

## Comparing Occupational Health and Safety Systems in Kurdistan Region and Turkey: Problems, Concerns and Solutions Related to the Systems

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### ABSTRACT

In this study, we aim to compare the current Occupational Health and Safety(OHS) Laws and systems in Kurdistan Region and Turkey major business partners and having a huge Kurdish population and similar culture besides being close to each other. Turkey has made great improvements in the OHS in last 10 years to comply with European Union labor law. The problems and benefits of the law in the last 10 years in Turkey will be discussed and compared with Kurdistan Region. Kurdistan Region needs to develop a well-organized OHS system through considering Turkey OHS journey to improve the working life.

**KEY WORDS:** Occupational Health and Safety, Kurdistan Region, Turkey, Threats, Risks.

### 1.

The purpose of the Occupational Health and Safety (OHS) Law is to regulate the duties, authorities, responsibilities, rights and obligations of employers, employees and governments in order to ensure OHS at workplaces and to improve existing health and safety conditions. The law is applied to all works and workplaces belonging to the public and private sectors, to employers and employer representatives of these workplaces and to all employees, including apprentices and interns, regardless of their field of activity.

Kurdistan region of Iraq (KRI) comprises four Kurdish-majority governorates: Erbil, Sulaymaniyah, Duhok, and Halabja and has borders with Iran, Syria, and Turkey having mainly Kurdish populations in these borders. KRI has done large developments in all areas and they are in a transition period of health, safety and environment standards defined by the World Health Organization (WHO) (Kurdistan Regional Government, 2020). The directorate of Health & Safety as a part of quality assurance was established on 2010 under the Ministry of Higher

### Introduction

Education supervising institutions of higher education and organizing study processes in Kurdistan Region to provide a safe and healthy work and educational environment for all its employees, students and visitors. Managing the university's overall health & safety program and developing and implementing policies and procedures are also the duties of this directorate (Kurdistan Regional Government, 2022a).

Turkey has an extensive OHS system developed from European Union and WHO standards and the governments support the OHS in all industries, small firms, restaurants, organizations etc. to prevent occupational accidents and occupational diseases. The General Directorate of OHS is subordinate to the Ministry of Labor and Social Security in Turkey. OHS inspections are also carried out on behalf of the state by labor inspectors, authorized to inspect and audit in sufficient number and quality to meet the needs of the Ministry of Labor and Social Security. The duties and authorities of the General Directorate of Occupational Health and Safety are as follows: Planning,

programming and ensuring the implementation of examination and research studies on OHS, prevention of occupational accidents and occupational diseases; carrying out market surveillance and inspection of manufactured and imported personal protective equipment to determine the procedures and principles in these matters; determining the training and certification procedures and principles regarding OHS of occupational physicians, occupational safety specialists and other officials to be assigned to prevent health and safety risks in the workplace and to carry out preventive services; ensuring that all employees, including those who receive vocational training, rehabilitated ones, special risk groups and those working in public services, are protected by taking necessary measures against work accidents and occupational diseases; regulating, managing and supervising the working procedures and principles of the OHS Research and Development Institute Presidency and the OHS Research and Development Institute regional laboratory directorates ; providing measurement, analysis, technical control, risk analysis and assessment, training, consultancy and expertise services in the field of OHS and determining the qualifications of natural and legal persons and organizations that will provide such services; authorizing public institutions and organizations, universities and companies in accordance with the provisions of the Turkish Commercial Code dated 13/1/2011 numbered 6102, and joint health and safety units to provide training to workplace physicians, occupational safety specialists, other technical and health personnel and workers and revoking their authorization when necessary, controlling whether the service is provided effectively and efficiently, making the examinations at the end of the training of the occupational physician and occupational safety specialist, and issuing the documents; ensuring cooperation and coordination

with national and international institutions and organizations ; carrying out standard studies to prepare and develop norms ; carrying out publication and documentation studies related to the fields of activity and organizing statistics, and performing other duties assigned by the Minister(CSGB, 2023).

OSH has faced a real challenge to adapt to all developments with the old laws, guidelines, strategies and plans. Unfortunately, OHS in the Kurdistan Region has not received a specialized study to accommodate all its answers, especially concerning OHS law or instructions. It should be noted that no special law on OHS has been issued in the Kurdistan Region, but there are attempts to prepare a draft related to this matter. It is aimed in that study to understand how OHS is applied in Kurdistan Region and Turkey that Turkey has had a long experience in OHS field being able to be an example for the Kurdistan Region. We will try to find answers how to develop a suitable OHS law and system in Kurdistan region by comparing Kurdistan Region and Turkey. The current OHS law in Turkey has some problems in practice that the current law is also expected to be developed. While, Kurdistan Autonomous Region is trying to adapt its self with the World in the OHS field and has to work with central Iraq governments about OHS. Within the scope of that study, better strategies for current the OHS system can be developed for the Kurdistan Region.

## **2. OHS System in Kurdistan Region**

The Kurdistan Region is considered one of the fastest-growing regions in all sectors such as industry and housing and infrastructure construction. In addition to local companies, several international companies have come to Kurdistan Region to work. With increased number of domestic and foreign workers, the number of accidents, illnesses and deaths due to

work have increased.

The first occupational health unit in Iraq was established in 1964 under the Ministry of Health and the Institute of Health Safety was established under the Ministry of Labor and Social Affairs (MLSA). Then, in 1981, the two sides merged and the National Centre for OSH was established under the Ministry of Health. In the 1980s, OSH services improved to the extent that the Iraqi National center for OSH was considered one of the most important and advanced centers in the entire Middle East. A turning point in the history of OSH occurred in 2004 when the National center for OSH was removed from the Ministry of Health and placed under the MLSA. In the Kurdistan Region, this process took place late and the OSH was not transferred to the MLSA until 2009.

At first, the inspection committee in the Labor Department of the Ministry was in charge of supervising the application of OHS in Kurdistan Region in coordination with the National Center for Health and Safety, according to the authority delegated to them in the Labor Law, based on Articles (152) and (108) / second of the Law Iraqi Action (71) of 1987. However, the tasks of the committee affiliated with the Labor Department in the Ministry were cancelled, and the matter was delegated to the National Center for Health and Safety by Laws (114), (116) and (118) of the Iraqi Labor Law of 2015.

The main part of the labor force in the Kurdistan Region is divided into two sectors: public sector (government) and private sector (non-government). According to Iraqi Government Law No. 150 of 1987, all public sector workers were made civil servants and covered by the Civil Service Law. The existence of workers is linked to the private sector, covered by labor, OSH and social security laws (Laws 71, 39 and Regulation 22). In the private sector, workers are divided into two classes; formal and informal. Official means any worker working in a company, factory or

anywhere in the private sector and registered with the General Directorate of Labor and Social Security. Therefore, in the event of illness, accident or death; He /she or his or her relatives benefit from labor laws and social insurance, unlike an informal worker who is not registered and has no specific employer. This has created a big problem because none knows the exact numbers and no research has been done on them. Thus, OSH only works on formal workers in the private sector. Therefore, they do not work in all professions such as restaurants, barbers and other professionals.

## 2.1 Department of OHS in the Kurdistan Region

Prior to 2013, the Department of Occupational Safety and Health was affiliated to the Ministry of Health in Kurdistan, but currently, it is a part of the General Administration of Labor and Social Security in the Ministry of Labor and Social Affairs in Kurdistan Region. This department consists of six occupational safety and health committees/units located in the following areas as shown in Figure 1:

Directorate of Labor in Erbil,

Directorate of Labor in Sulaymaniyah,

Directorate of Labor in Duhok,

Directorate of Labor and Vocational Training in Soran,

Directorate of Vocational Training in Zakho,

Directorate of Employment and Vocational Training in Garmian (Ministry of Labour and Social Affairs, 2023).

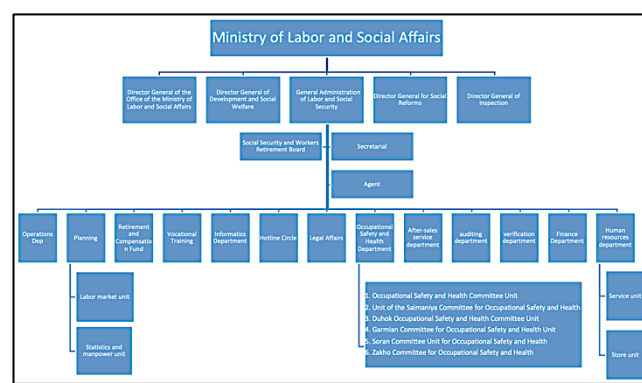


Figure 1: Organizational structure of the Ministry of

### **Labor and Social Affairs**

All the directorates above suffer from a shortage of OHS personnel who lack the necessary logistical services to complete their work. Therefore, OHS inspections are almost non-existent. However, the directorates are guided by the provisions of Instructions No. 22 of 1987 issued by the central government, these instructions govern the enforcement of OHS systems, provide for inspection of workplaces and define the responsibilities of employers and safety committees as well as the duties of workers. The Kurdistan Region is still covered in principle by Labor Law No. 71 of 1987, which was replaced by Labor Law No. 37 of 2015 in the Federal government. It is understood that the General Administration of Social Security has arrangements to train members of OHS committees by non-governmental organizations (NGOs). In its efforts to promote safety and health, the Department of Occupational Safety and Health published a guide in Kurdish that addresses the risks of each profession, OHS standards, employers' responsibilities, and the rights and duties of workers in OHS. The OSH inspection in Kurdistan is preventive because it only responds to incidents reported through the hotline (No. 5500) set up by the Ministry of Labor and Social Affairs.

The General Administration of Social Security undertakes the issuance of licenses for new companies and institutions. This entails obtaining prior approval from the concerned OHS Committee which verifies compliance with the OHS Guidelines. This requires the employer to maintain a safe and healthy workplace, and to provide personal protective equipment, fire extinguishers, and a first aid facility (Ministry of Labour and Social Affairs, 2023).

The main tasks of the occupational safety and health

committees, as listed by the general administration of Social Security in June 2021, include:

- carrying out field inspection visits to industrial facilities,
- make recommendations to employers and workers on protective measures,
- Registration of occupational accidents, injuries, and deaths (Ministry of Labour and Social Affairs, 2023).

### **2.2 The Role of the Kurdistan Government and the Organizations of Employers and Workers in OHS and OHS Statistics**

The city government office in Sulaymaniyah established what is referred to as the Workers Safety Committee for the purpose of monitoring employers' compliance with OHS. The committee is chaired by a representative of the Sulaymaniyah Directorate of Labor and Social Security, a representative of each of the Sulaymaniyah Workers Union Office, the Sulaymaniyah Health Directorate, and the City Government Office in Sulaymaniyah. The committee also has the authority to inspect the compliance of industrial facilities in which Sulaymaniyah and the Safety Agency employ thousands of workers (ILO, 2022).

Kurdistan General Federation of Trade Unions founded in 1992, it also engages in occupational safety and health it includes a number of different business sectors, including transportation, services, industry, agriculture, oil, electricity, construction and textile sectors. The General Federation of Kurdistan Trade Unions has six branches in the cities of Erbil, Sulaymaniyah, Dohuk, Soran, Halabja and Garmian, and it is considered the most representative organization for workers in the Kurdistan region. The number of union members changes annually according to the payment of contributions, as only those who pay their contributions regularly retain their membership in the union. Membership size is

available with the Federation's Financial Audit Board. According to the data published by the General Directorate of Labor and Social Security in the Kurdistan Region of Iraq, there are (28,696) establishments whose workers are covered by social security. These registered companies are spread in Erbil (11,545), Sulaymaniyah (11,255) and Dohuk (6,896), with a total of 83,057 workers (ILO, 2022).

As stated above, OSH inspections always include a worker representative from that union. The federation does not have an action plan for inspection activities because it only responds in cases of work-related accidents and deaths, nor does it keep relevant statistics. The number of injuries in the six aforementioned governorates and regions in the Kurdistan Region 2020 were just 49 injuries during the proposed 2016 period, the reporting of work injuries is not standardized and unreliable. The overall underreporting is diagnostic of the system's difficulty (ILO, 2022). The number of occupational deaths in the aforementioned six governorates and regions in the Kurdistan Region of Iraq reached 35 cases during the period 2016-2020, the highest of which was 10 deaths in a year, while Dohuk reported 17 deaths during a period of 4 years. These numbers remain unrealistic. This is supported by the fact that other sources such as the Sulaymaniyah labor unions reported 10 deaths during the first three months of 2021, and 35 deaths in 2020, and discrepancies in reporting are also evident through reports issued by the OHS of the General Administration of Labor Inspection and Security for 2017 (10 deaths) and 2018 (7 deaths) (Ministry of Labour and Social Affairs, 2023).

### **2.3 Cooperating with the Kurdistan Region for Promoting Employment**

The International Labor Organization is participating with the Central Statistical Organization and the Kurdistan Region Statistics Authority in

implementing the first national labor force survey. Accurate results of the survey are very important as they contribute to better design and implementation of appropriate employment policies. The survey aims to make estimates at the national, district, rural and city levels in Iraq. The Central Statistical Organization and the Kurdistan Region Statistics Authority will receive support for the implementation of the survey in accordance with the latest statistical standards set by the Nineteenth International Conference of Labor Statistics Experts. Based on the results of the survey, tripartite International Labour Organization (ILO) partner agencies in Iraq will develop a new national employment policy. This policy examines the immediate needs for livelihoods and emergency job opportunities, in addition to addressing the medium and long-term structural challenges and deficiencies in decent work facing women and men in the Iraqi labor market. This survey specifically aims at the following: conducting the first labor force survey in a decade in line with the latest statistical standards and recommendations issued by the 19<sup>th</sup> International Conference of Labor Statisticians by using the computer-assisted personal interview form. The inclusion of new sections in the survey are international migration, people with special needs, the impact of COVID-19 on the labor market, and the participation of individuals and institutions in trade unions. It aims to provide accurate information on the labor market and analyzing statistical data on the workforce in order to formulate an employment policy and to strengthen national capacities to develop effective employment policies in Iraq (Ministry of Labour and Social Affairs, 2023). ILO can help to improve the OHS system in Kurdistan Region. ILO has developed standards about OHS in all countries and Kurdistan Region governments can coordinate with ILO.

## **2.4 The Role of Ministry of Higher Education and Scientific Research on OHS in Kurdistan Region**

At the Kurdistan Region level, the Directorate of Health and Safety was established in 2010 at the Ministry of Higher Education and Scientific Research with the aim of providing a safe and healthy work environment for all employees, students and visitors. In doing so, it is entrusted with managing the universities overall OHS programs and establishing, developing and implementing policies and procedures for the purpose of complying with legislation. In this regard, it should be noted that in Kurdistan there are 14 public universities and 19 private universities (Kurdistan Regional Government, 2022a).

At the level of public universities, the Directorate of Health and Safety carries out OHS tasks through health and safety committees within each college, whereby each department appoints a representative to the committee. OHS also operates as a unit in private universities, where each college has its own committee, and its membership consists of representatives from the various colleges. As a matter of principle, health and safety committees are dedicated to maintaining an injury and disease-free work environment idea. More specifically, the directorate and unit in public and private universities respectively have the following tasks:

- prevention of occupational diseases and injuries,
- maintain a safe environment,
- compliance of all universities in the Kurdistan Region with the requirements of OHS,
- OHS training,
- Ensure that university staff and students complying with safety guidelines OHS,
- Ensuring that contractors and contractors take responsibility for OHS,

- Disseminating occupational safety and health rules and regulations to employees, students and visitors

Also, at Salahaddin University, protecting the safety and health of staff, students, users and visitors is one of the tasks of the University Health and Safety Directorate. OHS is managed by a qualified cadre in OHS with the primary objective of preventing work injuries and occupational diseases. The University's Health and Safety Directorate, in coordination with the Ministry's Central Directorate of Health and Safety organizes training for its employees on fire prevention, first aid in laboratories, cleanliness, injury prevention, and access to special needs. There is also cooperation between the university and its community in the field of safety and environmental protection (Salahaddin University, 2023).

The Directorate performs the following duties:

- risk assessment of chemical, biological, physical, mechanical, and electrical hazards,
- researches related to occupational injuries and deaths,
- creating a solution to OHS problems and follow-up,
- preparing reports on issues related to OHS,
- development of safety rules,
- organizing internal training on firefighting, first aid, electrical safety and hygiene.
- checking laboratories and equipment that they are safe and adequate for the work required,
- application of OHS standards,
- disseminating OHS information to students and employees,

A laboratory safety guide has been prepared based on research aimed at ensuring the safety of students and staff at Koya University on OHS in laboratories. In this context, a laboratory is referred to as the place where research, clinical and diagnostic evaluation,

and chemical procedures, as well as education, take place. The main responsibility of the OHS committees is implementation and maintenance. Specifically, the committees ensure these:

- taking emergency action evacuation list,
- promoting the principles of risk management,
- updating graduate students on OHS practices,
- recording accidents and incidents on the injury, illness and accident form (Koya University, 2023)

## **2.5 Criticisms of the OHS system in Kurdistan Region**

Discoordination between Kurdistan Region and Central Iraq governments has led to many problems in the Kurdistan Region. National Center for Health and Safety in the Federal Ministry of Labor and Social Affairs of Iraq and the Ministry of Labor and Social Affairs and health and safety representatives from all of the region's governorates in the Kurdistan Region have tried to improve coordination and cooperation about OHS by carrying out mutual visits, capacity building, and the transfer of expertise and information from the National Center for Health and Safety in Iraq to the region Kurdistan supported by the Peace and Freedom Organization and the Norwegian People's Aid Organization (Pfo, 2022).

Many contractors and sub-contractors in construction try to decrease the costs by ignoring OHS activities in the Kurdistan Region. Ministry of Construction and Housing (MOCAH's) directorates for projects with the budget between 1 -10 billion Iraqi dinars have prepared minimum requirements manual of health, safety and environment for both MOCAH and of contractor's staff engaged on client projects to avoid risks from specific hazards during projects. Duties and responsibilities of contractors, supervisors, workers and Health, Safety and Environment (HSE) committees and/or HSE representatives are defined here. Risk assessment, emergency planning, contractor minimum

requirements and the color language are the parts of the manual (Kurdistan Regional Government, 2020). It is stated that the Kurdistan Region security conditions today completely lack any coherent attempt to prevent accident in most workplaces and construction projects, if anything happened; considered by many to be simply fate. Workers can be seen without basic personal protective equipment(PPE) any construction site in construction sites. Uneducated, and absence of preventive culture among workers are the challenges in Iraq and Kurdistan Region. The lack of preventive equipment and weak of law and absence of training and Education have center cause to increasing the number of death accidents among workers (Kurdistan Regional Government, 2022b)

Despite what we have mentioned, specific statistics about the number of work accidents, work related deaths and occupational diseases for each industry, demographic variables etc. could not be found in Kurdistan region. A categorization of OHS accidents according to industries is required to make academic researches and managing the OHS in the Kurdistan Region. None can improve OHS in Kurdistan region without having reliable statistics. All workers in the Kurdistan Region are to be registered and to be followed that a region database for employers is needed to report their workers to the governments. Missing worker notifications and employing fugitive workers are challenges to have accurate statistics.

## **2.6 Suggestions for OHS system in the Kurdistan Region**

Enhancing OHS capabilities in Kurdistan is still behind what is required despite the efforts made by the OHS Administration in Kurdistan Region. It is recommended to establish a new center in Erbil with a similar structure to the National Center for OHS in Baghdad, in addition to the creation of directorates for OHS inspection. The twin centers shall enhance

their cooperative and coordinating functions and exchange experiences in all matters related to OHS. For now, the Ministry of Labor and Social Affairs in Erbil should give the full support to the OSH committees, including providing material logistical support (PPE etc.) and enabling them to work on the common time frame policy in a more coordinated and effective framework. This includes unifying inspection forms and templates to standardize procedures and statistics, not assigning any other tasks to inspectors, and granting adequate allocations to the operating director, OHS inspectors and the included committees, including drivers, to carry out their duties with the required accuracy. In order to enhance OHS inspections, accredited and controlled private laboratories can be used to provide the necessary support such measurements of field parameters, biologic and chemical tests etc. Standards of all PPE and laboratories are to be developed and controlled that they meet quality criteria.

Introducing OHS curricula in universities is required that the teaching of occupational safety and health at the university education is virtually absent in the Republic of Iraq. The Ministry of Higher Education and Scientific Research is committed to working on developing OHS curricula in cooperation with a number of universities for the purpose of qualifying graduates in this field. Courses should also be opened for students of universities and institutes, especially in the Kurdistan Region, for OHS inspectors in order to qualify them to join the labor market, as well as the introduction of laws and instructions related to OHS in the curricula of some stages to enhance the culture of OHS. OHS can be a part of culture, if necessary classes are given in all levels of schools. Dangerous fields such as health, engineering etc. need proper OHS system and standards that the current workers in these fields are to be educated.

### **3. OHS System in Turkey**

Focusing on the concept of protection and prevention, the Occupational Health and Safety Law (Law No. 6331) aims to ensure that necessary measures are taken before work accidents and occupational diseases occur. According to the researches and official figures in Turkey, the decrease in productivity and efficiency, loss of working days, health services such as medicines and doctors, compensations paid, temporary and permanent incapacity allowances, loss of equipment, and the lack of motivation of the workers in the workplace correspond to 4% of national income due to work accidents and occupational diseases. These are not only the problems that arise as a result of work accidents and occupational diseases, but also spiritual problems such as the suffering, the sorrows and future concerns of the widows and orphans left behind, and how fatherless children will be raised as good citizens (Korkut & Tetik, 2013). Occupational health and risk protection principles in Turkey are avoiding risks; fighting risks at their source; paying attention to the design of the workplaces and the selection of work equipment, working style and production methods in order to make the work suitable for the people, preventing the negative effects of the uniform working and production tempo on health and safety; minimizing risks if they cannot be prevented; adapting to technical developments; replacing the dangerous one with a non-hazardous or less dangerous one; developing a coherent and general prevention policy that covers the impact of factors related to technology, work organization, working conditions, social relations and work environment; giving priority to collective protection measures over personal protection measures and giving appropriate instructions to the employees employers (Korkut & Tetik, 2013 ; 6331 Law , 2012).

The Occupational Health and Safety Law (Law No. 6331), after its approval by the Grand National



Assembly of Turkey, entered into force partially after being announced in the Official Gazette dated 30 June 2012. Care centers, sewing houses and similar workplaces, the activities of the Turkish armed forces, general law enforcement forces and the undersecretariat of the national intelligence organization, response activities of disaster and emergency units, home services, those who produce goods and services on their own behalf without employing employees, convicts and detainees services, work dormitory built within the scope of improvement, education, security and vocational activities are not included in the scope of Law No. 6331. The Law No. 6331 consists of definitions; general obligation of the employer; principles of protection from risks; OHS services; Supporting OHS services; occupational physicians and occupational safety experts; determination of hazard class; risk assessment, control, measurement and research; emergency plans, firefighting and first aid; evacuation; right to refrain from work; recording and reporting of occupational accidents and diseases; health surveillance; informing employees; training of employees; obtaining the opinions of employees and ensuring their participation; obligations of employees; employee representative; national OHS Council; OHS committee; coordination of OHS; inspection, examination, research, inspector's authority, obligation and responsibility; suspension of work; administrative fines and enforcement; cases without provision and exemption; prohibition of using addictive substances; safety report or major accident prevention policy certificate of business; various regulations regarding health and safety; certification, warning and cancellations; amended provisions; repealed provisions; references; existing regulations; obligation to appoint an occupational safety specialist; salary payments to the doctors of the organization providing workplace medicine; and

enforcement sections (6331 Law , 2012).

In Law No. 6331, important [definitions related to OHS](#) are clearly defined to prevent misunderstandings: **Young employee:** An employee who has completed the age of fifteen but has not completed the age of eighteen; **Occupational accident:** An event that occurs in the workplace or due to the conduct of the work, causing death or injuring the body integrity mentally or physically; **Occupational disease:** Disease resulting from exposure to occupational risks; **Hazard class:** The hazard group determined for the workplace in terms of OHS, taking into account the characteristics of the work performed, the materials used or emerging at every stage of the work, work equipment, production methods and forms, working environment and conditions; **Prevention:** All of the measures planned and taken to eliminate or reduce the risks related to OHS at all stages of the work carried out in the workplace; **Hazard:** The potential for harm or damage that exists in the workplace or may come from outside, which may affect the employee or the workplace, **Risk:** The possibility of loss, injury or other harmful consequences arising from the danger; **Risk assessment:** The studies to be carried out in order to identify the hazards that exist in the workplace or that may come from outside, the factors that cause these hazards to turn into risks, and the analysis and grading of the risks arising from the hazards, and the determination of control measures; **Workplace health and safety unit:** The unit established to carry out OHS services in the workplace, having the necessary equipment and personnel and other terms (6331 Law , 2012).

According to the Law No. 6331, institutions or companies are divided into three risk groups as less dangerous, dangerous and very dangerous. With the definition of employee brought by the OHS Law No. 6331; All employed persons, including apprentices and interns are covered by the Law in both public or

private sector. Law No. 6331 has brought obligations to all employers as summarized: Conducting risk assessment in the workplace, preparation of emergency plans, firefighting and first aid work, making the evacuation plan, registration and notification of work accidents and occupational diseases, realization of health surveillance, informing the employees, providing OHS training of employees, assignment of employee representative(s), establishment of a health and safety board for in workplaces with fifty or more employees and work lasting more than six months and ensuring coordination in OHS studies with other employers (Korkut & Tetik, 2013 ; 6331 Law , 2012). The employer is obliged to ensure the OHS of the employees, and in this context, preventing occupational risks, taking all kinds of measures, including training and information, making the organization, providing the necessary tools and equipment, adapting health and safety measures to changing conditions and obliged to improve the current situation. Again, obligations such as controlling whether the OHS measures taken on the basis of the workplace, conducting a risk assessment or having it done, taking into account the health and safety suitability of the employee during assignment and preventing employees from entering places where there is life and special danger except for those who have been given sufficient information and instructions are also the responsibilities of the employer. Employees are obliged not to endanger the health and safety of themselves and other employees affected by their actions or the work they do according to received training on OHS and the instructions of the employer. Using the production tools in the workplace in accordance with the rules, using and protecting PPE correctly, and notifying the employer or employee representative immediately when they sense a serious and imminent danger

related to the machinery and equipment in the workplace are also their obligations. State's obligations are to carry out inspections, administrative fines or the preparation of the relevant regulations and communiqués specified in the Law, but also to solve some problems and to give supports in order to ensure more effective and sustainability of OHS services in line of the OHS Law (Korkut & Tetik, 2013; 6331 Law , 2012).

The employer is obliged to appoint an occupational safety expert, workplace doctor and other health personnel from its employees. If there are no personnel with the required qualifications among employees, all or part of this service can be taken from the joint health and safety units, or the employer can give this service if he/she has the specified qualifications and the required document, taking into account the hazard class and the number of employees (Korkut & Tetik, 2013 ; 6331 Law , 2012). Another obligation of the OHS Law No. 6331 for employers is the health surveillance of employees. Health examinations are carried out at their employment, upon the return to work after re-employment, job change, work accident, occupational disease or health reasons, during the work if needed, the nature of the employee and the work and at regular intervals determined by means of the Ministry according to the hazard class of the workplace by taking into account the exposed health and safety risks at the workplace. Those who will work in dangerous and very dangerous jobs must certify their suitability for that job with a health report, and the confidentiality of the health report received from the employee is essential (Korkut & Tetik, 2013; 6331 Law , 2012). Employers report occupational accidents to the Social Security Institution within three working days from the date of the accident and occupational diseases notified to him by the health service providers or occupational

physician (6331 Law , 2012).

The board responsible for organization of OHS services consists of the following persons: employer or employer's representative, occupational safety specialist, occupational physician, a person in charge of human resources, personnel, social affairs or administrative and financial affairs, if available; civil defense expert, if present foreman or headworker, employee or the lead representative (6331 Law , 2012). Employee representatives are appointed by the employer in the specified numbers by appointment, in case it cannot be determined by election among the employees, taking into account the risks in different parts of the workplace and the number of employees. Employee representatives can make suggestions to the employer in order to eliminate or reduce the risks and have the right to ask the employer to take the necessary measures, and the employer has to provide the necessary opportunities in fulfilling their duties. Another obligation imposed on employers regarding OHS is the obligation to obtain a safety report or major accident prevention policy document. Accordingly, the Law stipulates that before starting the operation, employers can open their workplaces for operation after the preparation of a major accident prevention policy document or safety report according to the size of the workplaces and the examination of the content and adequacy of the prepared safety reports by the Ministry for workplaces where major industrial accidents may occur. The council, which is formed to make recommendations for the determination of policies and strategies related to OHS throughout the country, meets regularly twice a year and the working procedures and principles of the council are determined by the Ministry (Korkut & Tetik, 2013; 6331 Law , 2012).

### 3.1 OHS Experts in Turkey

All engineering branches, technical teachers, physics

or chemistry departments of science and OHS programs graduates can become OHS specialists with the technical staff role defined above in accordance with the regulation on the duties, authorities, responsibilities and trainings of occupational safety specialists through passing OHS exams organized by measurement, selection and placement center (ÖSYM) and getting A, B or C OHS certificates. Occupational safety experts; those with (C) class certificate can work in less dangerous classes, (B) class certificates in less dangerous and dangerous classes, and those with (A) class certificate can work in workplaces in all hazard classes ( Donusumisg, 2023). Occupational safety specialists are people who work to prevent all kinds of physical, chemical, biological, ergonomic and psycho-social risks that may affect the health, safety, comfort and performance of employees in the workplace and to increase the efficiency of the workplace. Experts' examination of workplaces for chemical, physical, radiological and biological hazards not only protects employees, but also ensures the protection of property, environment and society. Duties to be fulfilled by occupational safety experts are included in the regulation on the duties, authorities, responsibilities and trainings of occupational safety experts. In the relevant regulation, *'guiding'* at the beginning of these duties is to make suggestions to the employer on the planning and organization of the work, selection, supply, preservation and maintenance of personal protectors. Another duty is to inform the employer in writing about the necessary measures to be taken on health and safety issues. In addition, it is among the duties of occupational safety experts to investigate the causes of work accidents and occupational diseases in the working environment and to make suggestions on what can be done in this regard. Risk assessment, preparation of an emergency action plan and monitoring of the working environment are other

main duties of them. Planning of maintenance, control and measurements of all kinds of tools and equipment used at regular intervals and controlling their applications are also in their responsibilities. Informing employees and parties about OHS and carrying out training activities in this regard is the responsibility of OHS experts. Finally, being in cooperation with the relevant units is among the duties defined by the regulation (Takaoğlu, Kaya & İri, 2018).

### **3.2 Physicians and other health staffs of OHS in Turkey**

Occupational physician is a physician who is authorized by the Ministry to work in the field of OHS and has a workplace doctor certificate gotten through examination. A health professional who provides health services in the workplace is called a workplace physician to protect and improve the health of employees and to provide diagnosis and treatment services quickly in case of possible occupational diseases. They do some activities such as periodically checking the health status of people working in various fields in the workplace, performing preventive medicine practices in terms of important and common diseases such as hypertension and occupational diseases such as silicosis, helping to make the work environment healthier and safer. Nurse, health officer, emergency medical technician and environmental health technician diploma certified by the Ministry having a workplace nursing certificate issued by the ministry can be assigned in occupational health and safety services as other health personnel to help occupational physicians (Medicana, 2023).

### **3.3 The common health and safety unit**

The Joint Health and Safety Unit (Ortak sağlık ve güvenlik birimi-OSGB) legally is defined as "*Private organizations equipped with the physical and medical equipment required by the legislation formed by*

*occupational health and safety professionals (occupational physician, occupational safety specialist and other health personnel) authorized by the Ministry of Labor and Social Security to provide Occupational Health and Safety Services to workplaces*". OSGBs provide occupational physicians and occupational safety specialists to all kinds of workplaces that are counted or not counted from the industry where even one worker works (Korkut & Tetik, 2013; OSGB, 2023; 6331 Law, 2012). They are more like profit searching organizations and they can give service to firms in the city where they are established and neighbor cities. There are many OSGBs in each city and they try to get as much as firms, leading to low OHS service fees. They can also provide service to other remote cities by assigning OHS experts. Their works are controlled by the Ministry and they have points system given by the Ministry. In case, they got low points, they may be closed or penalized due to not providing proper OHS services.

### **3.4 Problems and criticisms of the OHS system in Turkey**

Problems of the Law No. 6331: problems of employers in terms of the authorities and obligations employing less than 50 workers in the less dangerous class risk, service delivery problems, the working time of the workplace doctor, the lack of information and support for the solution of the problems, OHS Katip database system problems, the administrative fines stipulated by the Law, implementation problems related to the support to be provided to OHS services, and problems related to risk assessment are needed to be solved (Korkut & Tetik, 2013). OSGBs are authorized to provide services only in the province where they are established and in the neighboring provinces. It is only possible for them to operate outside of the border provinces by opening branches in those provinces by complying with the conditions specified in the regulation. If each

company establishes a OSGB in so many provinces, it will be able to turn the country into a OSGB cemetery. Among the problems encountered are the long working hours of workplace physicians and the inability to find workplace physicians. Although, it is a new program, the OHS KATIP program does not work with the desired efficiency. Administrative fines brought with the Law No. 6331 are incompatible with the principles of proportionality and justice. In the risk analysis, the time to complete the deficiencies is not foreseen and it will be inevitable to experience many problems in practice (Korkut & Tetik, 2013).

Many employers do not know the law and its requirements very well and they think that they are freed from all obligations by agreeing with OSGBs, but this is not the case. When the laws and regulations are examined, agreeing with OHS experts and workplace physicians does not eliminate the responsibilities and obligations of the employer. In other words, they only get help and consultancy about what to do (OSGBPro, 2023). Gaps in laws and regulations, delays in laws, depending on the number of employees in the workplace, the insufficient minutes applications, limitation of powers of OHS experts, OHS specialist being responsible for accidents and having many legal responsibilities of the OHS specialist are problems of OHS experts due to laws and legal structure. Failure to sanction employer, operations without insurance, inability to enforce laws and lack of supervision of workplace inspectors are other main problems in law (Takaoğlu, Kaya & İri, 2018).

Inadequate OHS safety and health checks, personal protective equipment not fully provided by the employer, and not using seat belts for those working at height were found to be the biggest obstacles to the formation of a safety culture mainly at construction sector in the study of Aslan & Saçık (2018). The safety culture and OHS service levels change among cities in

Turkey that cities in East of Turkey has low level OHS culture due to different applications of OHS services as found the study of Aslan (2019) and also it is understood that the legal regulations remain *'on paper and are not fully reflected in the practice'* in some firms and places (Aslan, 2019). Many risk assessments are done on paper or by copy-past of similar firms. The standards to carry out risk assessment have not been defined in the law. Many OHS experts choose not efficient easy risk assessment methods such as 5X5 matrix method. Furthermore, many OHS experts do not visit work fields enough to carry out suitable risk assessments and they provide OHS services just on paper without giving proper training to workers. Documental rental of OHS experts by OSGBs is another misuse of this units, leading to inefficient OHS services.

The statement in Güzey's (2014) study: *"occupational safety experts are seen as the only responsible for the prosecutors in occupational homicides (business murders) and face processes such as detention/probation"* shows the risk of OHS experts. Employees' failure to comply with orders and instructions and neglecting OHS can be explained by the lack of authority of OHS experts (Takaoğlu, Kaya & İri, 2018). From Regulation on the Duties, Authorities, Responsibilities and Training of Occupational Safety Experts, the item *"complaining the workplace to the Ministry in case of life-threatening danger"* is a conflict that the OHS specialist is obliged to notify the employer of life-threatening situations. However, if the employer does not fulfill the requirements of these notifications, the responsibility of the OHS specialist does not end. The expert is obliged to complain to the ministry of his boss who pays his salary. An employee's complaint about his boss and the closure of the workplace as a result may mean that he loses his/her job (Kayan vd., 2017). According to the OHS Law No. 6331, the authorization certificate of the occupational physician



or occupational safety specialist, whose negligence is detected, is suspended in the occurrence of an occupational accident or occupational disease that causes the deterioration of the physical integrity of the employee, resulting in death or disability. The OHS specialist of the Esenyurt shopping center construction, where 11 people lost their lives as a result of the fire at the Esenyurt shopping center construction site, was found guilty and sentenced to 6 years, although he repeatedly reported to the employer the problems that he needed to fix and recorded this notification officially. As can be seen in this example, the pressure created by the anxiety of losing the job can cause the OHS specialist not having job security to act in favor of the employer, such as delaying or ignoring reporting the dangerous situation to the ministry (Kayan et al., 2017). In addition, Orhan (2014) stated in his study that experts face problems about job security and that extra job security is necessary for them to perform their duties fully.

### 3.5 Solutions to OHS problems in Turkey

New software currently in use has started since 2022 that "İSG-KATIP", "EKIPNET", "PGD Product Complaint Portal", "Asbestos and Pneumoconiosis Application Portal" were gathered under the same roof and these services are available at "<https://isgkatip.csgeb.gov.tr>" under the name of OHS-KATIP to overcome the existing database problems. Within the scope of the third paragraph of the 27<sup>th</sup> article of the Occupational Health and Safety Law No. 6331, the data received from the field can also be sent via the new OHS- KATIP (CSGB, 2023).

The arrest of occupational health and safety experts is a serious concern among OHS experts in Turkey and they think what is done is illegal. Because the employer is responsible for OHS, and OHS experts provide consultancy to the employer. For this reason, protection of OHS specialists while doing their jobs,

granting the authority to stop the work, allocating a certain budget in the workplace, giving the authority to impose penalties, only judging employer etc. are some demands of them. Another suggestion is that OHS should be completely controlled by the state. In this case, employers will make a certain payment to the state for each worker according to the danger group. On the other hand, the state will organize an independent OHS service with the money accumulated in the pool. Job security is to be given to OHS experts to carry out their tasks without having pressure from employers. Furthermore, OHS experts are to be checked whether they do their works properly.

TMMOB (Union of Chambers of Turkish Engineers and Architects) Occupational Safety Experts Workshop was held on March 2, 2019 in Ankara. Before the workshop, local forums were held in Ankara, Bursa, Denizli, İstanbul, İzmir, Kocaeli, Zonguldak, Kırklareli and Diyarbakır provinces through provincial coordination boards. Within the scope of the workshop preparations, a survey was conducted to identify the main problems of occupational safety experts. The questionnaire was answered by 1,809 occupational safety experts, 1,389 of whom were men and 420 were women (TMMOB, 2019).

- As stated in Article 8 of the Occupational Health and Safety Law No. 6331, occupational safety specialist service "*Guidance and consultancy to the employer on matters related to occupational health and safety*"; Again, as stated in the justification of Article 6 of the Law, it is within the scope of "*professional assistance*" to the employer. Despite these provisions, the provisions in the secondary legislation that evaluate the scope of work of the occupational safety expert outside the guidance should be changed. Occupational Safety Experts; should not

be a follower and responsible for the work that the employer did not do or could not do.

- Although it is limited to the task of guidance, it is not a correct understanding to see the only structure that will contribute to the provision of OHS in workplaces as occupational safety expertise. A framework for cooperation of occupational physician, health personnel, occupational hygienist, psychologist, etc. in ensuring occupational health and safety should be established.
- A National Occupational Health and Safety database should be established, accurate and complete records should be kept, and corrective and preventive studies should be provided for the future.
- Marketization of OHS services is the main source of the problems. OHS services to be provided to workplaces should be considered as a public service.
- The practice of performing OHS services in their own workplaces at the end of the OHS training that they will receive should be terminated. The employer or employer's representatives in the workplace, which is in the less dangerous class and has less than 50 employees, can be outside of the profession / training of OHS specialist.
- Occupational safety experts, who guide the employer in fulfilling its obligation to ensure OHS at workplaces, should be specialized according to sectors.
- Limits should be placed on the number of workplaces that OHS experts serving in OSGB.
- Although the working time of the expert is determined as the minimum time in the legislation, the OHS-Katip system does not allow to enter a time over this minimum time. The

system should be corrected in such a way that a time above the minimum time can be entered.

- A fee schedule for the area should be jointly prepared by the relevant ministry. The implementation of the fee schedule should be open to the inspection of social security agency officials and professional chambers affiliated to TMMOB.
- Experts should report deficiencies in their workplaces and their work electronically, and the reported deficiencies should be immediately visible to the Ministry of Family, Labor and Social Services.
- OHS experts keep many records other than those specified in the regulations according to their experience and opinion. The records to be kept should be standardized by a commission in order to avoid record confusion, to prevent occupational safety experts from spending excessive time in document preparation and to increase the working time in the field.
- "**Professional liability insurance**" should be made compulsory for the work of OHS specialists, and premiums should be covered from the fund.
- OHS courses should be compulsory in schools at all levels to create a safety culture and OHS classes are to given by qualified OHS trainers.
- Regulation and supervision on OHS is not only done by the Ministry of Family, Labor and Social Services (as in the UK HSE), but It should be carried out by an administratively and financially independent institute consisting of the Ministry of Family, Labor and Social Services, the Ministry of Health, Universities, Trade Unions, Turkish Medical Association and TMMOB. All regulations regarding working life should be reconsidered and decided by this institute.

#### 4. Comparing Turkey and Kurdistan Region

Turkey has better organization structure compared to Kurdistan Region. OHS laws in Turkey is clear and directorate of OHS under the Ministry of Labor and Social Security coordinates all OHS activities and trainings. They try to find specific problems such as asbestos removal from collapsed buildings that experts are invited to present their opinions about this kind of specific cases. In case, they need any legal changes, they inform related ministries. Workplace are categorized according to their danger level. Furthermore, works at firms or organizations are categorized according to danger level. OHS experts (specialists, nurses, doctors) have to pass a national exam to be certified OHS experts with pre-defined education backgrounds. After, they have that certifications (A, B and C experts), OHS specialists can give service to firms according to their certification category. OHS experts need to coordinate within themselves, employers and employees to provide effective OHS services. Obligatory risk analyses and other procedures are to be prepared in coordination. Their activities are audited by directorate of OHS experts. However, *'on paper and are not fully reflected in the practice'* is a major criticism of OHS in Turkey.

First of all, Kurdistan Region needs OHS law like Law No. 6331 in Turkey. Lack of coordination of staffs from the Ministry of Health to MLSA is a problem in Kurdistan Region that a clear organization is to be developed at government level as in Turkey case. In Turkey, categorizing OHS specialists and educating them are successful examples. However, there are criticisms that national exams carried out for specialists' certification are inadequate and depending on memorizing OHS information in Turkey. Hence, more developed national exams supporting creativity and proactive approaches are to be developed in Kurdistan Region. Also, more specialization is required in Turkey that every OHS

specialist can use their certificates at all industries. For example, civil engineers with a OHS certificate may serve just construction firms. Need of education of OHS experts in Kurdistan Region can be developed as done in Turkey that OSH staffs are to be categorized and they need to pass some exams to be certified as OHS experts that just giving trainings will not be enough. Duties, responsibilities and roles of OHS experts are to be clearly defined by law that they can improve OHS in the Kurdistan Region. OHS experts have to train workers about hazards, risks, their roles and their rights at some intervals and at the beginning of every new projects and they carry out some exams that they have enough awareness in Turkey. The awareness of OHS can be developed among workers and employers with defined obligatory training in the Kurdistan Region. Having obligatory OHS courses at all schools and universities in Kurdistan Region may help in creating a safety culture in the long run.

## 5. Conclusion

Experts of OHS attribute the main problem in their training as the lack of branching in Turkey. For this, it is necessary for people with a certain experience to carry out OHS studies, especially in sectors such as mining, metal and construction, where occupational accidents are most common. Occupational safety experts who will work in the field should be selected not only by an exam but also based on different criteria such as professional experience and branching. Hence, it is necessary to switch to a state-supported structure in order to reduce employer-induced financial difficulties by paying the wages of OHS experts and regulating wage imbalance and excessive working hours in Turkey. Although, the laws contain regulations to ensure OHS, it is equally important to ensure that these provisions are included in practice in Turkey than paper based OHS.



In other words, with a strict control, the rights and benefits of the worker who has weak bargaining power against the employer will be ensured in Turkey.

Kurdistan region need an extensive OHS law as OHS Law No. 6331 in Turkey. Fate based OHS structure is to be changed with proactive approaches and measures. The Kurdistan Government should be the main coordinator of OHS in the Region and employers should pay OHS cost for each worker to the governments according to the danger level. Preventive equipment and trainings are to be provided by suitable experts in the Kurdistan Region. Statistics about the number of work accidents, work related deaths and occupational diseases could not be found extensively in Kurdistan region. A database for these kinds of statistics is to be created to have official numbers. A complaint line should be established for accident notifications and notification of accidents for the firms should be made mandatory in the Region. Public or private sector difference should be eliminated and OHS structure should include all workers. All workers in the Kurdistan Region are to be registered and a region database is to be established that employers can report all work reports.

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