trend	N/A

66	Number of detected cases of sexual exploitation of children.	Will be specified	N/A
67	Number of care services developed and number of children covered by those care services, including for children with physical and mental disabilities.	Will be specified	N/A
68	Established sector coordination platform including civil society.	1	1
69	Handbooks, newsletters and/or compendia prepared	N/A	4
70	The number of Bar Associations that establish CRCs and provide quality services to children in line with the international standards	5	N/A

The aim of this thesis is not to create a composite indicator using the 70 indicators in the fundamental rights sector. Therefore, I will not assign any relative weights to the listed indicators. Upon a quick assessment of the results, 7 indicators have negative scores, 33 indicators have positive scores, and the remaining 30 indicators have neutral scores.

Some of the neutral scores are not publicly available, such as data on school dropouts. Additionally, neutral scores were assigned to indicators from ongoing projects, indicating that meaningful measurement of these indicators is currently challenging unless early results have emerged.

Another significant observation from the table is that the negative scores primarily stem from indicators related to specific objectives and overall objectives. A broad interpretation of this finding could suggest that while the projects are being implemented successfully, they may not be achieving the intended results, or there could be issues with the indicators themselves, such as their design or measurement approach.

If we restrict our analysis to those 70 indicators, one might conclude that there has been slight progress in the state of human rights in Türkiye. However, this

assessment contrasts with the findings of the EC in country reports and other reports from international monitoring mechanisms such as NGOs.

Applying the standards of validity, reliability, and transparency to the sector indicators could help uncover the reasons for the difference in assessments of human rights progress.

To accomplish this, the following section will concentrate on the sector's scope and its indicators, utilizing the arguments presented in the preceding sections.

CHAPTER 5

THE APPLICATION OF THE FINDINGS TO FUNDAMENTAL RIGHTS SECTOR INDICATORS

5.1. The Scope of the Fundamental Rights Sector

The examination of indicators in the fundamental rights sector should begin with an analysis of the prevailing human rights perspective within that sector. Human rights can be viewed narrowly as civil and political rights or more broadly to include ECSR. This distinction impacts how indicators are identified and measurement results evaluated. Civil and political rights typically require immediate realization, whereas ECSR involve progressive realization. Although this assumption is debated, it's generally acknowledged that the resources needed for civil and political rights are significantly less than those required for ECSR. Civil and political rights are often negative rights, focused on state non-interference, while actions to improve these rights involve aligning laws with international standards and reforming law enforcement and judicial practices. Of course, for institutions to implement laws ensuring that individuals fully enjoy their rights, financial resources may be necessary. However, given the UN's categorization of rights, particularly those measured in principle, the indicators' figures can be readily improved by enacting laws that adhere to international human rights standards. Consequently, projects targeting civil and political rights have the potential to show their impact sooner than those addressing ECSR.

The fundamental rights sector is correlated to the Chapter 23 (Judiciary and Fundamental Rights) and the scope is identified in the ISP. The ISP does not specify detailed outcomes, but the main topics covered in the country report under Chapter 23 outline the EU's understanding of fundamental rights. The scope of this understanding is presented in the Table 3:

Table 3. The Scope of Fundamental Rights

Right to liberty and security	Prohibition of discrimination
Right to life	Gender equality, combatting violence against women
Prevention of ill treatment and torture,	Children's rights
Right to a fair trial	Rights of the persons with disability
Right to respect for private and family life	Procedural rights
Freedom of thought, conscience and religion	Minorities, Roma citizens and cultural rights
Freedom of expression	Protection of personal data
Freedom of assembly and association	

Upon examining the main issues under Chapter 23, it appears that the sector's scope is primarily focused on civil and political rights, which also encompasses the rights of specific groups such as women and children.

Consequently, we can assume that the indicators and measurement results in the fundamental rights sector are less affected by Türkiye's financial capacity, which in turn reduces the potential for counterarguments based on delayed impact. Therefore, the impact of projects in this sector can be achieved more easily and quickly.

5.2. Types of Indicators in the Fundamental Rights Sector

As discussed in the relevant section, there are different types of human rights indicators and many of these can be found in the fundamental rights sector. The types of indicators used in the fundamental rights sector are crucial because different types of indicators can have various shortcomings that affect their validity, reliability, and transparency.

Primarily, there are both quantitative and qualitative indicators used in the fundamental rights sector. Quantitative indicators include indicators like the number of judgments from the ECtHR or the TCC, as well as the volume of applications received by the Ombudsman Institution. On the other hand, qualitative indicators within the sector encompass improvements related to child rights and reports issued by independent human rights institutions.

Merry's classification of indicators encompasses all types within this sector. The quantitative indicators mentioned can be considered counts. Conversely, the

percentage of inadmissible applications to the TCC, ECtHR, and Ombudsman Institution represent ratios. Additionally, examples of composite indicators in this sector include the composite indicators such as the Freedom of Press index and the Gender Inequality Index.

According to the UN's categorization, the list of sector indicators does not include structural indicators but does encompass process and outcome indicators. Examples such as the availability of human rights institutions and a central complaints registry for law enforcement are considered process indicators. On the other hand, qualitative indicators in this sector focus on measuring the actual enjoyment of rights by individuals and serve as examples of outcome indicators.

As all the types of indicators present in the sector, it is important to consider all the shortcomings associated with the indicators identified in the literature when assessing the validity, reliability and transparency of fundamental rights sector indicators.

5.3. The Advantages of Utilizing Fundamental Rights Sector Indicators¹⁷

As frequently emphasized, utilizing indicators offers numerous advantages despite their potential pitfalls. The question now is why both the EU and Türkiye should utilize indicators in the fundamental rights sector?

First, indicators show how obligations are met, rights are fulfilled, and government efforts are directed toward these objectives. Given the accession process requires fulfillment of benchmarks, indicators can illustrate the state of human rights in Türkiye and the extent to which Türkiye is meeting the political criteria.

Second, monitoring the state of human rights in Türkiye is a formal task for both Türkiye and the EU, outlined in key documents related to the accession process and IPA. Utilizing indicators can simplify this monitoring process.

¹⁷ This section pertains advantages of using indicators broadly, beyond those specified in the ISP and Action Documents.

Third, the accession process is all about alignment and as stated by Nelken (2015), the indicators urges for the alignment with global standards (EU standards in this case). In addition, as stated by Harrison (2011) indicators may give early warning of potential violations of human rights and suggest preventive actions. In this case, indicators may signify the potential gaps in human rights Türkiye and may provide guidance for the alignment with the EU acquis.

Fourth, in line with Apodaca's (2014) explanation about indicators' further benefits: reducing the frequency and severity of human rights violations by preventing denial or ignorance through statistical data. Given the contentious nature of human rights issues and the potential for backlash against EU criticism from Türkiye, statistical evidence can help prevent or mitigate this backlash.

Fifth, a particular benefit of using indicators for the EU is, as stated by Landman (2009), the facilitation, adjustment and justification of financial assistance provided to Türkiye. By leveraging indicators, the EU can pinpoint intervention methods that effectively address human rights needs in Türkiye.

Sixth, in light of McGrogan's argument regarding the technical nature of indicators, particularly within the context of human rights being a contentious issue prone to societal backlash against reforms, indicators can facilitate communication of reforms to Turkish society. By framing reforms as technical imperatives of the accession process, through the use of indicators, the government can potentially sidestep political debates and present them as necessary steps for alignment with EU standards. This approach may help mitigate resistance or controversy surrounding the reforms.

Therefore, the use of indicators in the fundamental rights sector proves to be advantageous for both Türkiye and the EU.

5.4. The Shortcomings of the Fundamental Rights Sector Indicators

As mentioned earlier, indicators provide numerous benefits to Türkiye and the EU for enhancing human rights in Türkiye. However, these advantages can only be

realized if the indicators possess essential qualities such as Validity, Reliability, and Transparency.

The indicators specified in the ISP and the ADs do not meet these standards. This discrepancy is why there is a difference between the EU's assessments in the country reports and the results measured based on the fundamental rights indicators at hand.

The primary issue with the sector's indicators is their validity. These indicators tend to measure institutional capacity rather than the actual essence of human rights within the sector. Problems with reliability and transparency are mainly linked to the indexes and qualitative assessments provided by international NGOs. Therefore, the main focus of the discussion will be on the validity criteria, complemented with the section on reliability and transparency.

5.4.1. Validity of Fundamental Rights Sector Indicators

The indicators of the fundamental sector do not meet the standard of Validity. Validity of an indicator depends on whether it accurately measures the intended concept or phenomenon. It should align with the definition of what it aims to measure.

Firstly, the indicators in the sector supposed to measure state of all human rights in the scope fundamental rights sector. As Brook (2020) pointed out, human rights indicators cannot fully capture the breadth of human rights issues. Similarly, fundamental rights indicators are limited in their ability to cover the entire spectrum of human rights within the sector. Despite Türkiye being a party to various international instruments that protect a wide range of rights, the fundamental rights sector indicators only address a subset of these rights. While it may be challenging to develop indicators for every individual right, there are also no composite indicators that can provide an overall assessment of all human rights within this sector. The indicators such as “Number of judgments of ECtHR finding Türkiye in breach of the ECHR” and “Decreased number of violation judgments rendered by TCC” are overly general and exemplify violation approach (as described by Green (Green, 2001, p. 1086). The violation approach fails to measure the actual enjoyment of the rights by the individuals.

Secondly, the fundamental rights indicator has contextual problems and do not really measure the state of rights that they were supposed to measure. As Merry (2016), McGrogan (2016) and Thede (2001) stated, indicators distorts the complexity of the human rights, narrow their meanings and oversimplify the human rights. This can be evaluated by examining the indicators where Türkiye has achieved positive results.

Number of judgments of ECtHR finding Türkiye in breach of the ECHR: The baseline value for the indicator was 94 in the year 2014. By 2022, the score had improved to 73, indicating progress. However, the process of applying to courts can be time-consuming. To submit a case to the ECtHR, a citizen must first exhaust all legal domestic remedies, including courts of first instance, the Court of Cassation, and the TCC. After applying to the ECtHR, citizens must also wait for a certain period for the court's judgment. Therefore, there is a significant lag between the time of the violation and the time it is reflected in the indicator score. As a result, the indicator may reflect the state of human rights in the past, even before the establishment of the sector, rather than the current state of human rights.

Decreased number of ECtHR cases under supervision by the Committee of Ministers: The baseline value for the indicator was 1237, whereas the current value stands at 458. Similar to the previous example, this indicator also offers insight into past violations and assesses whether these violations have been addressed or compensated for. If there are new violations or gaps in the human rights protection system that result in violations, the indicator fails to capture these developments.

Human rights based approach encouraged when investigating cases of disproportionate use of force by police: The target for this indicator was the preparation and adoption of a guideline, which was successfully achieved and integrated into the in-service trainings of the Police. This achievement suggests that the institutional capacity of the Police has been enhanced in terms of human rights protection. However, the indicator does not provide insight into whether the actual practices of the Police have improved as a result of these efforts.

Legislative framework on Local Prevention and Security Councils drafted: The framework was drafted, but the indicator does not specify whether it was ultimately

adopted or implemented. Furthermore, the indicator does not establish any clear link between the presence of these councils and the actual protection of human rights.

“Percentage of administrative responsiveness to the recommendations of the OI is increased by %5”: The target for the indicator was set at 40%, but the current value is 77%. However, it's important to note that the Ombudsman Institution receives complaints about all public services provided by both local and central authorities. Therefore, the progress indicated by this increase in complaints may not solely relate to human rights issues. It could also encompass complaints about other services, including matters like the provision of bank loans by state banks, making it unclear whether this progress specifically reflects improvements in human rights.

Number of complaints received by the Ombudsman Institution increased by %5: The target for the indicator was set at 6,100, but the current value is 17,816. However, it's important to understand that this indicator does not specify the subject matter of the applications received. Therefore, the increase in applications does not necessarily reflect improvements in human rights alone. The applications could cover a wide range of topics beyond human rights, making it unclear if this progress is solely related to human rights issues.

In addition to these indicators, there are other indicators specifically designed to measure improvements in institutional capacity, particularly focusing on the number of people trained. Some of these are: Increased awareness among chief civil administrators and civil inspectors (900 trained), 50% of the public officials of the Local Prevention and Security Councils benefitted from the training programs (240 trained), Substantial number of Bar association staff/lawyers gained experience in analysing cases according to EU human rights standards via access to the training programme "European Programme for Human Rights Education of Legal Professionals (9751 trained), Number of staff trained on social inclusion (200 trained), Number of staff at national level trained/informed (1070 trained).

This is a common issue in human rights projects. Projects often involve multiple activities, such as legal advocacy and human rights training. However, a common

mistake is evaluating and assessing these projects solely based on the implementation of these activities, treating them as the ultimate purposes and goals of the project. Training, for example, is not an end goal in itself but rather an activity aimed at achieving specific objectives and, ultimately, advancing broader human rights goals. What matters most in the end is not just the performance of these activities but their impact in bringing about tangible human rights changes. Therefore, indicators used in human rights projects should measure outcomes that extend beyond the specific activities (like training, dissemination, advocacy) to assess progress toward broader human rights objectives and goals. These indicators should focus on capturing the real impact and changes resulting from these activities in advancing human rights (Andreassen & Sano, 2007 p. 277-278).

Therefore, relying solely on institutional capacity building activities to measure improvements in human rights is a shortcoming because the positive outcomes of these activities cannot be guaranteed.

Thirdly, there is a paradox in measurement within the fundamental rights sector indicators, where the choice of what to measure can be influenced by political preferences or by what is feasible to measure. Numerous quantitative indicators in the fundamental rights sector, like the number of judgments by the ECtHR and the TCC, are considered impact indicators. However, these indicators may not truly reflect the state of human rights but were chosen because the data is readily available. Consequently, rather than developing more robust indicators, the sector has relied on easier methods by using readily available data.

It's important to note that Türkiye also accepted certain indicators without baseline data, which necessitated the initiation of data collection efforts. This might be seen as an attempt to avoid the paradox of measurement. However, many of these indicators without baseline data still lack corresponding values, indicating a disregard for measuring the subject of these indicators effectively.

Finally, as Davis stated, indicators set standards and embody a theoretical claim or an ideology about what constitutes a good society. In the context of fundamental

rights sector, this perspective suggests that the high-level indicators outlined in the ISP, not only determine the measurement tracks but also specify the subjects of the interventions. Therefore, subjects and goals of the projects being undertaken should be aligned with the indicators used in the ISP.

Building on this perspective, it is reasonable to assert that there could be projects focused on promoting freedom of the press and freedom of expression, providing support to National Human Rights institutions, offering legal aid, and addressing other rights protected under the European Convention on Human Rights (ECHR). However, no projects were specifically focused on these fundamental rights issues, such as freedom of the press, support for National Human Rights institutions, or legal aid. Instead, there were projects with relatively weak connections to the fundamental rights sector, such as those related to democratic culture and civilian oversight.

As a result, the ISP lacks the capacity to effectively communicate the high standards that should be aspired to in advancing fundamental rights. This discrepancy highlights a gap between the intended goals of the ISP and the actual focus of the projects implemented. As a result, ISP indicators fail to measure what they were intended to. In fact, given that there are no projects corresponding to those indicators, they have nothing to measure.

In summary, the validity of indicators in the fundamental rights sector is highly questionable. These indicators fail to encompass the entire range of rights and do not effectively measure the rights they were intended to assess. When the figures of these indicators are considered in isolation and evaluated individually, a superficial conclusion might suggest that the state of human rights is improving. However, upon closer examination, it becomes evident that these indicators do not accurately measure human rights issues.

5.4.2. Reliability and Transparency of Fundamental Rights Sector Indicators

Reliability refers to the stability, consistency, and reproducibility of the measurement. A reliable indicator yields consistent results when measurements are

repeated. The quantitative indicators in the sector remain reliable, but the qualitative indicators are not as dependable.

The examples of qualitative indicator include:

- Qualitative improvement of the human rights situation in Türkiye between 2017 and 2020 based on e.g. independent human rights reports.
- Qualitative improvement of children's rights in Türkiye
- Positive assessment on the situation of human rights by international and domestic stakeholders

The qualitative indicators in the sector rely on evaluations conducted by national or international NGOs. However, these assessments are contingent upon the data accessible to these institutions. As noted by scholars like Merry, varying institutions have different capacities for data collection, leading to potentially differing assessments based on the data at their disposal.

Moreover, as Bradley points out, indicators are shaped by the interests of those who create them. Therefore, different NGOs with varying interests may arrive at different conclusions when examining the same situation.

In addition to concerns about reliability, incorporating NGO opinions into measurements can raise additional questions. As Stremlau highlights, NGOs might exaggerate human rights situations in certain countries to attract media attention and boost their popularity, since the impact and visibility of these indicators can depend on the severity of their findings. Furthermore, as noted in discussions about the Freedom in the World Index, NGO opinions may be questioned due to concerns about objectivity.

Consequently, the outcomes of such measurements are likely to face significant scrutiny and could potentially be rejected by the intended recipients.

On the other hand, transparency involves disclosing definitions, sources, data collection methods, and coding rules used in their development. Without transparency, indicators can be biased or deemed untrustworthy.

In the realm of fundamental rights sector indicators, there can generally be little doubt about the transparency of quantitative indicators. However, as Bradley's research on the Freedom in the World Index suggests, transparency is lacking in qualitative indicators. The methodology and data sources used for these measurements are often not transparent.

Additionally, as Brook pointed out, many states do not produce or maintain accurate, honest, and transparent data that would enable a reliable measurement of human rights. This is evident in the table of indicators, where certain indicators such as school dropouts, early marriages, child labor, along with the number of cases against media workers and investigations into disproportionate use of force, were not assigned scores due to the lack of publicly available data. This doesn't necessarily mean that data is not disclosed or made accessible to the public but rather Türkiye lacks statistics on these issues. While it is difficult to draw a definitive conclusion from this situation, it is evident that the lack of data casts a shadow on the transparency of the indicators.

CHAPTER 6

CONCLUSION

The use of indicators presents numerous potential benefits for both Türkiye and the EU. However, because of the shortcomings in the indicators defined in the ISP and ADs, these benefits were not fully realized by either party.

The quantitative indicators, especially, lack the necessary qualities related to validity. Meanwhile, the reliability and transparency of the qualitative indicators can also be called into question. As a result, the measurement efforts on the impact of the sector will yield ambiguous results that will constantly be subject to scrutiny and questioning.

The reason behind this discrepancy lies in the design process of the indicators. The indicators currently used do not truly measure the actual enjoyment of human rights by the citizens of Türkiye.

Following Landsman's categorization, it can be observed that the indicators defined in this sector can be classified as process indicators. Process indicators assess states' efforts, such as projects in this sector, aimed at translating human rights commitments into tangible outcomes, but they do not measure the level of actual enjoyment of rights by individuals.

Indicators designed to measure the impact of fundamental rights projects should focus on measuring rights in practice, reflecting the real experiences and outcomes for individuals.

Addressing this challenge requires the adoption of new measurement methodologies, including the establishment of new statistical tools and the expansion of human

rights databases, to ensure that indicators accurately reflect the state of human rights. However, implementing these changes may take longer than the available time, given the annual cycles of the programming process.

Moreover, the identification of indicators should be treated with utmost seriousness. Unfortunately, the fundamental rights sector often faces a common issue, where indicators are defined at the last minute when formulating project documents (Andreassen & Sano, 2007 p. 286). This rushed approach undermines the standards of the indicators used in fundamental rights sector.

Developing human rights indicators that accurately assess both immediate objectives and long-term project goals can be quite challenging. After identifying indicators at the output level (activities), the next crucial step is to move beyond merely quantifying these outputs and analyze how they contribute to achieving the broader project objectives. This requires establishing clear links between project activities and the desired outcomes, ensuring that the selected indicators effectively measure progress toward overarching goals within the human rights framework (Andreassen & Sano, 2007 p. 284).

As highlighted, the primary aim of human rights impact assessment is to illustrate how project objectives directly contribute to the overarching goal of enhancing human rights in practical terms, ultimately resulting in individuals actually experiencing these rights. Progressing from the level of outputs (activities) to objectives and goals entails highlighting the project's unique value in advancing and safeguarding human rights. Unfortunately, organizations frequently lack precision and clarity when discussing how a project influences changes in human rights conditions (Andreassen & Sano, 2007 p. 284). This critical problem is also evident in the fundamental rights sector.

Finally, It is useful to combine quantitative indicators with qualitative ones. “Qualitative measures typically score higher on validity than their quantitative counterparts, but this often comes at the expense of reliability” (Hafner-Burton & Ron, 2009 p, 365).

Combining these approaches may achieve moderate levels of validity and reliability. However, in the fundamental rights sector, there is a contradiction between qualitative and quantitative indicators. Country reports indicate a regression in human rights, while sector indicators suggest improvement. Interestingly, the qualitative assessment provided by the EU in the country reports is actually one of the sector indicators.

This suggests that the EU overlooks the results of the quantitative measurements conducted in the sector, implying that the financial assistance provided in the sector may not hold significance for the EU.

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APPENDICES

A. TURKISH SUMMARY / TÜRKE ÖZET

Türkiye'nin AB'ye katılım sürecinde temel hakların korunması bir önşart olarak ortaya çıkmaktadır. Kopenhag Kriterlerinin bir parçasını oluşturan siyasi kriter uyarınca, aday ülkeler, hukukun üstünlüğüne saygı göstermek ve insan haklarını korumakla yükümlüdürler. Bu nedenle aday ülkelerdeki insan hakları durumu sürekli olarak izlenmektedir. Bu izlemenin temel mekanizması, AB tarafından yıllık olarak açıklanan ülke raporlarıdır.

Türkiye de uzun süredir müzakere yürüten bir aday ülke olarak temel hakları korumak ve geliştirmekle yükümlüdür. Ancak, Türkiye'de temel hakların durumuna ilişkin yapılan olumsuz değerlendirmeler, müzakere sürecinin uzun sürmesinin sebepleri arasında görülmektedir. Son yıllarda yayımlanmış olan ülke raporlarında insan haklarının durumuna ilişkin ciddi bir gerileme olduğu değerlendirilmiştir.

Öte yandan, bir aday ülke olarak Katılım Öncesi Yardım Aracından faydalanmakta ve bu araç altında insan hakları projelerini desteklemek üzere belirlenmiş olan Temel Haklar Sektörü kapsamında belirlenmiş olan göstergeler vasıtasıyla da insan haklarının durumuna ilişkin izleme yapılmaktadır.

Temel Haklar Sektöründeki göstergelerden bazıları, ülke raporunda yer alan değerlendirmelerle çelişen sonuçlar ortaya koymaktadır. Örnek olarak, Avrupa İnsan Hakları Mahkemesinde Türkiye aleyhine verilen ihlal kararlarının sayısı yıllar bazında azalış eğilimindedir. Öte yandan, Anayasa Mahkemesince verilen ihlal kararları da yüksek oranda artış göstermektedir.

Bu çelişkiden hareketle Temel Haklar Sektöründeki göstergelerin insan haklarını ölçmede yetersiz kaldığı söylenebilir. Bu yetersizliğin nedenlerini anlayabilmek

için insan hakları ve insan haklarının ölçülmesinde kullanılan göstergelere ilişkin literatürde yapılan tespitler incelenmeli, buradan elden edilen sonuçlar çerçevesinde de Temel Haklar Sektöründeki göstergeler gözden geçirilmelidir.

Bu sayede, Türkiye'nin AB sürecine ilişkin olarak veriye dayalı, göreceli olmayan değerlendirmeler yapılmasına ve sürecin tıkanmasına neden olan sorunların ele alınmasına katkı sunulabilir.

İnsan hakları alanı tartışmalı bir alan olagelmıştır. BM tarafından insan onurunun korunması için devlet ve üçüncü tarafların müdahalelerinin önlenmesine yönelik yasal garantiler olarak tanımlanan insan hakları, yasalar tarafından düzenlenmesi dahi ahlaki bir boyuta sahiptir ve her birey tarafından ileri sürülebilirler.

İnsan haklarının sınırları da tartışmalıdır. BM'nin siyasi ve medeni haklar sözleşmesinde sayılan hakları gerçek insan hakları sayan yaklaşıma alternatif olarak, ekonomik, sosyal ve kültürel hakları da insan hakları arasında sayan bir yaklaşım mevcuttur.

Ancak insan haklarının devletlere saygı duyma, koruma ve bu haklardan yararlanılmasını sağlama yükümlülüğü getirdiği hususunda bir mutabakat vardır.

Hem devlete yüklenen bu sorumluluklar hem de farklı kriterler temelinde insan haklarına ilişkin farklı sınıflandırmalar yapılmıştır. İnsan hakları en temel düzeyde, devlete müdahale etmeme yükümlülüğü getiren negatif haklar, devlete koruma yükümlülüğü getiren pozitif haklar ve kamu mallarına erişim sağlanmasını öngören dayanışma hakları olarak sınıflandırılmaktadır. İnsan haklarına ilişkin yapılan bir diğer sınıflandırma da insan haklarının ölçüldüğü düzeye göre yapılmakta, uluslararası düzenlemelerde sayılan hakların ulusal yasalara yansıtılmasını öngören İlkesel Haklar, devletlerin faaliyetleri aracılığıyla insan haklarına erişimi mümkün kılmasını öngören İdaresel Haklar ve vatandaşların insan haklarından gerçek anlamda faydalanmasını öngören Uygulamada Haklar tasnifi yapılmaktadır.

İnsan Haklarının tarihsel gelişim sürecinde ortaya çıkışlarını temel alan bir diğer sınıflandırma ise siyasi ve medeni hakları İlk Kuşak Haklar; ekonomik, sosyal ve

kültürel hakları İkinci Kuşak Haklar, dayanışma haklarını ise Üçüncü Kuşak Haklar olarak tasnif etmektedir.

Hak ve özgürlüklerin geliştirilmesinin kaynak ve zaman alabileceğini varsayan bir yaklaşıma göre ise; siyasi ve medeni haklar Gecikmesiz Gerçekleşmeye Konu Haklar; ekonomik, sosyal ve kültürel haklar ise Tedrici Haklar olarak sınıflandırılmaktadır.

İnsan haklarına ilişkin bu farklı yaklaşımlar, insan haklarının ölçülmesine ilişkin hususlara da yansımış, insan hakları göstergelerinin sağladığı faydaları göz ardı etmeyen, ancak özellikle insan hakları göstergelerine sorunlarını ele alan değerlendirmeler yapılmıştır.

Gösterge teknik olarak, bir birimin geçmiş ya da gelecek performansını ölçmeye yarayan sıralı veriler olarak tanımlanmaktadır. Göstergelerin asli fonksiyonu, karmaşık sosyal olguları basit ve anlaşılabilir hale getirmeleridir. İnsan hakları göstergeleri de insan haklarına ilişkin uluslararası yükümlülüklerin ne derece yerine getirildiğini ve ulusal düzeyde bu hakların ne oranda korunduğunu, bu haklardan ne derecede yararlanıldığını ölçmektedirler.

Ölçümün sağlıklı yapılabilmesi için bir göstergenin karşılaması gereken standartlar bulunmaktadır. İlk olarak bir gösterge geçerli olmalı, ölçümde kullanıldığı insan haklarını tam olarak ölçme kabiliyetini haiz olmalıdır. İkinci olarak, bir gösterge güvenilir olmalı, ölçümlemenin her tekrarından aynı sonuçları sağlayabilmelidir. Üçüncü olarak ise göstergeler şeffaf olmalı, hangi kaynaklardan yararlanıldığı, ölçümleme yapılırken hangi kıstasların göz önünde bulundurulduğu açıklanmalıdır.

Göstergelere ilişkin farklı sınıflandırmalar da mevcuttur. En temel düzeyde göstergeler; öznel yorumlara dayalı niteliksel ve sayısal değerleri ölçen niceliksel göstergeler olarak tanımlanmaktadır. Sayı, oran ya da endeks olarak yapılan bir sınıflandırma da mevcutken, en sistemli tasnif BM tarafından yapılmıştır.

BM göstergeleri; uluslararası yükümlülüklerin yerine getirilmesini ölçen Yapısal Göstergeler, insan haklarının ölçülmesine yönelik devletlerin faaliyetlerini ölçen

Süreç Göstergeleri ve bireylerin haklardan gerçek anlamda ne kadar yararlandığını ölçen Sonuç Göstergeleri olarak tasnif etmiştir.

İnsan hakları göstergelerinin sorunlarına ilişkin çalışmaları ikiye bölmek mümkündür. Göstergelere atfedilen yetkinliklerin aslında olmadığını ifade eden eleştirel yaklaşım, göstergelerin faydalarını göz ardı etmemekle birlikte, göstergelerin evrensel olarak uygulanabilir olmadığını, insan hakları gibi değer tabanlı bir olguyu ölçme amacındaki göstergelerin kişisel ve kurumsal çıkarlardan bağımsız bir şekilde objektif olarak tasarlanamayacağını iddia etmektedir. Buna ek olarak, ölçümleme faaliyetlerin eldeki hazır verilere dayandırılması neticesinde, aslında ölçmeye değer olanın değil, ölçülebilir olanın önem kazanması şeklinde ifade edilebilecek “Ölçme Paradoksunun” göstergelerin geçerliliğini etkilediğini iddia etmektedir.

Öte yandan, teknik anlamda, insan hakları göstergelerinin tüm insan haklarını ya da ölçtükleri iddia edilen hakların tüm unsurlarını sağlıklı bir şekilde ölçmesinin mümkün olmadığı iddia edilmektedir. Özellikle niceliksel göstergelere yöneltilen bu eleştiri, insan hakları gibi kavramlarının sayısallaştırılmasının, insan haklarının özünden uzaklaşılmasına neden olduğunu ifade etmektedir.

Ayrıca, insan haklarına ilişkin sayısal verilerin elde edilmesi de zorluklar içermektedir. Devletlerin bu verileri yayımlamaktan imtina etmeleri, ölçme faaliyetini gerçekleştiren kişi ya da kurumların veri derleme kapasitesi, göstergelerin ortaya çıkardığı sonuçların güvenilirliğinin sorgulanmasına neden olmaktadır. Devletlerin başta uluslararası imajlarını düzeltmek ya da finansmana erişmek için verileri manipüle ettikleri, aynı şekilde sivil toplum örgütlerinin de destek alabilmek adına yaptıkları ölçümlerin sonuçlarını abartarak sundukları vakıadır. İnsan hakları standartlarının yıllar içinde gelişmesi de dönemsel olarak yapılan ölçümlerin geçerliliğini etkilemektedir.

Bu olumsuzluklara rağmen insan hakları göstergeleri sağladıkları faydalardan ötürü kullanılmaya devam etmektedir. Bu faydaların başında, insan haklarının bir ülkedeki durumun izlenmesi, dönemsel karşılaştırmalara imkân vererek ilerleme ya da gerilemenin belirlenmesi gelmektedir.

İnsan hakları göstergeleri, devletlerin ihlallerinden sorumlu tutulmalarını da sağlamaktadır. Göstergelerin varlığı veriye dayalı politika yapımını da desteklemektedir. Özellikle uluslararası desteklerin hacminin ve adresinin belirlenmesinde, göstergeler yol gösterici rol oynamakta, finansörlerin kararlarını meşru zeminde almalarını sağlamaktadırlar.

Göstergelerin teknik karakteri, insan hakları gibi oldukça siyasi ve tartışmaya açık bir alanda yapılacak reform çalışmalarının, tartışmalı alandan çıkarılmasını sağlayarak, daha kolay bir şekilde yürütülmesini de desteklemektedir.

Bu faydalardan ötürü göstergeler daha fazla kullanılır hale gelmekte ve referans kaynağı olarak görülmektedir. Özellikle uluslararası sivil toplum örgütlerince yayımlanan endeksler rağbet görmektedir.

Ancak bu endekslerin, göstergelere ilişkin sayılan sorunlara ve daha da ötesinde, yaptıkları değerlendirmeleri geçersiz kılan olumsuzluklara sahip olduğu da tartışılmalıdır. “Freedom House” tarafından yayımlanan “Dünya Özgürlük Raporu” önemli bir örnek teşkil etmektedir.

1941 yılında Nazi ideolojisine karşı kurulan, sonraları serbest piyasa ve bireysel özgürlükler üzerinden Sosyalizme ve Sovyetlere karşı savunuculuk faaliyetleri yürüten örgüt her yıl yayımladığı raporla, ülkeleri özgür, kısmen özgür ve ya özgür olmayan ülkeler şeklinde sınıflandırmaktadır.

Bu sınıflandırmayı yaparken kullandığı metodoloji ve kaynaklar hala tamamen şeffaf değildir. Endeksin oluşumunda kullanılan verilerin de farklı uzmanların kişisel görüşlerine dayalı olduğu iddia edilmektedir. Özgürlükleri ölçtüğü iddiasındaki endeksin, hangi temel hak ve özgürlüklerin hangi unsurları üzerinden puanlama yaptığı da açık değildir.

Bunların da ötesinde, yayımcı kuruluşun Amerikan çıkarlarına hizmet ettiği, özgürlükleri Amerikan değerleri üzerinden tanımladığı, ABD tarafından finanse edildiği, kuruluş ile ABD Dışişleri Bakanlığı arasında personel geçişkenliği olduğu tezlerinden hareketle, endeksin objektif olmadığı iddia edilmektedir.

Tüm bu veriler ışığında, ister endeksler olsun ister tekil göstergeler, insan haklarına ilişkin durum tespiti yapmanın ya da bir ülkede insan haklarını ölçmenin zorlu bir süreç olmakla birlikte faydalarının olduğu söylenebilir.

Türkiye ile AB arasında yürüyen finansal işbirliği de bu faydaları ve zorlukları tespit edebilmek adına önemli bir vaka örneği sunmaktadır.

Türkiye ile AB arasındaki finansal işbirliği 1960'lara kadar dayansa da, finansal yardımların hacmi, Türkiye'nin aday ülke ilan edildiği 1999 yılından itibaren önemli şekilde artmıştır.

AB'nin aday ülkelere sağladığı finansal yardım, Katılım Öncesi Yardım Aracı altında, 7 yıllık dönemlerle (AB bütçesine uyumlu şekilde) sağlanmaktadır. Aracın amacı, aday ülkenin AB standartları ile uyumunu ve standartları uygulama kapasitesini desteklemektir. Bugüne kadar Türkiye'ye sağlanan toplam yardımın miktarı 9 milyar avroyu aşmış, bu kapsamda 900 proje finanse edilmiştir.

Söz konusu yardımlar, farklı isimlerde adlandırılan (bileşen, sektör, pencere) tematik öncelikler kapsamında sağlanmaktadır. Sektör yaklaşımı 2014 yılında uygulanmaya başlanan IPA II döneminde hayata geçirilmiş, projeler arasında uyum ve tamamlayıcılık sağlayarak daha büyük bir etki ortaya çıkarılması amaçlanmıştır.

Temel hak ve özgürlüklerin korunmasının AB sürecindeki su götürmez önemi, Katılım Öncesi Yardım Aracının tasarımı da yansımış, temel haklar her üç araç döneminde de finanse edilen öncelikler arasında yer almıştır.

Temel Haklar Sektörünün amacı, sivil toplumun dahil, kurumların insan haklarının korunmasına ilişkin kapasitelerinin desteklenmesi ve AB ile uluslararası standartlara uygun bir yasal çerçeve oluşturmak olarak belirlenmiştir.

Sektörel yaklaşım, finansal işbirliğinde Lider Kurum adıyla anılan yeni yapıları da beraberinde getirmiştir. Lider Kurumlar, her bir sektörde finanse edilecek projelerin belirlenmesi olarak tarif edilebilecek programlama sürecinde görev almakta, aynı

zamanda projelerin sözleşmeye bağlanması süreçlerini ve uygulanması süreçlerini izleme görevini üstlenmektedirler.

Temel Haklar Sektöründe Lider Kurum rolü AB Başkanlığı tarafından üstlenilmiştir. AB Başkanlığı tarafından IPA II döneminde 13 proje programlanmış, bu projelerden sekizi tamamlanmıştır.

Söz konusu projelerde farklı Bakanlıklar, kolluk kuvvetleri ve kamu kurumları faydalanıcı olarak yer almaktadır. Projeler konuları itibariyle, toplanma ve örgütlenme özgürlüğü, sivil gözetim, avukatların ve baroların insan hakları alanındaki kapasitesinin desteklenmesi, kadına karşı şiddetle mücadele, temel haklar kültürünün okullarda yaygınlaştırılması, kolluk kuvvetlerinin gözetimi, Ombudsmanlığın kapasitesinin desteklenmesi, kadın-erkek eşitliği, Roman vatandaşların haklarının desteklenmesi, çocuk hakları, temel haklar sektöründe koordinasyonun desteklenmesi, bireysel başvuru kararlarının icrası gibi başlıklarda uygulanmaktadır.

Projeler; eğitimler, araştırmalar ve yeni mekanizmaların ihdası gibi hususlar çerçevesinde kapasite gelişimine odaklanmış, temel haklar konusunda üst düzey uyum ya da yasal mevzuatın geliştirilmesi gibi hususlar kapsam dışında kalmıştır.

Söz konusu durum sektörün amaçlarının gerçekleştirilmesi için önemli bir eksiklik olmakla birlikte, esasen Katılım Öncesi Mali Araç bağlamında AB'nin uygulanagelen yaklaşımının da eseridir.

AB, siyasi çerçeveyi çok değiştirmeden, kurumların kapasitesini geliştirmeye çalışmakta, çok esaslı siyasi ya da yasal sorunları teknik bir sorun olarak ele almakta, kapasite geliştirme faaliyetleri ya da bilimsel metotlar içeren çözümler önermektedir. Ancak bu durum, sektör için belirlenmiş amaçların tam olarak hayata geçirilmesine engel olmakta, projeler ve sektör düzeyinde seçilmiş olan göstergelerin, özellikle geçerliliği konusunda soru işaretleri yaratmaktadır.

İncelemeye konu Temel Haklar Sektör göstergelerinin kaynağı, yıllık programlama faaliyetleri çerçevesinde hazırlanan Aksiyon Belgeleri ve üst düzeyde sektörel önceliklerin tanımlandığı İndikatif Strateji Belgesidir (ISP).

ISP düzeyinde bakıldığında, Avrupa Konseyi ve BM'nin izleme organlarının raporları, basın ve medya özgürlüğü endeksleri, cinsiyet eşitliği endeksi, Türkiye İnsan Hakları ve Eşitlik Kurumu tarafından incelenen dosya sayısı gibi göstergelere rastlanılmaktadır.

Aksiyon Belgelerinde yer alan göstergeler ise yıllık programlama süreci içinde belirlenmektedir. Programla süreci Lider Kurum tarafından yapılan proje başvurusu duyurusuna cevaben ilgi duyan kurumların ilettiği proje tekliflerinin toplanmasıyla başlamaktadır. Proje tekliflerinde, projenin sektör öncelikleri ve uluslararası standartlara uyumunu ortaya koyan açıklamalara ek olarak, projenin sektördeki üst düzey amaçlarla bağlantısını ortaya koyan, projenin özel amacı ve çıktılarıyla birlikte sayılan hususlara ilişkin göstergeleri içeren "Mantıksal Çerçeve" yer almaktadır.

Uygun görülen projeler bir Aksiyon Belgesinde özetlenmekte, projelerin birden fazla olması durumunda, Aksiyon Belgesinin mantıksal çerçevesi tüm projeleri kapsayacak şekilde hazırlanmaktadır.

Mantıksal çerçeve yaklaşımı, değişim teorisini esas almakta, proje çıktıları ile projenin öznel amacı arasında, projenin öznel amacı ile de sektörün genel amacı (etki) arasında nedensellik kurmaktadır.

Temel Haklar Sektöründe Aksiyon Belgelerinde belirlenmiş olan 70 gösterge bulunmaktadır. Bu göstergelerden 7'si gerileme, 30'u ilerleme gösterirken, 33 gösterge ilerleme ya da gerilemeye işaret etmemektedir.

Gerilemeye işaret eden göstergeler çoğunlukla sektörün üst düzey göstergeleri ya da projelerin özel amaçlarına ilişkin göstergelerdir. Bu durum, projelerin uygulanmasında bir sorun olmadığı, ancak istenilen sonuçlara ulaşılamadığı şeklinde yorumlanabilir.

Ancak, söz konusu göstergelerin topluca ele alınması halinde Türkiye'de insan haklarının ilerleme gösterdiği ifade edilebilir. Ülke raporlarındaki değerlendirmelerle çelişen bu durumun sebeplerinin belirlenmesi için göstergelerde aranılan geçerlilik,

güvenilirlik ve şeffaflık standartları göz önünde bulundurularak Temel Haklar Sektör göstergelerinin ele alınması faydalı olacaktır.

Göstergelerin tahlilinde önce Temel Haklar Sektörünün kapsamının incelenmesi uygun olacaktır. Bahsedildiği üzere bazı haklar tedrici gerçekleşmeye konu olurken, bazı haklarda gecikmesiz gerçekleşme söz konusudur.

Temel Haklar Sektörü 23 nolu müzakere faslı olan “Yargı ve Temel Haklar” faslıyla ilişkilidir ve sektör altında desteklenen haklar fasıl kapsamında ele alınan haklardır. Bu hakların neler olduğu ülke raporlarında 23 nolu fasla ilişkin kısımda yer almaktadır. Çoğunluğu Avrupa İnsan Hakları Sözleşmesinde korunmakta olan hakların yanı sıra, kişisel verilerin korunması, kadına karşı şiddetle mücadele gibi hususlar fasıl ve dolayısıyla sektör kapsamında kalmaktadır.

Söz konusu haklar tedrici değil, gecikmesiz gerçekleşmeye konu olan haklar olup, bu alanlarda uygulanan projelerin etkisinin, güncel durumun aksine, daha hızlı şekilde ortaya çıkması, üst düzey hedeflere ilişkin göstergelerin sonuçlarında iyileşmeler olması beklenebilirdi. Bu durum da göstergelere ilişkin sorunların varlığına işaret etmektedir.

Göstergelerin sorunlarını ele almandan önce, Temel Haklar Sektörü altında etkin bir izleme yapmanın faydaları üzerinde durulmasında fayda vardır. Bu analiz, sorunlardan ari göstergeler belirlenmesi halinde, sektördeki projelerin ve göstergelerin sağlayacağı faydaları ortaya koyacaktır.

İlk olarak göstergelerin kullanılması, müzakere süreci açısından pratik bir fayda getirmekte, Türkiye'nin siyasi kriterleri ne oranda karşıladığının tespit edilmesini sağlamaktadır. İkinci olarak, temel hakların izlenmesi hem Türkiye hem de AB için formel bir yükümlülüktür. Göstergeler bu yükümlülüğün karşılanmasına destek olmaktadır.

Üçüncü olarak, göstergeler muhtemel insan hakları ihlallerinin belirlenmesi ve ihlallere yol açan yasal/idari boşlukların tespit edilmesi, önleyici adımların atılması

ve dolayısıyla AB standartlarına uyumda adım atılmasına yardımcı olma potansiyeline sahiptir. Dördüncü olarak, göstergeler istatistiksel veri sağlayarak, insan hakları ihlallerinin raporlanmasını sağlamakta, böylelikle devletlerin bu ihlalleri reddetmesini, saklamasını engellemektedir. Bu durumda AB tarafından insan hakları alanında yapılan niteliksel eleştirilerin niceliksel veriyle desteklenmesi, ülke raporlarında yapılan eleştirilerin subjektif olduğu yönündeki değerlendirmeleri de etkisiz kılacaktır.

Beşinci olarak, göstergeler AB finansmanlı projelerin müdahale alanlarının belirlenmesi için yön gösterecek, ayrıca, göstergeler tarafından ortaya konulan ilerleme, yapılan yardımların meşrulaştırılmasına destek verecektir. Son olarak, insan hakları gibi çekişmeli bir alanda göstergelerin kullanımı, insan hakları reformlarına teknik bir karakter kazandırarak, olası tepkilerin karşılanmasını sağlayacaktır.

Anılan faydaların sağlanabilmesi, sektördeki göstergelerin gerekli standartları karşılamasına bağlıdır. Ancak, güvenilirlik ve şeffaflık standartları bağlamında da sorunlar bulunmakta birlikte göstergeler özellikle geçerlilik standardını sağlayamamaktadır.

Göstergelerin geçerlilik standardını sağlayamamasının sebeplerinden ilki, göstergelerin sektördeki tüm haklardaki durumu ölçecek şekilde belirlenmemiş olmasıdır. Türkiye imzaladığı sözleşmelerle temel haklara ilişkin geniş bir koruma çerçevesi oluşturmuş olmakla birlikte, sektördeki göstergeler bu hakların sınırlı bir kısmındaki durumu ölçmeye yönelik tasarlanmıştır.

İkinci olarak, sektördeki göstergeler insan haklarını ölçmek için tasarlanmışlardır ancak, bu ölçümü tam olarak yapamamaktadırlar. Örnek vermek gerekirse, Avrupa İnsan Hakları Mahkemesinin ihlal sayıları, bugünün değil, dünün ihlallerini ölçmektedirler. Mahkemeye başvuru için yerel başvuru imkânlarının tüketilmiş olması gerekmektedir. Bu çoğu zaman oldukça uzun zamana mal olmaktadır. İhlalin yaşandığı zaman ile mahkemenin ihlal kararı arasında geçen sürenin uzunluğu nedeniyle, bu göstergeyi temel alarak insan haklarının güncel durumu hakkında çıkarım yapmak yanlış olacaktır. Benzer şekilde, Avrupa Konseyi Bakanlar

Komitesinin gözetimi altındaki karar sayısı güncel insan hakları durumunu yansıtmamaktadır. Türkiye bu göstergede önemli bir ilerleme kaydetse de, bu gösterge esas olarak Türkiye'nin geçmiş dönemde yaptığı ihlalleri ortadan kaldırdığını göstermekte, güncel ihlaller konusunda bir fikir vermemektedir.

Kamu Denetçiliği Kurumuna yapılan başvuru sayısı ve kurumun kararlarına idari makamların uyumu da insan haklarının güncel durumuna ilişkin fikir vermemektedir. Kurumun idarenin tüm hizmetlerine ilişkin başvuruları aldığı göz önünde bulundurulduğunda, verilen kararların ya da alınan başvuruların insan hakları ile bağlantısı kurulmadan, sayıların artması ya da azalması insan hakları bağlamında anlamlı şekilde yorumlanamaz.

Anılan göstergelere ek olarak birden fazla sayıda gösterge kapasite geliştirme faaliyetlerine yönelik olarak, eğitilen kamu çalışanı, avukat ya da kolluk mensubu sayısını ölçmektedir. İnsan hakları projelerinde sıkça yapılan bir hata olarak kapasite geliştirme faaliyetlerini ölçmek, bu faaliyetlerin insan haklarının duruma ilişkin yaptığı etkinin ölçülmesine katkı sunmamaktadır. Kapasite geliştirme faaliyetlerinin yapılması kendi içinde bir amaç değildir. Bu faaliyetlerin uzun vadede insan haklarının geliştirilmesine katkı sunması beklenmektedir. Dolayısıyla insan haklarının ölçülmesinde, eğitilen kişi sayısı gibi göstergeler kullanılması, geçerlilik standardının karşılanamamasına neden olmaktadır.

Temel Haklar Sektör göstergelerinin geçerliliğine etki eden bir diğer sorun da ölçme paradoksudur. Türkiye'de insan haklarının kapsamlı şekilde ölçecek yeni göstergeler belirlenmesinden önce, hâlihazırda bulunan ve kolayca erişilebilen mahkeme ihlal karar sayıları gibi göstergelere bel bağlanılmıştır.

İndikatif strateji belgesinde belirlenmiş olan göstergeler de geçerlilik standardını karşılamamaktadır. Göstergeler, arzu edilen insan hakları düzeyi hakkında bir iddia ortaya koymaktadır. Dolayısıyla, belgede yer alan göstergelerle uyumlu şekilde projelerin tasarlanması gerekirken, çoğu göstergeye tekabül eden proje bulunmamaktadır. Dolayısıyla bu göstergeler sektörde desteklenen insan haklarının hiçbirinin durumunu ölçmemektedirler.

Güvenilirlik standardı bağlamında da göstergelerin bazı sorunları bulunmaktadır. Özellikle göstergeler arasında yer alan küresel endeksler, Dünya Özgürlükler Endeksinde olduğu gibi güvenilirlik bağlamında sorunlar içermektedir.

Aynı şekilde, küresel endekslerin şeffaflık bağlamında da sorunlar içerdiği hatırlanmalıdır. Öte yandan, okul terk oranları, erken evlilik sayıları gibi göstergelerin verilerden yoksun olması, temel haklar sektöründe göstergelerin şeffaflığına daha fazla gölge düşürmektedir.

Sonuç olarak, göstergelerin kullanımı hem Türkiye hem de AB için birçok potansiyel fayda sunmaktadır. Ancak, ISP ve Aksiyon Belgelerinde tanımlanan göstergelerdeki eksiklikler nedeniyle, bu faydalar her iki taraf için de tam olarak sağlanamamıştır.

Özellikle nicel göstergeler, geçerlilik standardına ilişkin özelliklerden yoksundur. Öte yandan, nitel göstergelerin güvenilirliği ve şeffaflığı da sorgulanabilir. Bu nedenle, sektörün etkisini ölçme çabaları belirsiz sonuçlar verecek ve sürekli olarak inceleme ve sorgulamalara tabi olacaktır.

Bunun sebebi göstergelerin tasarım sürecinde yatmaktadır. Göstergeler, Türkiye’de bireylerin insan haklarından gerçek anlamda yararlanma durumunu ölçmemektedir.

Bu durum, çoğu göstergenin süreç göstergeleri arasından tercih edilmesinden kaynaklanmaktadır. Süreç göstergeleri, devletlerin bu sektördeki projeler gibi insan hakları taahhütlerini somut sonuçlara dönüştürme çabalarını ölçmekte, ancak, bireylerin haklardan ne ölçüde yararlandığını ölçmemektedir. Temel hak projelerinin etkisini ölçmek için tasarlanan göstergeler, uygulamadaki hakları ölçmeye, bireylerin gerçek deneyimlerini yansıtmaya odaklanmalıdır.

Bu zorluğun üstesinden gelmek için yeni ölçüm metodolojilerinin benimsenmesi, yeni istatistiksel araçların oluşturulması ve insan hakları veritabanlarının genişletilmesi gerekmektedir, böylece göstergeler insan haklarının durumunu doğru bir şekilde yansıtabilir. Ancak, bu değişikliklerin uygulanmasının alacağı zaman ve programlama sürecinin yıllık döngüleri göz önüne alındığında bu mümkün görülmemektedir.

Ayrıca, göstergelerin tanımlanması son derece ciddiyle ele alınmalıdır. Ne yazık ki, temel haklar sektörü, yaygın bir sorun olan, proje belgeleri hazırlanırken göstergelerin son dakikada tanımlanmasından mustarıdır. Bu aceleci yaklaşım, temel haklar sektöründe kullanılan göstergelerin standartlarını zayıflatmaktadır.

İnsan hakları göstergelerinin hem kısa vadeli hedefleri, hem de uzun vadeli proje hedeflerini etkili bir şekilde ölçmesi zorluklar içermektedir. Çıktı düzeyinde (faaliyetler) göstergeler belirlendikten sonra, bir sonraki kritik adım, bu çıktıları sadece nicel olarak ölçmekle kalmayıp, bu çıktıların daha geniş proje hedeflerine ulaşmada nasıl katkıda bulunduğunu analiz etmektir. Bu, proje faaliyetleri ile istenen sonuçlar arasında net bağlantılar kurmayı, seçilen göstergelerin insan hakları bağlamında genel hedeflere yönelik ilerlemeyi etkili bir şekilde yakalamasını sağlamasını gerektirmektedir.

İnsan hakları etki değerlendirmesinin nihai amacı, proje hedeflerinin sahada insan haklarını iyileştirme amacına nasıl katkıda bulunduğunu göstermek, sonuçta bireylerin bu haklardan gerçek anlamda yararlanmasını sağlamaktır. Çıktı ölçeğinden hedeflere ve amaçlara doğru ilerlemek, projenin insan haklarını teşvik etme ve koruma konusundaki katma değerini vurgulamayı içermektedir. Çok sık olarak, kurumlar, bir projenin insan hakları koşullarındaki değişime katkısını ele alırken belirsiz ve muğlak ifadeler kullanmaktadır. Bu kritik sorun, temel haklar sektöründe de belirgindir.

Son olarak, sektördeki niceliksel göstergeleri niteliksel göstergelerle birleştirmek faydalı olabilir. Niteliksel göstergeler, genellikle geçerlilik açısından niceliksel göstergelerden daha yüksek puan almakta, ancak, güvenilirlik açısından sınıfta kalmaktadırlar. Bu yaklaşımların birleştirilmesi, makul düzeyde geçerlilik ve güvenilirliği aynı anda sağlayabilmektedir. Ancak, temel haklar sektöründe, niteliksel ve niceliksel göstergeler arasında da bir çelişki bulunmaktadır. Ülke raporları, insan haklarında bir gerileme olduğunu belirtirken, sektör göstergeleri bir iyileşme olduğunu öne sürmektedir. İlginç bir şekilde, ülke raporlarında AB tarafından sağlanan niteliksel değerlendirme aslında sektör göstergelerinden biridir. Bu durum, AB'nin sektörde gerçekleştirilen nicel ölçümlerin sonuçlarını göz ardı

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