



Quality in Gender+ Equality Policies

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Issue Histories Turkey: Series of Timelines of Policy Debates

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1. Review of Equality Policies and Responsible Institutional Structures in Turkey

a) History of equality law and policy, and the stakeholders

Increasing attention has been drawn to the problem of gender inequalities since the late 1970s and early 1980s in academic and civil society circles, mainly by feminists. There has also been an increase in – though not sufficient – the awareness of state authorities regarding gender inequality. Some important steps have been taken. The impact of international organisations and donors (United Nations Development Programme - UNDP, World Bank etc.) has been very salient in this process. The ratification of the Convention on Elimination of all Forms of Discrimination against Women (CEDAW) in 1986 helped make gender equality issues visible. The national machinery for the promotion of gender equality, Kadının Statüsü ve Sorunları Genel Müdürlüğü (KSSGM) (General Directorate for the Status and Problems of Women), a requirement of the CEDAW process, was established in 1990.

By the beginning of the 2000s legal reforms that eliminate fundamental discriminatory provisions against women in the laws have taken effect. Turkey's becoming a candidate of the European Union in 1999 and the start of the EU accession negotiations in 2005 gave unprecedented impetus to state actions for legal reforms in the area. From mid-1980s to date the CEDAW process has helped and encouraged the Turkish women's NGOs to take an active role in gender equality issues and international donors such as the UNDP and World Bank have contributed to state and civil society awareness of gender equality issues. The EU accession process since 1999 was built on this background and has, in turn, facilitated legal reforms. Thus, in the Turkish case, these two international frameworks have been mutually reinforcing in gender equality issues and have led to more effective results.

In short, from the 1990s on, gender equality issues have been more visible in the Turkish political arena and were formalised and institutionalised through various changes in legal frameworks. The efforts of women's civil society organisations and international monitoring activities (CEDAW, EU) have led to policy and action by governmental bodies. In recent years, the efforts of some private sector initiatives have been added to this cooperation between public authorities, women's NGOs and international agencies.

Nonetheless, policy design and implementation for gender equality in Turkey remains basically an issue-based and non-systematic process. This is still the basic deficiency of gender policies in Turkey.

History of Equality Law and Policies*

Important gender equality laws and decisions which have been on the political agenda of Turkey from the mid-1980s onwards can be summarised as follows.

* The contents and relevance of these developments are explained in detail in ensuing issue histories as they relate to each sub-issue.

In 1985, Turkey ratified the CEDAW, with some reservations to various paragraphs of Articles 15 and 16, and it entered into force in 1986. In the same year, “women” appeared as a section, for the first time, in the 5th Five Year Development Plan (1985- 1989). In 1995, Turkey participated in the IV World Conference on Women in Beijing, and approved the Platform for Action without reservations. Accordingly, the National Programme for the Enhancement of Women’s Integration in Development, financed jointly by the government of Turkey and the UNDP, was prepared and launched by the KSSGM (General Directorate for the Status and Problems of Women) with the participation of public organisations and institutions, universities, voluntary women’s organisations, political parties, trade unions, and professional organisations. The Programme aimed to enhance women’s participation in development processes, to produce and compile gender-disaggregated data, to enhance institutional capacity and to create human resources. A new unit was established at the State Institute of Statistics to compile, produce and disseminate gender disaggregated data. In addition, the establishment of the Women’s Library and Information Centre in Istanbul, as well as the Gender and Women’s Studies Graduate Programme in the Middle East Technical University were supported and various research projects were funded by this UNDP-Turkish government programme.

In 1997, compulsory basic education was increased from five to eight years with the Law no. 4306, an initiative widely expected to impact gender-based differentials in educational attainment. In the same year, women were granted the right to maintain their maiden name along with the name of their spouse with the amendment in Article 153 of Civil Code; and declaration of the civil status in officially issued identity cards was limited to ‘married’ and ‘single’. In 1998, Articles 440 and 441 of the Penal Code regulating adultery as a crime were annulled by the Constitutional Court; a circular limiting and regulating the instances for virginity control was published by the Ministry of Justice as an outcome of the agenda created by women’s organisations; the Law on Protection of the Family no. 4320 regulating the measures required for the protection of those exposed to domestic violence was enacted; the Law on Income Tax was amended to allow married women to file for income tax separately.

In 1999, the reservations to CEDAW’s Articles 15 and 16 were lifted. In 2001, Turkey ratified the Optional Protocol to CEDAW. The first case of personal complaint from Turkey to CEDAW was filed on January 2005 in the case of R. Kayhan v. Republic of Turkey. In 2001, the new Civil Code (no. 4721) was adopted which, among other changes, abolished the concept of the husband as ‘the head of the family’, acknowledged the equal division of property acquired during marriage, and made the legal age for marriage (17) equal for women and men.

In 2003, the new Labour Law (no.4857) was adopted which aimed to ensure equality of women and men in working life and to eliminate discrimination against women entering the work force. In order to ensure the enforcement of the Law and to avoid any kind of discrimination in practice, a circular was issued by the Prime Minister’s Office. In that year, the Family Court Law (no. 4787) was also adopted establishing these specialised tribunals in Turkey.

As indicated in the 2003 National Programme of the Adaptation of the *Acquis* (NPAA), Turkey has accepted compliance with EU standards in the field of gender equality. The decision of the Council of Ministers No. 25027 was published in the Official Gazette dated February 21, 2003 concerning participation in the EU's Gender Equality Union Programme. The Department of EU Coordination in the Ministry of Labour and Social Security has been charged with implementing this programme.

The Constitutional amendments of 2004 constitute an important reflection of the change in policies towards women. Although an explicit provision on gender equality was previously present in the Turkish Constitution, by the addition of a provision to Article 10 of the Constitution in 2004 the state was deemed responsible not only for ensuring non-discrimination between women and men, but also to take necessary measures for equality in practice in every field. Another amendment to Article 90 of the Constitution was adopted in 2004 giving supremacy to international conventions concerning basic rights and freedoms, including CEDAW, over all national laws. In 2004, the new Penal Code (no. 5237) was enacted which introduced a new perspective, concepts and resultant regulations giving priority to the protection of individuals' rights and freedoms. Another important law was also adopted; the Organisational Law of General Directorate on Status and Problems of Women (KSSGM) (no. 5251), which allowed the institution to carry out its functions and perform the tasks of policy formulation and coordination. In 2005, the Law of Municipalities (no. 5393) was enacted which required municipalities of a certain size to develop protective and preventive services for women who are subjected to violence.

The issue of amendment to Political Parties' Law and Election Law to enhance the participation of women in politics has been under discussion throughout the last decade. The women's movement has been demanding a quota for the underrepresented sex in the candidate lists of general and local elections with specific provisions to ensure their placement in electable positions. The low number of women in the parliament and in local representative bodies was also pointed out in EU Commission Reports both in 2005 and 2006 but a satisfactory solution has not been reached.

Policy Shifts

From legal rhetoric to implementable change

Despite the gender equality principle in the Constitution and the numerous international documents to which the country has been party, civil, penal and labour laws in Turkey continued to contain various discriminatory provisions and an overarching patriarchal perspective until the 1990s. This situation has undergone rapid change. The landmark policy and mentality shifts in relation to general gender equality policies in Turkey are reflected in four pieces of legal reform: the Constitutional amendments since 2001, especially the 2004 amendment; the adoption of the new Civil Code (2001); the new Labour Law (2003); and the new Penal Code (2005).

Although gender equality was previously ensured with an explicit provision in the Turkish Constitution, since 2001 three relevant articles of the Constitution (Article 41, 10 and 90) have been amended. While all of these amendments can be expected to impact gender equality and women's rights positively, the amendment to Article 10 in 2004 is perhaps the most relevant and most controversial. By stating that 'the state is obliged to ensure equality between women and men in de facto terms' this provision clearly constituted a significant step forward.

However, all Constitutional provisions are general and they need to be translated into concrete, implementable rules through specific legislation. Although the Constitutional provision objectively presents a huge potential for putting into practice 'positive discrimination' measures, some women's groups who have been advocating the inclusion of affirmative action in the Constitution were disappointed with the present wording. Their protest led to a serious conflict between the women's NGOs and one MP (the present day State Minister in charge of women's affairs) who had gone on record to oppose positive discrimination.

From Equality in the Public Sphere to Private Sphere Equality

The new Civil Code (adopted in 2001) is a ground breaking piece of legislation for gender equality. Conceptually speaking this new law has taken two critical steps towards gender equality. Firstly, it addresses equality between women and men in marriage (i.e. the private sphere) when this has been the weak link of earlier Turkish law. By abolishing the 'head of the family' concept, it equalises the status of husband and wife. Second, the new Civil Code opens the way to recognising women's unpaid labour in the family as having an economic value that should have material reward, at least in the case of divorce. Thus it brings into force a new matrimonial property regime whereby property acquired during marriage is equally divided between spouses upon divorce.

In the drafting and passage of the new Civil Code, it became clear that women's organisations in Turkey had the capacity and commitment to initiate proactive strategies in many fields, especially in the field of legislation. The drafting and adopting of the Code has been a success for the women's movement. It has been the outcome of considerable civil society activism sustained over a long period characterised by extended networking and successfully keeping the issue on the agenda. Despite its overall highly progressive character, when it was passed the Civil Code stopped short of extending the new matrimonial property regime to marriages. Changes to the code had taken place before the law's enactment in 2001. This has been a major disappointment for women's groups.

Introduction of Some New Issues and Concepts

The new Labour Law (adopted in 2003) reinforced existing provisions (such as prohibiting discrimination on the basis of gender) and introduced some improvements for women workers by prohibiting discriminatory practices owing to marital status or family responsibilities (such as prohibiting dismissal on grounds of pregnancy). It brought for the first time provisions prohibiting sexual harassment in the workplace. Changes in the Labour Law have been the least discussed issue in the agenda of women's organisations. One reason was that many

women stayed outside its coverage, and another is that existing legislation was not blatantly discriminatory against women.

From Women as Family Member to Woman as an Individual

The new Penal Code (2005) containing provisions in line with contemporary international standards constituted a paradigm shift with regard to gender equality and women's human rights in Turkish law. The Code recognised woman's right to be the sole controller of her body. It classifies sexual crimes as against the individual and not as against 'public morality' or 'community order'. In the new Penal Code, 'custom killings' are considered aggravated murders and are heavily punished. Also, no reduction of sentence is allowed for those crimes. Clearly, this was a major improvement that aimed to bring Turkish law in line with international requirements. To the extent that the new Code did not use the term 'honour killings' as in the international terminology, but instead opted for the narrower term of 'custom killings', it fell short of the expectations of the women's movement..

The new Penal Code also contains provisions that better protect women's human rights, including in the family. In this regard, the Code recognises marital rape and domestic violence as crimes and aims to fully protect women's bodily integrity. The new Code adopts an expanded definition of rape and criminalises genital examination (i.e. virginity control) done without the consent of the public prosecutor and as part of a criminal investigation. The latter provision, despite bringing clear improvement to the previous situation, still fell short because it does not require 'women's consent' as a prerequisite for all genital examinations.

During the discussions of the draft Penal Code, the Women's Platform on Turkish Penal Code (TCK Kadın Platformu – TCK Women's Platform) made up of various women's organisations, created a well organised and effective network of collective action. TCK Women's Platform prepared a preliminary background study and submitted a draft report, communicating women's demands to all related parties. The group continued intense advocacy and lobbying at the Parliament to ensure that the legal and policy changes stated in the above-mentioned report found their way into the draft law. During this process an online e-mail group (forum) was also formed that provided an opportunity for participants to discuss in depth and come up with different tactics and strategies. While the implementation of this strategy was a 'first ever' in Turkey, the experience of women's successful activism for the Civil Code reform contributed to its foundation.

The campaign of the women's organisations succeeded in achieving a holistic reform to transform the philosophy and principles of the Penal Code in order to safeguard women's rights, and her bodily and sexual independence. Despite the overall success of the campaign, four of the demands were not accepted. These include the definition of 'honour killings' as aggravated homicide (in contrast with 'custom killings' which were); the penalisation of discrimination based on sexual orientation; the criminalisation of virginity testing under all circumstances; and the extension of the legal abortion period from 10 to 12 weeks (WWHR, 2005).

In Turkey, EU integration efforts have undoubtedly dragged gender equality discussions into the limelight. They have also accelerated the legal changes. However, the activism and success of women's organisations should not be underestimated. Often faced with a combination of resistant conservative forces in the Parliament, some government officials, and important segments of the media, women's groups had to overcome the challenge not only of finding effective and diverse strategies of advocacy, but also of making their demands heard and publicising their agenda in a rather volatile political atmosphere (WWHR, 2005).

To sum up, while a great deal of the necessary legislation is now in place, the legislation is not yet fully implemented. This situation has been continuously highlighted in various reports of the international institutions such as: the CEDAW Concluding Comments to Turkey (2005); the European Parliament Resolutions (on Women's Role in Social, Economic and Political Life in Turkey) (2005, 2006); as well as numerous European Commission documents, including Progress and Regular Reports throughout the 2000s.

Civil Society and Stakeholders

Turkish government has long acknowledged the role of women's organisations as partners of the government. The cooperation that has existed between national women's NGOs and international organisations (such as the United Nations and the World Bank and lately the EU), as well as the latter organizations' impact on governmental bodies through both legal tools such as international conventions and/or through the allocation of funds, have been important in developing women's NGOs as effective stakeholders and their perception as legitimate partners by the authorities. In the current situation, women's NGOs, governmental units and international institutions such as the EU and the UN, are working together to ensure and enhance gender equality in Turkey mostly on issues such as violence against women, women's reproductive health and increasing girls' enrolment in education.

The character of the women's movement in Turkey since the 1990s shows differences compared to the earlier periods in its history. Firstly, since the 1990s women's organisations in Turkey had a crucial role in forcing equality legislation and policies for implementation. Their efforts covered areas such as raising public awareness, informing people about existing gender disparity issues, problems to be faced as well as the capabilities, resources and mechanisms to be employed.

Secondly, since the beginning of last decade, some of the women's NGOs have become strategic partners of equality policies of the government. This is one of the main strengths of gender equality policies in Turkey. This involvement of the women's NGOs helped in keeping gender equality visible in the media. Recently, partnership of the women's movement with the private sector has also become prominent. The business women's associations in particular have attempted to involve 'big business' in women's issues, not only in support of women's entrepreneurship and empowerment of women in economic life issues but also to denounce violence against women and support women's participation in politics as part of corporate

social responsibility. Thus prominent businessmen's associations have engaged in the preparation of reports on gender equality and organised conferences in Turkey¹.

Thirdly, in this period, a strong international connection of the women's movement can be observed. One aspect of this connection is the formal and active involvement of individual Turkish women activists and academics in international organizations such as the UN CEDAW Committee, Council of Europe and EU. Turkish women have been members and chairperson in CEDAW (1993-2005) and the UN Human Rights Commission's Special Rapporteur on Violence against Women (2005-...). In addition, active presence and membership from Turkish NGOs in international gender platforms are widespread and Turkish NGO representatives have taken positions in prominent international NGOs such as the European Women's Lobby.

As the consequence of such changes in the character of the women's movement since the 1990s, the main issues in the gender equality agenda of the country have also changed, towards a more heterogeneous and diversified set of issues. The traditional emphasis on gender equality issues such as domestic violence has been extended in the past decade to encompass issues such as 'honour killings', the high illiteracy rate, and low participation in political decision making processes in national and local representative bodies, reflecting also a broader concern with women's human rights as well as women's labour market participation. The EU accession agenda has clearly played a facilitating and catalytic role in this transition in terms of its impact both on civil society and public agencies.

Intersectionality

In Turkey, it is difficult to speak about the relationship of gender equality with other inequalities in relevant policies or policy documents. In this context, one example of the invisibility of such intersectionality would be the Law on Disabled People and on Making Amendments in Some Laws and Decree Laws (Law No. 5378) adopted in 2005. The Law does not refer to gender differences or to disabled women as a category; rather, it displays a family-focussed approach to disability, defining the role of disabled women in relation to the family. Although the Law stipulates positive discrimination in order to narrow the social and economic gaps in respect of disability and sets regulatory measures in that direction, it keeps a distance from the approaches that could favour one sex over the other and create 'unfair competition' among the disabled people. It abstains from measures that could favour disabled women on the grounds that a societal consensus on a sound reason(ing) for gender-based positive discrimination does not exist (Seyyar, 2005). Nevertheless, the relationship between gender and disability is the most visible intersection of inequalities that can be detected in the Turkish context. While from the legal or political point of view it may be hard to pinpoint this connection, the number of activities² that have been organised under the specific title of 'disabled women' attests to

¹ Türkiye Sanayiciler ve İşadamları Derneği (TÜSİAD - Turkish Industrialists' and Businessmen's Association) 2000. Kadın-Erkek Eşitliğine doğru Yürüyüş: Eğitim, Çalışma Yaşamı ve Siyaset (Towards Gender Equality: Education, Working Life and Politics), December 2000, Publication No. TÜSİAD-T/2000-12/290.

² Engelli Kadınların Sorunları ve Çözümleri Sempozyumu (Symposium on the Problems of Disabled Women and Solutions) Kocaeli 29- 30 Nisan 2005. Organised by Altınokta Körler Derneği (Altınokta

the recognition of this intersection.

Another issue clearly displaying the relation between different inequalities is the 'headscarf' issue. In the 1990s, the headscarf issue (based on the controversy around the ban on wearing this piece of clothing by female university students) became a hot topic extensively debated at the public level. Eventually the controversy over the right to wear the headscarf in the universities and by public employees evolved into a symbolic battle between those who saw this practise as a symbol of political Islam and therefore incompatible with the institutions and practices of a secular state and Islamists who insisted on it as a right of women stemming from their religious belief. Consequently one could expect an intersectionality of gender and religion in this context. However, debate in the Turkish political agenda around the ban on wearing headscarves in public offices and universities has evolved in a different and narrower direction, challenging the headscarf ban (at least legally) on the grounds of the right to education and access to public employment rather than freedom of religion. It has also been carried to the international arena with appeals to international legal and women's rights institutions such as the European Court of Human Rights³ and UN CEDAW Committee⁴ on these grounds and has met in both cases with decisions in favour of the state. The issue nonetheless remains a much debated social and political controversy at the national level.

Categorisation of the population on an ethnic basis, for whatever reason including policy making, is not legally or politically possible in Turkey. However, since their onset in the 1960s and 1970s, regional development policies and plans have acknowledged differences in the level of development of different regions of the country. Consequently policies have been developed with regional priorities. In this context, both internationally funded gender equality projects and national policies have long prioritised women in the East and South-eastern regions with respect to education, income generating activities, violence against women and overall quality of life. A prominent example of such policies can be found in the Prime Ministry South-eastern Anatolia (GAP) Project⁵, a multi-sector and integrated regional development project from a sustainable development perspective, where increasing the status and integration of women in the development processes has been set as a priority. For example, GAP Regional Development Administration (GAP-RDA) has identified and started a project to improve the status of women in the GAP region since 1991. In this framework, Multi-Purpose Community Centres (Çok Amaçlı Toplum Merkezi - ÇATOM) have been established in squatter urban settlements and central villages since 1995, in which training programmes for

Association of Blind People) Kocaeli Branch, Türkiye Sakatlar Derneği (Turkish Association of Handicapped People) Kocaeli Branch and Delegation of European Commission in Turkey; and Görme Özürlü Kadınlar Kurultayı (Congress of Blind Women) 28-29 June 2007. Organised by Altınokta Körler Derneği.

³ Leyla Şahin v. Turkey (application no. 44774/98)

⁴ Rahime Kayhan v. Turkey, 8/2005.

⁵ The project covers 9 administrative provinces (Adıyaman, Batman, Diyarbakır, Gaziantep, Kilis, Mardin, Siirt, Şanlıurfa and Şırnak) in the basins of the Euphrates and Tigris and in Upper Mesopotamia. Overall objectives of GAP include the improvement of living standards and income levels of people so as to eliminate regional development disparities and contribute to national goals such as social stability and economic growth by enhancing productivity and employment opportunities in the rural sector.

women and young girls on literacy, health, family planning, maternal and child health, nutrition, home economy, and income-generating activities have been implemented, and social and cultural activities have been organised.

The scope of activity in the civil society in most instances does not specifically cover the relationship between gender and other inequalities. Similarly, the influence of civil society for policies targeting intersectional inequalities seems negligible in Turkey.

b) History of equality mechanisms

The institutionalisation of issues concerning equality between women and men within the state started with the establishment of the Advisory Committee on Policies for Women (Kadına Yönelik Politikalar Danışma Kurulu) under the General Directorate of Social Planning within the State Planning Organisation (Devlet Planlama Teşkilatı - DPT) in 1987. However, the CEDAW process and the Nairobi Forward-looking Strategies for the Advancement of Women⁶ required the establishment of a coordinating or executive unit regarding the policies on women, which was also reiterated in the 6th Five-Year Development Plan of Turkey. The establishment of such a unit followed a very complicated and difficult path, which caused the institution to be placed under different ministries and governmental units until the adoption of its organisational law in 2004.

On 20 April 1990, the General Directorate of Women's Status and Problems (Kadının Statüsü ve Sorunları Genel Müdürlüğü - KSSGM) was established under the Prime Ministry⁷ and on 25 October 1990, it was moved to the Ministry of Labour and Social Security⁸. In 1991, it was attached to the Prime Ministry once again, where a State Minister was responsible for Family and Women's Affairs. In 1992, KSSGM was identified as the focal point for women's issues in Turkey in the meeting of United Nations International Research and Training Institute for the Advancement of Women (INSTRAW). In 1993, the institution was restructured and elevated as a main service unit under the newly established Prime Ministry Under-Secretariat of Woman and Social Services⁹. However, the Constitutional Court annulled its authorisation law twice and the unit was once again demoted to its original status as a General Directorate tied to a State Minister. In the following five years due to changes in governments, six ministers were in charge of KSSGM.

As part of the efforts to improve the capacity of the General Directorate on the Status and Problems of Women, a UNDP project entitled "The Integration of Women in National Development" was implemented in 1993. A department was established under the State Institute of Statistics (DİE) in order to produce a gender-disaggregated database. In addition to that, new Women's Units were established under the Ministries of National Education,

⁶ Adopted by the World Conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi, Kenya, 15-26 July 1985.

⁷ By-law no. 422.

⁸ Law no. 3670.

⁹ By-law no. 514.

Agriculture and the General Directorate on Social Services and the Protection of Children (SHÇEK). Also, pioneering academic units such as the Gender and Women's Studies Graduate Programme at the Middle East Technical University and the Women's Research and Studies Center (KASAUM) at Ankara University were established with the support provided by this project.

The law on the organisation of the KSSGM was sent to the Turkish Parliament by the Prime Ministry on 5 July 1999. Although the draft law was sent to and examined by the Parliament, it became null and void as the national elections of 3 November 2002 were held before it was passed. KSSGM was once again attached to the Ministry of Labour and Social Security on 27 November 2002.¹⁰

After the annulment decision of the Constitutional Court on its organisational law, KSSGM spent a decade working without official legal status until 2004. On 29 March 2003, with the approval of the Presidency of the Republic of Turkey¹¹, the institution regained its legal status and was attached to the Prime Ministry. The Organisation Law (Law on the Organisation and Duties of the Directorate General for Women's Status, No. 5251 (Kadının Statüsü Genel Müdürlüğü Teşkilat ve Görevleri Hakkında Kanun) (Date of Approval: 27.10.2004)) of the institution was published in the Official Gazette on 6 November 2004, as a part of a package of administrative reforms for EU accession. The adoption the Law concerning the legal identity of the organisation was among the short-term commitments of Turkey towards the EU underlined in both the 2001 and 2003 National Programme of the Adaptation of the *Acquis* (NPAA) of Turkey.

By 2007, the main public institution working on gender equality and gender mainstreaming in Turkey is the *General Directorate on the Status of Women* (Başbakanlık Kadının Statüsü Genel Müdürlüğü – KSGM), formerly known as the General Directorate on the Status and Problems of Women (KSSGM). This agency is a central coordination unit and functions under the Prime Ministry and the Minister of State in charge of Family and Women's Affairs. It is responsible for coordinating governmental policy and measures on gender equality issues (including the empowerment of women, promotion of women's human rights, eradication of violence against women and promotion of women's political participation) among various state actors; contributing to policy-making and advocacy on these matters and fulfilling state reporting obligations to international conventions. In terms of intersectionality, this institution takes part in the advisory councils of Prime Ministry Administration for Disabled People¹²

¹⁰ Published in the Official Gazette no. 24949.

¹¹ Published in the Official Gazette no. 25063.

¹² Prime Ministry Administration for Disabled People (TC Başbakanlık Özürlüler İdaresi Başkanlığı) established at 30 May 1997 in accordance with the Act 571 dated 25 March 1997. Its main objective is to monitor services for disabled people such that they can be delivered in a more comprehensive and effective manner and to constitute national policy and strategy in the field of disability. In addition to developing coordination and cooperation between national and international institutions, identifying the problems experienced by disabled people and conducting research in order to solve these problems is among the responsibilities of the institution.

(Başbakanlık Özürlüler İdaresi Başkanlığı) and Prime Ministry Directorate on Human Rights¹³ (Başbakanlık İnsan Hakları Başkanlığı).

Beside KSGM, only a few government institutions have established gender units. In 1993, a new unit was established at the State Institute of Statistics to compile, produce and disseminate gender disaggregated data. In addition, the Ministry of Agriculture and the State Planning Organisation have gender units. In Turkey there is no institutional body such as the Parliamentary Committee for Gender Equality to ensure women's representation in the Parliament. It is repeatedly recommended to governments to establish a 'Standing Parliamentary Committee on Gender Equality' by CEDAW, EU and NGOs recommendation reports. Once in 1998, and once in 2005, *ad hoc* Parliamentary Commissions were established to look into the state of affairs in women and gender equality related areas. The first Commission, entitled the Parliamentary Research Commission on Women's Status, as well as the second, entitled Parliamentary Research Commission on Prevention of and Measures to Combat Violence against Women and Children and Custom and Honour Crimes, prepared and submitted reports that included observations and recommendations to the government on issues on their agenda.

There is no structure equivalent to an Ombudsman for Equal Opportunities in Turkey. Besides KSGM, while there are no specific national machineries responsible for developing policies for inequalities such as those based on ethnic and religious identities, there is a governmental unit (Prime Ministry Administration for Disabled People) with a mandate which includes policy development for disabled people. In the Cabinet there is only one State Minister in charge of women's issues and the national machinery is under the authority of that minister.

From the beginning, the political process to establish the national machinery was under two different currents that reflect the divisions within the political society between more Western/liberal oriented elites and those who favoured a 'Turkish-Islamic' synthesis (Sancar and Bulut, 2006) as a general world view, with clear differences on issues concerning gender equality and women's roles. This political negotiation process led to the establishment of two parallel mechanisms in the state structure, one focusing on women, and the other on the family, and again two separate bureaucratic units, 'the General Directorate for Women's Status and Problems' as coordination unit of women's affairs, and the 'The Family Research Organisation' that has been mainly working as a consulting unit. Over time, KSGM reached the position to hold the responsibility as main policy designer and implementation unit of national women's machinery.

The overall mandate of the KSGM is to coordinate all of the gender related activities of different governmental bodies and to establish a policy dialogue with all relevant ministries in

¹³ It was established with the Law on Making Changes in the Prime Ministry Organisation Law (Law No. 4643) in 2001. Its duties cover: coordinate and cooperate with the institutions working on human rights; to monitor the implementation of laws on human rights and to coordinate the work with regards to the Turkey's efforts to align national legislation with the international requirements stemming from international agreements; and to examine the applications for violation of human rights and coordinate the efforts to take measures.

order to translate policy statements on gender equality into concrete activities. This mandate does not include action towards the elimination of other inequalities; neither the mission nor the policy statements of KSGM have specific references to class, ethnicity, religion or other differences. The General Directorate is responsible for the conduct of research and implementation of programmes aimed at preventing discrimination against women and enhancing their rights and opportunities. As part of this mandate, KSGM works to raise public awareness about the rights of women under Turkish law. KSGM specifically works to prevent violence, harassment and abuse directed towards women. In order to lay the groundwork for women's equality in Turkey, KSGM has established information systems, libraries, archives and documentation centres, compiled gender-related statistics, instituted awareness-raising campaigns and organised national and international meetings on gender-related issues. KSGM cooperates with and ensures coordination among public agencies and establishments, universities, local governments and non-governmental organisations, particularly voluntary women's organisations on gender-related issues.

The new Organisational Law of KSGM stipulates a new Advisory Council¹⁴ mandated to give policy advice to the Director, comprised of KSGM officials, representatives of relevant ministries and government units, as well as women's NGO representatives¹⁵. It met on 6 June 2006 for the first time and reached some conclusions focussing on the need for an overall gender policy in Turkey and the need for effective implementation of the reforms. The priority issues were seen as women's employment, education, overcoming violence against women, and increasing women's participation in decision-making and politics. At the first meeting, the Council decided to meet once every three months. At the second meeting of the Advisory Council on the 19 October 2007, some issues such as the need to support women to participate in politics and to work towards decreasing the number of programmes in the media which include violence were raised. In addition, the Council directed attention to active employment measures for women's participation in employment and the need to take measures related to women and infant mortality. Recently, on the 15 March 2007, the Council met for the third time and agreed upon some recommendations including the need to enact the Law on Parental Leave which is on the Parliamentary floor and to monitor the implementation of the laws. The conclusions of the third meeting reflect a particular attention to women and employment. The measures suggested were: to encourage employers to employ more women; to organise trainings (raising awareness and sensitivity) in the workplaces and in the trade unions to help increase women's employment; to encourage

¹⁴ The Advisory is composed of the heads of or representatives from the Ministries of Justice, Interior, Foreign Affairs, Finance, Education, Health, Agriculture, Labour and Social Security, Industry and Trade, Culture and Tourism; Under-secretariat of State Planning Organisation; General Secretariat of the EU Affairs; State Institute of Statistics; Directorate of State Personnel; General Directorate of Higher Board of Radio and Television, General Directorate on Social Services and the Protection of Children; Turkish Employment Organisation; Administration of Disabled People; General Directorate of Family and Social Research and Prime Ministry Directorate of Human Rights; minimum four representatives from University Departments or Centres of Women's and Gender Studies (as appointed by Higher Board of Education); General Director of Women's Status, vice General Director and Heads of main service units; as well as representatives from five NGOs working on the women's rights.

¹⁵ Representatives of NGOs are (s)elected for a three year period of mandate in accordance with the procedures and principles set by the KSGM and the representatives whose membership ends can be re-elected.

women entrepreneurship and facilitate funds such as bank loans for women; to take measures to enhance social support services (child care, elderly care and crèches); and to prioritise recruitment of women among equally qualified job applicants to narrow the gap between women and men in employment.

The budget allocated for KSGM is very small. Between 1994 and 2004, its share of the national budget was 0.00012%. It is very interesting to observe that both right and left wing parties in power tend to cut budgetary allocations and reduce the personnel to this institution, regardless of their different political views. In fact this situation can be regarded as a reflection of the lack of political will as regards ensuring equality between men and women.¹⁶ As a consequence, the organisation has been depending on international sources and funds, including the UNDP, World Bank, and the UNFPA to finance its fundamental functions and operations. It is important to remember, however, that the government shares the financing of UN and World Bank projects.

With the increasing role of the EU candidacy, European funds are being used through various programmes and projects. Through ‘twinning’ activities within the context of EU candidacy, equality experts and sister governmental institutions (such as the Dutch counterpart) are involved in efforts to support the capacity building of stakeholders, including the KSGM. Through a new European Commission project under the 2005 Pre-membership Financial Assistance Program titled “Expanding Gender Equality” which aims to strengthen the capacity of the KSGM, it is foreseen that the unit will increase its human resources and expertise capacity.

The lack of an organisational law and its organisational relocation process throughout the 1990s weakened the KSGM and put it in a precarious position with limited effectiveness in fulfilling its responsibilities. The General Director was appointed on a temporary basis and the staff members did not have the rights of regular public servants such as opportunities for promotion, indemnity and claim to seniority. Since the beginning of KSGM, the lack of a permanent professional staff has put it in a weak position in terms of human resources. Such a situation forced the institution to lean on academics and NGO expertise for their own training and needs in this area. Thus, since its inception KSGM has maintained an open dialogue with and paid special attention to involving NGOs in implementing national, regional and international commitments of equality policies. It has supported cooperation and networking between state agencies and civil society actors and has been able to follow international developments closely in this regard; thus providing one of the best examples of state-civil society cooperation in Turkey. Many women engaged with the KSGM assumed multiple roles, switching between bureaucratic, academic and activist identities. Due to this positive collaboration, KSGM opened the way to women’s groups’ participation at the global level; women’s groups seized these opportunities and demonstrated strong capacity and leadership in promoting women’s rights in Turkey at international and national fora.

¹⁶ Şenol *et al*, 2005

KSGM does not meet the requirements of the EC Directive 2002/73 regarding equality bodies, such as the competence to provide independent assistance to victims of discrimination in pursuing their complaints, to conduct independent surveys concerning discrimination, to publish independent reports and to make recommendations on any issue relating to such discrimination. No entity in Turkey today carries out all of these tasks.

KSGM is the national institution for the advancement of women, developing national policies and action plans on equal opportunities. However, no comprehensive national action plan or programme has been developed by the General Directorate so far.

The Ministry of Labour and Social Security has the responsibility for the coordination and monitoring of the harmonisation of the EU *acquis*. In fact, instead of monitoring, the Turkish Ministry of Labour and Social Security has been trying to regulate the adjustment of the 2003 National Programme for the Adoption of the *Acquis* in accordance with the Council Directives on the principle of equality between women and men. In that context, the Ministry is also in charge of the implementation of three EU programmes, namely 'Equal Opportunities for Women and Men', 'Action against Discrimination' and 'Combating Social Exclusion' and has been involved in holding and carrying out various activities, mainly for awareness raising and capacity building for the general public and government officials respectively.

In Turkey, no special methodology and scale of evaluation for gender impact analysis and/or assessment exists to audit and measure the developments in various domains of politics. Similarly there is no gender-budgeting at any level of governmental activity. The State Statistics Institute, the Ministry of National Education, and other institutions carry out research to collect data on gender biased and discriminatory practices in education, healthcare, and employment. These are periodically published and reported in the national media.

Primary Resources

- **Esengül Civelek, the General Director of KSGM. 2007. At the Council of Europe Campaign to Combat Violence against Women, including Domestic Violence, Meeting Contact Parliamentarians and National Focal Points, 4-5 June 2007 Strasbourg/France. (Speech text) (3 pages)**
- **Kadın Örgütleri Ortak Basın Açıklaması. 13 February 2006. (Joint Press Release of Women's Organisations to protest Ms. Nimet Çubukçu's discourse in an interview entitled "I have problems with some women, not with the women's organisations") (2 pages)**
- **Nimet Çubukçu, State Minister in charge of Women's Affairs. 2005. At the Turkey-EU Joint Parliamentary Meeting, 14 June 2005, İstanbul. (Speech Text) (7 pages)**
- **Nimet Çubukçu, State Minister in charge of Women's Affairs. 2006. At the International Conference entitled "Role of Women in the Alliance of Civilisations" 28 January 2006, İstanbul Conrad Hotel. (Speech Text) (2,5 pages)**

- Recep Tayyip Erdoğan, Prime Minister. 2006. At the International Conference entitled “Role of Women in the Alliance of Civilisations” 28 January 2006, İstanbul Conrad Hotel. (Speech text) (5 pages)
- Shadow NGO Report on Turkey’s Fourth and Fifth combined Periodic Report to the Committee on the Elimination of Discrimination against Women for submission to the CEDAW Pre-session July 2004, prepared by Women for Women’s Human Rights (WWHR) – New Ways and endorsed by the Women’s Platform on the Turkish Penal Code. (13 pages)
- Shadow Report on the 4th and 5th Combined Periodic Country Report for Turkey. 20 January 2005. Prepared by a group designated by the Executive Committee for NGO Forum on CEDAW-Turkey. (30 pages)
- T.B.M.M. 1998 Kadının Statüsünü Araştırma Komisyonu Raporu (Report of the Parliamentary Commission on Women’s Status), November 1998, 239 pages.
- TÜSİAD. 2005. Positive discrimination should enter the agenda to ensure *de facto* equality between women and men. 7 March 2005. (Press Release) (1 page)
- Woolfe-Pavan, Lisa. 2004. Combating Discrimination in the European Union and in Turkey: Legislation, Implementation, Equality Bodies. 11-12 October 2004, Ankara. (12 pages)

Secondary Sources:

- Sancar, Serpil and Bulut, Ayça. 2006. TURKEY: Country Gender Profile, December 2006. www.iica.go.jp/global/genwid/report/pdf/e06tur.pdf.
- Şenol, Nevin; İsat, Ceren; Sayın, Aysun; Acuner, Selma. 2005. Equal Opportunities for Women and Men: Monitoring Law and Practice in Turkey Open Society Institute/Network Women’s Program: Q.E.D Publishing.
- Seyyar; Ali. 2005. Türkiye’de Yeni Özürlüler Politikasının Temel Stratejileri Çerçevesinde Engelli Kadınların Durumu (The Status of Disabled Women in Turkey in the Framework of new Policy on Disabled People); *Engelli Kadın Sempozyumu* (Symposium on Disabled Women); 29-30 April 2005; Kocaeli. http://www.sosyalsiyaset.com/documents/yeni_ozurluler_pol.htm.
- Türkiye Kadın Bilgi Ağı (Women Information Network in Turkey) http://www.die.gov.tr/tkba/English_TKBA/mevzuat.htm
- UNDP. 2004. Country Evaluation, Assessment of Development Results: Turkey; United Nations Development Programme, Evaluation Office, New York, October 2004.
- Women for Women’s Human Rights – NEW WAYS (WWHR – New Ways). 2005. Turkish Civil and Penal Code Reforms from a Gender Perspective: The Success of two Nationwide Campaigns. First edition, İstanbul, February 2005.
- www.gap.gov.tr (Republic of Turkey (Türkiye Cumhuriyeti - TC) Prime Ministry, Southeastern Anatolia Project, Regional Development Administration)
- www.ksgm.gov.tr (TC Prime Ministry, General Directorate on the Status of Women)
- www.ozida.gov.tr (TC Prime Ministry, Administration for Disabled People)

2. Issue Histories

a) Issue History for Non-Employment

Introduction to the Sub-issues and Topics

Owing to specific characteristics of the Turkish labour market, gender equality policies regulating the area of non-employment are hardly an issue in Turkey, where the norm is non-employment for women. In this context, the issue of non-employment seems to be a specific phenomenon for the overwhelming majority of Turkish women who stay out of the labour market as homemakers. Furthermore, the main form of economic activity for women is informal or home-based activities and unpaid agricultural work which are hardly ever a policy consideration in Turkey. The policies regulating benefits and equality considerations are exclusively directed towards those employed.

However, there are still policies affecting the boundary between employment and non-employment in Turkey. In this context, the most relevant topics within non-employment are **reconciliation of work and family life** (flexible and part-time work, maternity leave, parental leave), **care work and informal work** (childcare provision, and unpaid family/informal work), **equal pay and gender pay gap** (equal treatment and equal pay), **tax-benefit system** (social security and pension system), and **access to labour market** (prohibited jobs and night work, domestic workers).

In having included these as sub-issues, we aim to evaluate the impact of each of these issues on women's choices to move into the labour market and thus affect the gender composition of the non-employed. Therefore, the above sub-issues are relevant in determining the degree and intention of women staying out of the labour market, namely the non-employed.

In the sub-issue of **reconciliation of family and work life**, the key topics are maternity, parental leave, flexible and part-time work that may influence women's attachment to the labour market by introducing flexible working hours and a role for fathers in the care of children. However, these issues covered by Labour Law (except paternity leave which is still a draft law) are introduced in a parcel of legal reforms and were not motivated by a concern over the reconciliation of family and work life for working women and men. Flexible and part-time work legislation rather aimed to bring flexibility to working hours and contracts that were demanded by the employers. **Care work and informal work** are the main activities of women in Turkey. The existing childcare and elderly care facilities provided by the state are not comprehensive enough to challenge the domestic division of labour and release women's labour for the market. Women at home with duties of care and domestic chores emerge as main actors in the informal sector, mainly home-based work. In Turkey, the sub-issue **equal pay** is secured in the Constitution and the new Labour Law. This is the most progressive change brought in by the new legislative reform. In the long run, these provisions may have positive impact on women's activities in the labour market. However this legislation lacks the support of a positive discrimination / quota policy for women and there are many problems to

tackle; with the implementation of equality during recruitment, training etc. and the elimination of the gender pay gap and obviously the future impact of the legal reform rests on how effectively these problems are handled. In the **tax-benefit system** of Turkey, women are treated differently to men, meaning that women are encouraged to stay out of the labour market. Women's **access to labour market** is sometimes restricted under certain conditions such as pregnancy, night work and migrants' work. These restrictions aiming to protect women from 'dangerous' working condition do not exist for men, so they can end up being discriminatory towards women.

Women's economic activities have always been a poorly researched area in Turkey. In 1993 Kadın Sorunları ve Statüsü Genel Müdürlüğü (KSSGM), with support from the World Bank, launched a large research project for the enhancement of women's participation in employment. Scholarly researches were conducted on different aspects of women's work and employment. The results of this stream of research produced a great deal of information and policy recommendations for all relevant parties and state institutions. While this initiative helped increase attention to women's employment issues and gender equality policies in the area of employment in policy discussions, the issue has still not found priority on the gender policy agenda.

In this regard, a turning point in gender + equality policies in Turkey was the Accession Partnership agreement in 2001 designed to guide Turkey's EU accession. The Turkish Government adopted on 19 March 2001 the National Programme for the Adoption of the *Acquis* (NPAA), which set a roadmap for Turkey to determine the priorities for EU accession. Complying with this programme urged Turkey to prepare a new Labour Law which aimed at meeting the changing demands of business and adapting EU Directives into national legislation. With these aims, in 2001, the Ministry of Labour and Social Security formed a scientific commission of nine law professors, three appointed by the Government, three by TİSK (the Turkish Confederation of Employers' Association) and one by each of the three labour confederations (TÜRK-İŞ - Confederation of Turkish Trade Unions, HAK-İŞ - The Confederation of Turkish Real Trade Unions, DİSK- Confederation of Progressive Trade Unions of Turkey). This commission had the task of preparing a new Labour Law. The Ministry of Labour and Social Security took the draft law directly to the Parliament without further consultation with social actors since the expert commission was already composed of representatives of these groups. The new Labour Law was adopted on 22 May 2003.

The new Labour Law was not the subject of much public debate at the outset, and did not receive much attention from feminist groups in Turkey. This can be explained by the fact that the number of women workers covered by the Law is few and the draft law had already promised to bring further gender equality at work. While the lack of feminist interest in the new Law was explained, by some, as due to its progressiveness in gender equality matters, others also pointed to the fact that the existing Law in Turkey was also not very discriminatory and the expectations from the new legislation were not high. The new Labour Law included the principle of equal pay for work of equal value; equal treatment as regards employment; protection of pregnant and breastfeeding women, and women who recently gave birth; the

reversal of burden of proof to the employer in cases of sex-based discrimination at the workplace; and non-discrimination against part-time workers.

While the new Law was a step forward in integrating EU Directives into national legislation, some forms of work such as home-based and home workers were exempted from its coverage and protection, which meant that a large proportion of women in Turkey still remained excluded in the informal sector with no social rights and protection.

To the extent that the Labour Law enacted in 2003, despite some remaining problems, operates in parallel with the gender equality directives of the EU it has been welcomed by women's groups and legal experts. The main concern remains, nonetheless, with regard to how many women are under the protection of this law and how effectively the new law is implemented in a context where high inactivity and informal work are the dominant features of the labour market. The selected sub-issues are thus deemed relevant with respect to their impact vis-à-vis non-employment.

Another important development in equality policy discussions was in February 2006, when the Confederation of Employers' Associations of Turkey (TISK) had a Women's Employment Summit and published its concluding comments. These remarks were mostly designed to increase women's employment through neo-liberal policies, supporting private employment agencies, flexible employment strategies and tax reductions to support employers employing women workers. After the publishing of these remarks feminist women's groups came together in order to make a declaration against the TISK Summit's concluding comments. The focus of this reaction was more on the elimination of gender-based discrimination and provision of equal opportunities for women. Later in February 2007, this attempt of the women's groups turned into the establishment of a women's NGO (Initiative for Women's Work and Employment –KEİG) dealing specifically with female employment issues.

Actors in the Policy Area of Non-Employment

State Actors

The main government department relevant to the issue of non-employment is **the Ministry of Labour and Social Security**, which had a leading role in the preparation of new Labour Law in 2003, the changes to the tax-benefit system including pensions and unemployment benefits as well as to childcare provision of private and public establishments. **The Ministry of Interior** regulates issues such as migration and work permits for foreigners, thus is also a main state actor in the issue.

Devlet Planlama Teşkilatı (DPT) (State Planning Organisation) produces Five Year Development Plans and sets the long-term targets for socio-economic development as well as preparing annual plans and programmes. DPT used to have a special Women's Commission during the preparation of Five Year Plans, but after 1999 women's issues have been integrated into all sub-issues. In the 2006 Programme Plan, DPT states the aim of increasing women's employment and diverting more resources to childcare and elder care facilities.

Türkiye İş Kurumu (İş-Kur) (Turkish Employment Organisation) is an organisation implementing active labour market policies in Turkey. With this aim İŞKUR started to implement and financially support vocational education for guaranteed employment for women. However, the success of these training programmes remained around 20-25 percent, which means that only 20 percent of all women trained gained access to the labour market.

Kadın Statüsü Genel Müdürlüğü (KSGM) (General Directorate on the Status on Women) is the gender machinery. KSGM played major role in conducting a stream of research on all aspects of women and employment in Turkey. This effort resulted in the policy recommendations for the Ministry of Labour and Social Security, the Turkish Employment Organization (İş-Kur) and all other relevant institutions that are responsible in the development of labour market strategies and employment policies.

Civil Society Actors

Türkiye İşçi Sendikaları Federasyonu (Türk-İş) (Confederation of Labour Unions of Turkey) is the largest labour confederation. Presently a total of 35 unions, including two in the Turkish Republic of Northern Cyprus, are members of Türk-İş. The number of Türk-İş members totalled 1,950,000 workers as of January 2005. Other Labour Unions are the **Türkiye Devrimci İşçi Sendikaları Konfederasyonu (DİSK) (Confederation of Revolutionary Workers' Labour Unions)** (comprised 19 labour unions with a total number of 393,312 workers as of 2005) and **Hak İşçi Sendikaları Konfederasyonu (Hak-İş) (Confederation of True Workers' Labour Unions)** (comprised 8 labour unions with 362,471 members as of January 2005), which are the other two significant union groups after Türk-İş. Some independent labour unions are also active in Turkey.

No specific NGO functioning around the issue of female employment had existed until last February when different women NGOs formed **Kadın Emeği ve İstihdamı Girişimi (KEİG) (Initiative for Women's Work and Employment)**. Women's groups made a declaration against the TISK's Women's Employment Summit Concluding Remarks in February 2006. Later in February 2007 the same groups came together to form the Initiative for Women's Work and Employment. Even though it is a newly established NGO the Initiative is determined to be an active social actor in the issues of women's work and employment. The same Initiative has also encouraged the establishment of a discussion group by feminist researchers working on women's work and employment (Kadın Emeği Feminist Araştırmacılar) (KEFA).

Türkiye İşveren Sendikaları Konfederasyonu (TİSK) (Confederation of Employers' Associations of Turkey) is the sole higher organisation representing the employers' circle in industrial relations. 21 employers' associations, organised throughout Turkey and operating in both the industrial and services sectors, and 8,300 companies, are affiliated to TİSK. By holding a women's employment summit in 2005 TİSK has drawn a great deal of attention to the situation of women's low level of employment.

International Actors

A key influence of the **European Union** is its requirement to the government to implement gender equality policies.

The **ILO** is an important actor requiring Turkey to implement international conventions on work and employment.

The **World Bank** is also an influential international actor as it support projects such KSGM's women's employment research stream.

Timeline

1995

Tax-Benefit System

An appeal by the 10th Administrative Court of Ankara in November 1995 was made to the Constitutional Court, claiming that the age limit existing only for the male children getting the survivor's benefit in the **pension system**¹⁷ was breaching the Constitutional guarantee of equality. The case was rejected in October 1996 on the basis that such a different treatment for the female children did not violate the Article 10 of the Constitution on equality before the law.

Primary Sources:

- **1996/10 Anayasa Mahkemesi Kararı (Constitutional Court Decision), 16 April 1996, published in the Official Gazette on August 6, 1997, No. 23072**
<http://www.anayasa.gov.tr/eskisite/kararlar/IPTALITIRAZ/K1996/K1996-10.htm>
(accessed on 29 May 2007) (7 pages)

1997

Care Work and Informal Work

Only a few policy changes were observable during the pre-2001 period and one of them was related to the establishment of nursery rooms and crèches at workplaces. Women feminists and academics have long indicated that childcare facilities are insufficient in Turkey; only a small proportion of children are put under the care of day-time nurseries as these are an expensive form of childcare for working families. Even though no extensive, free, public

¹⁷ The provision of social security is a constitutional right in Turkey and the state has to take the necessary measures and establish the organisation to provide social security for all (Article 60 of the Constitution). Three main social security institutions have been established to provide social security rights. These are the SSK (Social Security Administration) assigned to provide social security for workers, T.C Emekli Sandığı (Retirement Fund), providing social security for civil servants, and BAĞ-KUR (Insurance Fund for the Self-Employed), which was established to provide social security for tradesmen, artisans and other self-employed. In 2004, almost 90 percent of the population was covered by one of the social security programmes.

In the current Turkish social security system, the retirement ages are different for men and women. Both in the Law on Social Security and the Law on Civil Servants the age of retirement is set as 58 for women and 60 for men. This means that the current legislation supports women's exit from the labour market earlier than men, which also leads to lower retirement pensions.

In the current legislation of pension system, the survivor's benefit is for eligible dependents including a spouse, children under age 18 (age goes up to 20 if in pre-secondary education, age 25 if in university), a son aged 18 or older if disabled and unemployed; an unmarried, widowed or divorced daughter of any age. In the latter case, she must be without insured employment and not receiving any social security benefits in her own right. Unequal treatment of male and female dependents reflects the existing traditional gender roles and ideology and supports women's dependency on men. However, it also reflects the existing gender-based picture of non-employment in Turkey.

childcare provisions for pre-school children are available, in May 1997 the government published the By-law on Principles of Education and Functioning of the Pre-School Education Institutions to be Established by the Employers of Workplaces Subject to the Labour Law 1475. In this By-law, establishments employing more than 100 women workers were responsible for the provision of nursery rooms for nursing mothers. Those employing more than 150 women workers had to maintain pre-school institutions for children aged between 36-72 months. The employer was put under the obligation to recruit personnel considered to be necessary for the proper functioning of these institutions.

Primary Sources:

- **1475 Sayılı İş Kanununa Tabi İş Yerlerinde İşverenlerin Kuracakları Okul Öncesi Eğitim Kurumlarının Eğitim ve İşleyiş Esasları Hakkında Tüzük (By-Law on Principles of Education and Functioning of the Pre-School Education Institutions to be Established by the Employers of Workplaces Subject to the Labour Law No:1475), published in Official Gazette May 1, 1997. No: 22976 (4 pages)**

2001

Equal Pay and Gender Pay Gap

The turning point in Turkey's gender equality policies was the year of 2001, when the objective of improving the equal treatment and pay in the labour market was on the agenda of the National Programme for the Adoption of the *Acquis* (NPAA), which was designed in accordance with the EU's Accession Partnership. More recently, this objective has also been formulated in the framework of the Labour Law and later in the Constitutional amendments of 2004, in which not only is gender discrimination banned but the state also assumed the role of taking all necessary measures to realise equality between women and men (Article 10 and 90 of the Constitution).

2003

Reconciliation of Family and Work Life

In the previous Labour Law No:1475, paid **maternity leave** for female workers was regulated for a period of twelve weeks, six weeks in the prenatal and six weeks in the postnatal period. In the new Labour Law of 2003 which aimed to comply with the Council Directive 92/85/EEC, Article 74 grants female workers maternity leave for a period of sixteen weeks, eight weeks in the prenatal and eight weeks in the postnatal periods. In case of a multiple pregnancy, two weeks are added to the period of eight weeks' leave prior to birth. The same article also grants breastfeeding women a total of 1.5 hours daily leave to nurse their children who are younger than twelve months old. The worker herself determines the schedule of time and length of her daily leave intervals.

When the Labour Law was presented to the Parliament in 2003 it included fourteen weeks of paid maternity leave, as requested by the Directive. During the discussions at the Parliament the leave was extended to sixteen weeks after a motion of change was put forward by the CHP (People's Republican Party) members. The motion was also accepted by the Minister of Labour and Social Security during the parliamentary debate and then the Parliament accepted the motion. While the amendment was welcomed in the public opinion, some legal analysts

have interpreted the extension of the leave from fourteen to sixteen weeks as a populist attempt by the politicians. In this view, it is asserted that the overprotection of women and granting them over-extended leaves may lead to their further exclusion from the labour market as employers may prefer not to hire women workers who are to use extended leaves during their pregnancy and childbirth. In a country where the rate of women's labour force participation is so low, granting women over-extended maternity leaves may result in women's further withdrawal from the labour market.

Complying with the Labour Law changes in the area of **maternity leave** led to the amendment in the Social Insurance Law 506, which regulates the rights of workers. Thus, Article 49 was replaced by the 32nd article of Law No. 4958. Female workers can get paid maternity leave for eight weeks prior and eight weeks after the delivery provided they have paid maternity contributions for at least 120 days during the year prior to the delivery. In the case of multiple pregnancy two weeks are added to the eight week period prior to delivery. If they wish, women workers can also get six months of unpaid leave after their compulsory maternity leave.

With the notion of increasing women's employment in Turkey, the new Labour Law (Article 13) bans any form of discrimination against **part-time and fixed-term contract** workers and grants them the social rights of permanent contract workers. Accordingly, unless there are essential reasons for differential treatment, the employer must not make any discrimination between a full-time and a part-time employee, or between an employee working under a fixed-term employment contract (contract made for a definite period) and one working under an open-ended employment contract (contract made for an indefinite period). During the Parliamentary debate of the Article, CHP (Republican People's Party) members advocated against the Article, as it was seen to create insecurity and informalisation of existing jobs. Against their argument, AKP (Justice and Development Party) supported the Article claiming its potential in generating more jobs for the unemployed.

Granting social and job security to part-time and flexible employment was expected to bring many inactive women into employment and thereby reduce female non-employment. However, part-time work is not a prevalent type of employment in Turkey and the majority of women's flexible and part-time work takes place in the informal sector. Therefore, as the law does not rest on social reality but rather on prediction of future rises in women's part-time and flexible work, it lacks the capacity to offer any improvement in the area of non-employment. This argument is validated by the fact that since the new Labour Law was enacted in 2003 the rate of female part-time employment has not shown any noticeable change.

Parental leave was brought to the political agenda as a policy measure to combat the low rate of female employment in İş-Kur's (Turkish Employment Organisation) General Assembly.

Equal Pay and Gender Pay Gap

In the new Labour Law aimed to comply with the Directive of 75/11/ECC and 76/207/ECC and 2002/73/ECC, Article 5 grants **equal treatment and equal pay** to men and women. It stated that no discrimination can be made on the basis of sex in work relations, regardless of whether it is in the private or public sector. The principle of equal treatment and prohibition of sex discrimination lays down the principle of "equal pay for equal work or work of equal value."

During the Parliamentary debate, a CHP member, Oya Araslı, made a speech on Article 5 and welcomed it. However her stress was on the positive discrimination for women in the labour

market and on the implementation problems of the equal treatment. She also put a motion of change in the Article which aimed to provide a ten percent employment quota for women in every workplace. The motion was rejected at the session and the Article was accepted as drafted by the Commission.

The EU Directives on equal opportunities provided the framework for monitoring and analysing corresponding legislation, institutions and practices. In this regard, it has been pointed out by some labour law experts that the article should have included access to all types and all levels of “vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience” in order to comply with the Directive 2002/73/EC of the European Parliament and of the amended Council Directive 76/207/EEC. Experts also state that the article fails to define direct and indirect discrimination while compliance with the EU Directives of 97/80/EC and 2002/73/EC requires a clear definition of direct and indirect discrimination.

Care Work and Informal Work

Disregard of **care and informal work** in the Labour Law took the form of excluding some work such as home-based and home workers, and establishments employing less than 30 workers, from the coverage and protection of Labour Law. It functions to continually encourage women’s work in the informal sector where no social rights and protection are provided and women generally do long-hours of dangerous work.

Access to the Labour Market

Earlier Article 69 of the previous Labour Law No: 1475 prohibited employment of men (under the age of 18) and women in industrial work during the night; only if the nature of **night work** required the employment of women could women above 18 years of age be employed on night shifts. While Article 72 of the new Labour Law prohibits the **access of women to certain jobs** (coal mines, underground quarries, embanking, digging and excavation of soil), it also reflects an improvement in this provision. However, continued restriction of women’s access to certain jobs not only negatively affects the gender composition of non-employment but also generates a gendered labour market in which women do certain kind of jobs.

Primary Sources:

- T.B.M.M, Tutanak Dergisi, (14.5.2003) Dönem: 22 Cilt 14 Yasama 1, 79. Birleşim, (The Turkish, Parliament, Journal of Parliamentary Debate, Period: 22, Volume: 14, Legislative Year: 1, Session: 79) (12 pages)
- T.B.M.M , Tutanak Dergisi, (14.3.2003) Dönem: 22 Cilt 14 Yasama 1, 46. Birleşim. (The Turkish Parliament, Journal of Parliamentary Debate, Period: 22, Volume: 14, Legislative Year: 1, Session: 46) (11 pages)
- T.B.M.M , Tutanak Dergisi, (13.3.2003) Dönem: 22 Cilt 14 Yasama 1, 45. Birleşim (The Turkish Parliament, Journal of Parliamentary Debate, Term: 22, Volume: 14, Legislative Year: 1, Session: 45) (8 pages)
- T.B.M.M , Tutanak Dergisi, (13.5.2003) Dönem: 22 Cilt 14 Yasama 1, 78. Birleşim. (The Turkish Parliament, Journal of Parliamentary Debate, Term: 22, Volume: 14, Legislative Year: 1, Session: 78) (7 pages)

- T.B.M.M, İş Kanunu Tasarısı ve Sağlık, Aile, Çalışma ve Sosyal İşler Komisyonu Raporu (1/534) (S.Sayısı:73). Dönem 22 Yasama Yılı: 1. (The Turkish Parliament, Draft Labour Law and Report of Health, Family, Work and Social Affairs Commission; 1/534 No: 73, Term: 22, Legislative Year: 1) (7.3.2003) (54 pages)
- T.B.M.M, İş Kanunu Tasarısı ve Sağlık, Aile, Çalışma ve Sosyal İşler Komisyonu Raporu (1/534) (S.Sayısı:73'e 1inci Ek). Dönem 22 Yasama Yılı:1 (28.3.2003) (The Turkish Parliament, Draft Labour Law and Report of Health, Family, Work and Social Affairs Commission, 1/534. No: 73 Appendix 1; Term: 22, Legislative Year:1) (23 pages)
- 4857 Sayılı İş Kanunu – 5. Madde, 13. Madde, 74. Madde, 72. Madde (Article 5, 13, 74, 72 Labour Law No. 4857) Published in Official Gazette, 10 June 2003: 25134 (each Article not more than one page)
http://www.csgb.gov.tr/mevzuat/4857_is_kanunu.htm
<http://www.iskanunu.com/4857-sayili-is-kanunu/4857-labor-law-english/>
- 506 Social Security Law, Complete with Supplements and Revisions General Directorate of Insurance Affairs, Presidency of Social Insurance Institution. (1 page)
http://www.ssk.gov.tr/sskdownloads/bilqibankasi/mevzuat/506_english.doc
(accessed on 21 April 2007)

Secondary Source:

- Şenol, Nevin, Ceren İşat and Aysun Sayın .2005. *Equal Opportunities For Women and Men: Monitoring Law and Practice in Turkey*, Open Society Institute Network Women's Program, www.soros.org/women (accessed on 11 May 2007)
- Tunalı, İnsan .2005. *Female Part Time Employment in Turkey: Statements and Comments*, Independent Expert Report, http://pdf.mutual-learning-employment.net/pdf/norway%2005/TR_Tunali.pdf (accessed on 21 May 2007)

2004

Equal Pay and Gender Pay Gap

In January 2004, the Turkish Prime Ministry published the Circular on Observing the Gender **Equality Principle** during Recruitment to combat gender-biases during recruitment and provide gender equality. This included a recommendation to develop a gender-sensitive approach during the recruitment to the State institutions, with measures to improve gender equality at work, and the redistribution of tasks between women and men.

Following the publication of the Prime Ministry's Circular, in August 2004, the Government published a Regulation on Minimum Wage (No. 25540), stating that no discrimination based on sex may be made in the determination of the minimum wage. The Regulation aimed to regulate the Minimum Wage Fixing Board, which has the duty to determine the minimum wage. It also guarantees that a lower wage cannot be accorded for a job of the same or equal value on the basis of gender.

Care Work and Informal Work

After the new Labour Law in 2003, the government in July 2004 issued another regulation on the Work Conditions of Pregnant or Nursing Women and Nursery Rooms and Child Care Centres. In the Regulation No. 25522 prepared by the Ministry of Labour and Social Security, employers are obliged to open a nursery for a workplace which employs between 100-150 female workers, and a **childcare** centre when the number of female workers exceeds 150. Although no reliable data exist, it would appear that the implementation of this Regulation has remained very limited. It has been argued that in a country where most of the workplaces are small and medium size, it is very difficult to reach the number of 150 female employees. Also in some cases, even though firms reach these numbers they are reluctant to comply with the Regulation and opt instead to pay the penalty of not having the required facilities in place.

This Regulation has also been extensively criticised as gender-biased and portraying **childcare** as only women's responsibility. Women trade-union leaders have argued that companies need to open nursery rooms and pre-schools regardless of whether they have women employees or not, as not only women but also men have children. Thus, the problem with the current legislation is that it does not have a clear perspective in encouraging women but rather it excludes them by making female labour more expensive meaning employers may be reluctant to employ women.

Regarding the large **informal sector** and the exclusion of some forms of work and establishments from the coverage of Labour Law, in the European Commission's Regular Report on Turkey's Progress towards Accession in 2004 there are recommendations to extend the scope of the labour law to cover those excluded sectors and enterprises. However, the large size of the informal economy and the strong rural/urban labour market divide make it very difficult to formalise women's paid and unpaid work in Turkey.

A large number of women working in agriculture as unpaid family workers and the large share of women in the informal sector also place a great burden on the social security and health system as these women do not make any contribution to the system. There are efforts to formalise the informal sector and increase the total tax payments. However, no clear guidance exists on how to bring homemaker women into formal economic activities.

Reconciliation of Family and Work Life

Following the **maternity leave** changes in the new Labour Law, the Civil Servants' Law was amended in July 2004. Article 104 granted female civil servants paid maternity leave for sixteen weeks; eight weeks prior and eight weeks after childbirth. This same law amended Article 108; it was further legislated that a female civil servant, at her request, could be granted a further twelve months unpaid leave to be continued after the maternity leave. The extension of maternity leave for female civil servants was supported by a joint motion of two members of Parliament, from AKP (Justice and Development Party) and CHP (the Republican People's Party). The draft stated that the need of extending maternity leave for female civil servants was the result of bringing equality for all women workers.

Access to the Labour Market

In August 2004, the new Regulation No. 25548 on the Conditions of Night Work for Women Workers was published in the Official Gazette, which now limits women's night work to seven

and a half hours and pregnant women are prohibited from **night work**. Article 9 of the Regulation No. 25548 and Article 6 of the Regulation No. 25522 (The Work Conditions of Pregnant and Nursing Women and Nursery Rooms and Child Care Centres) states that breastfeeding women are forbidden to perform night work for nine months after giving birth. Even though the latest regulations are in compliance with Council Directive 92/85/EEC, experts have claimed that these regulations still need to be revised under the light of new understandings and policies as **prohibition of women from night work** may also lead to discrimination in the labour market. Women's restriction from night work ends up offering supplementary benefits of night work to men and this is seen as discriminatory against women.

Primary Sources:

- **5223 Devlet Memurları Kanununun Bazı Maddelerinin Değiştirilmesi Hakkında Kanun (The Law on Changes in the Some Articles of Civil Servants Law), Published in Official Gazette 21 July 2004 No: 25529**
<http://rega.basbakanlik.gov.tr/Eskiler/2004/07/20040721.htm#5> (accessed on 20 April 2007) (1 page)
- **Gebe veya Emziren Kadınların Çalıştırılma Şartlarıyla Emzirme Odaları ve Çocuk Bakım Yurtlarına Dair Yönetmelik (The Regulation on The Work Conditions of Pregnant and Nursing Women and Nursery Rooms and Child Care Centres), published in Official Gazette July 14, 2004. No: 25522.**
<http://rega.basbakanlik.gov.tr/eskiler/2004/07/20040714.htm>(accessed on 23 April 2007) (1 page)
- **2004/7 Sayılı Başbakanlık Genelgesi: Personel Temininde Eşitlik İlkesine Uygun Hareket Edilmesi, (The Prime Ministry Circular on Observing Gender Equality Principle During Recruitment), Published in the Official Gazette 10 February 2004, 239:63 (2 pages)**
- **Asgari Ücret Yönetmeliği, (Regulation on Minimum Wage), published in Official Gazette August 1, 2004. No: 25540**
<http://rega.basbakanlik.gov.tr/eskiler/2004/08/20040801.htm> (accessed on 20 April 2007) (5 pages)
- **Kadın İşçilerin Gece Postalarında Çalıştırılma Koşulları Hakkında Yönetmelik (The Regulation on the Conditions of Night Work for Women Workers), published in Official Gazette, August 9, 2004. No: 25548.**
<http://rega.basbakanlik.gov.tr/eskiler/2004/08/20040809.htm> (accessed on 20 May 2007) (3 pages)

Secondary Source

- **4 July 2004, Hamilelerin 'Güzin Abla'sı (The Güzin Sister of the Pregnant Women). Yeni Şafak Gazetesi,**
<http://www.yenisafak.com.tr/arsiv/2004/temmuz/04/hayat.html>
- **1 July 2004, Kadın memurun doğum izni 16 haftaya çıkıyor (Women civil servants getting 16 weeks of maternity leave). Zaman Gazetesi,**
<http://www.zaman.com.tr/webapp-tr/haber.do?haberno=65055>

- **European Commission. 2004. Regular Report on Turkey's Progress Towards Accession**
http://www.belgenet.com/arsiv/ab/rr_tr_2004_en.pdf (accessed 20 April 2007)

2005

Reconciliation of Family and Work Life

In Turkey's attempt to comply with EU Directives a draft law was prepared in 2005 to regulate **parental leave** provisions that are designed to promote equal opportunities for women. The draft proposes to give six months of unpaid parental leave for each spouse upon their request. The leave could be taken after the paid statutory maternity leave of sixteen weeks and the leave is not transferable to one spouse.

In the current legislation, women workers regulated by Article 78 of the Labour Law may take an additional six months of unpaid leave after the compulsory period of sixteen weeks of paid maternity leave. The proposed law extends this leave (sixteen weeks paid + 6 months unpaid) to twelve months but it must be equally shared between the woman worker and the husband who is a worker or civil servant. The current Law regulating Civil Servant No: 657, Article 108 grants that upon her request, a female civil servant may be granted a further twelve months of unpaid leave following her maternity leave. In the proposed law, this twelve months leave is shared by women and men. Therefore, this law convert women's six months unpaid maternity leave into parental leave and grants men six months of unpaid leave for the care of children.

In the European context, parental leave has been an important element of reconciliation of work and family life and seen as a potential challenge to the conventional understanding of parenthood in which women are naturally responsible for raising children. Therefore, parental leave has the potential to change the gendered nature of the area of non-employment by delegating some caring responsibility to men. In the Turkish context the parental leave proposal has not yet become law even though it has been extensively discussed in different commissions at the Parliament.

The discussion of the draft law took place under the roof of Parliament, specifically in the EU Harmonisation Commission, Health, Family, Work and Social Affairs Commission and Planning and Budgeting Commission, in 2005. When preparing their reports all three commissions discussed the draft with the bureaucrats of the General Directorate for Women's Status, experts from different NGOs (trade unions, Turkish Doctors' Union), and bureaucrats from various other Ministries. All commission reports supported the draft which gives each spouse a six-month period of unpaid parental leave.

Equal Pay and Gender Pay Gap

Even though national legislation has been updated to provide **equal pay and treatment** for women the implementation of laws and policies has been problematic in Turkey. In many instances, the jobs advertised by public institutions called for recruits of a specific sex. The 2005 shadow report of Flying Broom on the occasion of Turkey's country report of the joint 4th and 5th periodic report claimed that gender-based discrimination is widespread in the areas of male-dominated jobs such as engineering, construction, and mining and that even for civil service jobs men are preferred to women. In addition, it is reported that female candidates

were being asked about their intentions of marriage and childbearing during job interviews in the overwhelmingly feminised banking sector.

Primary Sources:

- **14 January 2005 Devlet Memurları Kanunu ve İş Kanunda Değişiklik Yapılmasına Dair Kanun Tasarısı. (Draft Law Proposing Changes in the Labour Law and Civil Servants' Law).**
http://www.alomaliye.com/devlet_memurlari_is_kanun_degis.htm (accessed on 15 May 2007) (4 pages)
- **2 March 2005 Avrupa Birliği Komisyonu Raporu (The Report of EU Harmonisation Commission) 1/948:2 (3 pages)**
- **3 March 2005 Sağlık, Aile, Çalışma Ve Sosyal İşler Komisyonu Raporu (the Report of the Health, Family, Work and Social Affairs Commission) 1/948:15 (5 pages)**
- **9 March 2005 Plan ve Bütçe Komisyonu (The Report of the Planning and Budgeting Commission) 1/948:25 (5 pages)**

Secondary Sources:

- **Flying Broom, 20 January 2005, 4th and 5th CEDAW Shadow Report,**
http://www.ucansupurge.org/index.php?option=com_content&task=view&id=1344&Itemid=87 (accessed on 9 May 2007)

2006

The year of 2006 witnessed the production of two important documents on women's work and employment in Turkey by two different social actors. TİSK hold a Summit on Women's Employment, followed by concluding remarks on low female employment rates in Turkey. The main emphasis was on developing a long-term national women's employment strategy to increase women's access to labour market activities and supporting employers to employ more women as well as on women's self-employment. Tax reductions for employers employing women, increasing women's educational and skill attainments, establishment of private employment agencies, and developing secure but flexible employment strategies for women are among the recommendations of TİSK to increase women's employment. Another recommendation was on the importance of the cooperation between private sector, civil society and public institutions. After stating that women's NGOs had a fragmented structure and no substantial activities on women's employment issues, TİSK made a call for an establishment of a strong women's NGO movement in the area of employment.

A few days later at TİSK's Women's Employment Summit, 38 women's NGOs came together to make a declaration in response to the concluding comments of the Summit and signed a press release in February 2006. The most significant aspect of the press release was the responsibility of the private and public sector to generate employment for women without losing sight of gender equality and a gendered perspective on employment issues. A demand was made for the establishment of a Gender Equality Commission at the Parliament and elimination of all gender based discriminations.

Care Work and Informal Work

In the press release, women's NGOs draw attention to **childcare** facilities and the Regulation obliging establishments employing more than 150 workers to have crèches as an unrealistic legislation. In their regard, childcare is not sole responsibility of women and employers; rather that local governments should provide childcare facilities for the children of employed men and women. This solution to childcare seems more plausible given that most workplaces employ less than nine workers in Turkey. It is also important for local governments to make sure that employers having more than one establishment in the same locality provide nursing rooms and crèches for their employees, regardless of the number of workers in one establishment. This should also be applied to industrial zones where women are mostly employed as informal workers.

The issue has been a concern in the 2006 Annual Programme of State Planning Organisation. It is stated that improving **childcare and elder care** centres is advised to increase women's gainful employment. The current low rate of women's labour force participation in Turkey is partly attributed to insufficiency of available, affordable and quality childcare and elder care. Women mostly stay at home in charge of childcare and domestic chores. Childcare and the rearing of children are seen as essential duties of women and cultural expectations compel women to carry out all childcare regardless of whether they work outside of the home or not. Therefore it is possible to argue that the shortage of appropriate childcare facilities directly affects women's employment prospects.

Equal Pay and Gender Pay Gap

In the same press release, women's NGOs envisioned gender equality at work in a wider perspective and demanded the provision of **positive discrimination** and quotas for women workers in each workplace. It was stated that women earn almost 46 percent of what men do and elimination of this is dependent on having a well defined job classification and after that why different jobs are paid differently.

After recording some discriminatory practices of recruitment in public institutions such as the İŞKUR (Turkish Employment Organization) and the Central Bank, in June 2006 the Minister of Women and Family Affairs sent an official letter to all ministries reminding them of their obligations to observe **gender equality principles** in the recruitment of employees.

Reconciliation of Family and Work Life

Despite the existing support for the **parental leave** legislation, TİSK (Confederation of the Unions for Turkish Employers) is against this legislation and argues that granting fathers parental leave may not lead to their greater involvement in the care of children. They argue that the Council Directive on parental leave is in response to the problems of an ageing population and declining birth rates which are mainly irrelevant for Turkey where there are an abundance of women who are not employed. In the recommendations of TİSK's Women's Employment Summit in 2006, there was no mention of parental leave, indicating the reluctance of employers to support the legislation. Following this Summit, women's groups in February 2006 published a common press release, stating that parental leave should be included in the national legislation and every private and public institution should take the responsibility for the enforcement of the legislation.

Many women's NGOs have supported the draft law and pressed for the urgency of passing the parental leave law. It was expressed that in Turkey's EU accession process, necessary measures should be taken to integrate the issue of individual parental leave into national legislation, to eventually affect and challenge the existing conception on gender roles in which childcare is seen as the sole responsibility of mothers.

Tax and Benefit System

In the current social security system women and men have a different **retirement** age. The gender difference in retirement age does not comply with the Council Directive 86/378/EEC of 24 July 1986. The new Social Security and General Health Insurance Law was approved by the Parliament in 2006. This law radically transforms the pension and health system and aimed to bring together the fragmented structure of social security institutions under the auspices of the Ministry of Labour and Social Security. The law introduces radical changes to become active in the second half of 2007, proposing a graded system whereby the equalisation of retirement ages at 65 is planned in 2048. It also includes the introduction of state contributions to the social security system along with employers and employees. Currently the state does not contribute to an individual's social security, only the worker and employer make proportional contributions.

The new Law has created a great deal of debate and controversy in the Parliament and general public. The members of CHP (Republican People's Party) did not participate in the final parliamentary debate during the approval of the Law. This opposition was supported by the general public and organised interest groups such as TTB (Turkish Doctors' Union, trade unions and the President of the Republic, who then vetoed the law in May 2006). The Parliament overrode the President's veto in the second round and voted the legislation into force. The President, with a group of members of the Parliament, has taken the Law to Constitutional Court with the argument that the relevant articles on retirement age and the 9000 days of active work are contrary to constitutional provisions. The Court took the decision for the abolition of these two articles in 15 December 2006. The reform was originally expected to take effect on Jan. 1, 2007. The Labour Platform, including the Confederation of Turkish Labour Unions (Türk-iş) as its primary actor, organized a partial strike and work restrictions in March to force the government to withdraw its social security reform package and to make some compromises. Due to widespread reactions, the government decided to start negotiations with concerned parties. A partial compromise had been reached on some issues between trade unions in March 2008¹⁸ and the New Social Security and Health Law was adopted on 17 April 2008 by the Parliament. The debates on this reform are ongoing, and

¹⁸ The unions had seven major demands, and they succeeded in having four of them granted. The unions and the ministry agreed on the payment of the insurance premium for a minimum of 7200 days to be eligible for retirement. The government had previously insisted on 9000 days, whereas the unions wanted it to stay at the current 7000 days. However, the ministry was able to persuade the unions on the criteria of being at least 65 years of age to be eligible for retirement. That means any person who starts his work life after the law is implemented will be able to retire after his insurance premiums are paid for 7200 days in total. If the worker reaches 65 years of age before working 7200 days, he will have the right to start receiving a pension. Furthermore, according to the compromise reached between the labour minister and the unions, the minimum age for retirement will increase gradually after 2036, and it will be 65 for men by 2046 and the same for women by 2048.

recently many civil society organizations including women's NGOs have released public letters criticising government's policies.

The implications of these policy developments for women have been limited as those covered by a social security system and having rights to pensions are few. Most women are employed in the informal sector or are unpaid family workers, and are therefore covered as dependents through their fathers' or husbands' social security system.

Another issue to be raised here is the question of whether granting women with the same rights as men really brings equality for women or not. For example, the equalisation of the retirement age at 65 may end up discriminating against women as they tend to stay in the labour market for shorter periods and their social security contributions are not paid during the unpaid maternity leave period. On the other hand, different treatment of female children in the survivor's benefit is an encouragement for women to stay out of productive activities and focus on the domestic roles, which strengthens traditional gendered roles in the Turkish society.

Primary Sources:

- **2006/111 Anayasa Mahkemesi Kararı, (Constitutional Court Decision) 15 December 2006, published in the Official Gazette on December 26, 2006, No. 26388**
http://www.alomaliye.com/aralik_06/anayasa_e2006_111.htm (accessed on 25 May 2007) (2 pages)
- **5510 Sosyal Sigortlar ve Genel Sağlık Sigortası Kanunu (The Social Security and General Health Insurance Law), published in the Official Gazette, June 16, 2006. No: 26200**
<http://rega.basbakanlik.gov.tr/eskiler/2006/06/20060616-1.htm> (accessed 8 July 2007) (47 pages)

Secondary Source

- Devlet Planlama Teşkilatı (DPT). 2006. *2006 Yılı Programı* (State Planning Organisation, The 2006 Annual Programme), Ankara.
<http://ekutup.dpt.gov.tr/program/2006.pdf> (accessed on 15 April 2007)
- Kadın Örgütleri Basın Açıklaması (Press Release of Women's Groups on the Women's Employment Summit organised by TİSK), February 2006.
http://www.ucansupurge.org/index.php?option=com_content&task=view&id=2881&Itemid=69 (accessed on 30 May 2007), (3 pages)
- TİSK. 2006. *Sosyal Politika ve İstihdam Başlıklı AB Müktesebatı ve Türkiye, AB Mevzuatını İnceleme Komisyonu Raporu* (Confederation of the Unions for Turkish Employers, Social Policy, Employment, EU Acquis Communautaire and Turkey: The Report of the Commission on EU Directives), İstanbul, TİSK.
- TİSK 2006 *Kadın İstihdamı Zirvesi* (Confederation of the Unions for Turkish Employers, Women's Employment Summit Proceedings), Concluding Comments (3 pages). Conrad Otel, İstanbul 10-11 Şubat 2006.
- 16 December 2006, Sosyal Güvenlik Yasası'na Kısmi İptal (Partial Abolition of The Social Security Law), NTV.

<http://www.ntvmsnbc.com/news/394302.asp> (accessed on 27 May 2007)

- Adar, Sinem. 2007. Turkey: Reform in Social Security, *Journal of European Social Policy*, 17(2):167-168.

2007

Care Work and Informal Work

A recent newspaper article (16 March 2007), announced that the current government was planning to relax the rule of having nursery rooms and **childcare** facilities at workplaces and that the relaxation of these rules are expected to generate 2.3 million more jobs. Lifting employers' responsibility of providing childcare will eventually create women unfriendly working conditions and this proposed change also shows the government's reluctance in pursuing women's employment as the top priority in their political agenda.

Secondary Sources:

- Hürriyet. 16 March 2007. 2,3 Milyon İşsize Müjde (Good News for 2.3 Million Unemployed)

b) Issue History for Intimate Citizenship

Introduction to the Sub-issues and Topics:

In the Turkish context, regarding the issue of intimate citizenship, QUING-relevant sub-issues mainly emerge in the area of **marital union** (i.e. conditions of marriage, divorce, alimony, sharing of property, rights and liabilities). The issues and related legislation aim at the provision of equality between men and women within the family and development on these are explored in detail in the ensuing part of this chapter. Turkey's EU candidacy, declared in Helsinki in 1999, has been a significant landmark for the country and for the achievement of legal and institutional arrangements demanded in the accession process. Numerous laws in 'gender equality', albeit not drawn from scratch in response to EU demands, were nevertheless passed within a very short term. The impact of women's organisations on both the origins and passage of these laws was a major force prior to and during the law reform processes. Women's NGO's also utilized the EU accession process successfully to enhance and accelerate their already formulated demands; they contributed to the drafting of legislation actively by participating in expert working groups and Parliamentary sub-commissions and by acting as a pressure group particularly in critical bottlenecks of the legislative process.

In November 2002, AKP (Justice and Development Party) captured a majority of parliamentary seats in Turkey's national elections signifying a political landmark for the country. Anticipations of a religious and conservative policy view caused trepidation among the country's Kemalist state elite and within modernist circles. Although this government (2003-present) has shown an eagerness to complete legislative arrangements for Turkey's EU membership, at times, it has also attempted to bring a conservative, religion-based approach to legal provisions and policies on issues such as adultery, marital property regime and abortion. These attempts created hot debates in the country and marked the lines between conservative and modernist wings of society. In each of these incidents, the latter group succeeded in mobilising reactions and severe criticisms at both national and international levels, causing the government to step back.

As there is only one legally valid form of marriage in Turkey (civil marriage) with resultant provisions on divorce, separation, alimony, property rights etc. pertaining exclusively to such marriages, virtually no legislation exists pertaining to **cohabitation** or **de facto unions**. Relevant provisions of the Turkish Civil (Article 230) and Penal Codes (Article 237), however, regulate and even punish Islamic marriage if it takes place in the absence of a civil ceremony. Such marriages are allowed only if there is already a civil marriage. Yet, couples that live under what is colloquially termed as "imam marriage" exist throughout the country, particularly in rural areas. In rare cases, such marriages are also used to justify polygamous unions outlawed by civil law. This, in fact, is the only form of '*de facto*' union that is debated socially and politically in the country.

In Turkish policy debates, issues of **same-sex partnership** are practically a non-issue. Although homosexuality is not illegal in the country, it is not legally recognised either. No specific laws exist to protect lesbian, gay, bisexual, transsexual (LGBT) people from discrimination in employment, education, housing, health care, public accommodations or credit. The Turkish LGBT rights movement became more visible during the 1990s. Following a ban of a 'gay pride' parade by the governor of İstanbul in 1993, a group of homosexuals founded Lambdaistanbul. The foundation of KAOS Gay and Lesbian Cultural Research and Solidarity Association (KAOS GL) in Ankara in 1994 and Lesbian and Gay Association (LEGATO) in 1996 helped gays and lesbians come together for the promotion and support of gay rights.¹⁹ In the 2000s, new organisations began to appear in other cities and the gay movement started to become more visible in public demonstrations and activities.²⁰ During the 2002-2004 Penal Code campaign LGBT and women's groups acted together to voice their demands. However, while many of women's demands were taken on board in the New Penal Code, the demand for criminalisation of discrimination based on sexual orientation was not accepted. In 2007, when AKP government initiated debates on a Constitutional reform, LGBT organizations expressed their demands for legal recognition of sexual identities via an explicit ban of discrimination based on sexual orientation in Turkish Constitution but they failed again.

Reproductive issues such as assisted conception, artificial insemination etc. are not policy issues yet, but they are discussed at the media level to some extent. Despite several primary (e.g., Turkish Civil Code, Turkish Penal Code, Law on Family Population Planning, No.2827) and secondary legal norms concerning "embryo and fetus", no specific law exists for regulation of the use of assisted reproductive technologies. In vitro fertilization (IVF) and embryo transfers are carried out in Turkey on conditions stated in the "Regulation Concerning Treatment Centres for Assisted Procreation" of 19 November 1996 and are available in public hospitals and for couples covered by social security benefits. The research and treatment centres consider each applicant or operate on an individual basis. Use of donor eggs and procedures of egg transplants are prohibited; yet it has been reported that some couples go abroad where such procedures are permitted. The ethical and religious aspects of the issue have only been tangentially discussed in the popular media and the jurists in professional colloquiums have raised the legal, technical aspects of the issue. There is as yet no legal policy on these matters.

¹⁹ In June 1994, the socialist ÖDP (The Freedom and Solidarity Party), for the first time touched on issues concerning the Turkish LGBT community, supporting the criminalisation of discrimination based on sexual orientation and gender identity. The party nominated a transsexual candidate for a municipal council in local elections in February 1999, though never reached a vote ratio to get seats in Türkiye Büyük Millet Meclisi (TBMM) (Turkish Grand National Assembly)

²⁰ In 2001, KAOS GL participated in the May Day labour demonstrations in Ankara under its own banner, for the first time, as a Turkish LGBT group. In 2003 and 2004 various symposiums on 'Discrimination and Violence towards Gays and Lesbians' were held in Ankara and İstanbul, and in June 2003 Lambdaistanbul celebrated its tenth Gay Pride week and the anniversary of its establishment with the participation of 50 LGBT activists marching down İstiklal Street in İstanbul.

Actors in the Policy Area of Intimate Citizenship

State Actors

Kadının Statüsü Genel Müdürlüğü (KSGM) (General Directorate on the Status of Women) has a supporting role in promoting gender equality policy, but the institution does not have an active role in the policy field due to its institutional and financial limitations.

Constitutional Court: In Turkey, the lower courts and the Constitutional Court have an affirmative role in promoting gender equality in policy texts. Lower courts and the Constitutional Court pay attention to the international documents like CEDAW and the Universal Declaration of Human Rights in order to eliminate gender gaps in legal texts.

Ministry of Justice

Ministry for Women and Family Affairs: A shadow governmental unit not very active as a Ministry yet might have a role in policy issues depending on the personal willingness and capacity of the affiliated Minister.

Ministry of Health

Ministry of Interior

Parliamentary Commission of Justice

Civil Society Actors

TCK Kadın Platformu (Women's Platform on the Penal Code of Turkey): Formed in 2002 from around 30 NGOs, TCK Women's Platform worked actively for the inclusion of women's demands in the New Penal Code between 2002 and 2005.

KA-DER – Kadın Adayları Destekleme ve Eğitim Derneği (Association for Supporting and Training Women Candidates): KA-DER has a specific mission of promoting women in political sphere. The organisation provides training and supporting activities to women at different literacy and socio-economic levels. KA-DER is also successful in networking activities and bringing various women's organisations together, which is a difficult task (as voiced by many women's NGOs) to achieve when collective action is necessary.

Uçan Süpürge (Flying Broom): Founded in 1996 Flying Broom operates as a network between women's NGOs and as an information and documentation centre. The organisation is successful in raising funds from both national and international sources for the implementation of projects for improving women's status and capacity.

KAOS GL Derneği (KAOS GL) (KAOS Gay and Lesbian Cultural Research and Solidarity Association): Founded in 1994 in Ankara, the NGO aims to bring together homosexuals in Turkey in order to struggle against discrimination against homosexuals and transsexuals. KAOS GL has been publishing the quarterly journal KAOS GL since its foundation and owns a Cultural Centre, with a small LGBT library, where cultural activities, meetings, seminars for consciousness raising are provided.

Lambdaistanbul: Founded in 1993, Lambdaistanbul organizes national meetings (in spring in Ankara, in autumn in İstanbul) of Turkish gays, lesbians and transgendered people in

cooperation with KAOS-GL, and activities for the dissemination of knowledge and information for LGBT people.

Kadının İnsan Hakları – Yeni Çözümler Vakfı (Foundation of Women for Women’s Human Rights— New Ways/ WWHR): Founded in 1993 with the aim of promoting women’s human rights in Turkey and on the international level, WHHR takes an active role in human rights education programs for women with low literacy levels and provides trainings on issues such as reproductive rights. The NGO participated in the Civil and Penal Code Reform and disseminated the achievements via publications. Further, WHHR has been active in the CEDAW process since 1997 by drafting shadow reports, lobbying the government and the CEDAW Committee during the reviews, and advocates for the adoption of recommendations by the Committee.

KADAV- Kadınlarla Dayanışma Vakfı (Foundation for Solidarity with Women)

İstanbul Barosu Kadın Hakları Uygulama Merkezi (İstanbul Bar Centre for Women’s Rights)

International Actors

EU’s requirement to implement gender equality policies in the private sphere has been influential since the second half of the 1990s. Turkey’s commitments to **CEDAW** also have had an impact on the improvement of gender equality policies in the country.

Timeline

1995

Divorce, Separation, Marriage

The Case of Ünal Tekeli on the Issue of Family Name: According to Article 153 (1) of the former Civil Code, the wife had to acquire her husband's surname upon marriage, and after divorce, she reverted to her maiden name. Thus, women's surnames depended upon their marital status. If a woman remarried, her surname would change three times and every change involved the renewal of official documents reflecting her civil status (ID card, driver's licence and passport) and carrying her divorce document with her.

A case brought to the European Court of Human Rights by a Turkish woman lawyer raised the question of the possibility for a married woman to use only her maiden name in official documents. Ünal Tekeli had appealed to the Civil Court of First Instance of Karşıyaka and to the Court of Cassation in 1995 in Turkey for permission to use only her maiden name, by which she was known in her professional life. Since both of the courts had dismissed her application, she applied to the European Court of Human Rights (ECHR) in 1995 with the complaint that the domestic courts' refusal to allow her to use only her maiden name amounted to unjustifiable interference with her right to protection of her private life. She also complained that she was discriminated against on grounds of her sex; that only married men can continue to use their own family name upon marriage. In that connection, she relied on Article 14 of the European Convention, taken together with Article 8.

1996-1998

Divorce, Separation, Marriage

Until the second half of the 1990s, the Turkish Criminal Code defined **adultery** as a criminal offence against family unity. In addition to that, the legislation had a discriminatory nature regarding the definition of adultery in terms of gender. Lower courts applied several times on this score to the Constitutional Court for the violation of the (gender) equality principle.

In 1996, the Criminal Court of First Instance of Şabanözü brought a case at its jurisdiction to the Constitutional Court.²¹ In its appeal, the Criminal Court of First Instance indicated that the Turkish Penal Code on Adultery treated the adultery of husband and wife differently. While Article 440 of the Penal Code (on adultery of the wife) punished women for having sexual relations with a man other than her husband, Article 441 (on adultery of the husband) of the same code punished men only for setting up a permanent relationship with a woman. The court demanded the annulment of the Article 441 on the ground of breach of the equality principle of Article 10 of the Turkish Constitution. Following the appeal, the Constitutional Court annulled the mentioned article with references to the equality principle of the Turkish Constitution, and with the verdict that this treatment ran counter to the Universal Declaration of Human Rights and the provisions of the Convention on the Elimination of All Kinds of Discrimination against Women (CEDAW) to which Turkey was a state-party. The legal regulations required necessary corrections to be made in the Penal Code within a year by the TBMM (Turkish Grand National Assembly). It was due to the failure to act within the specified

²¹ In Turkey, constitutional issues are generally raised by a public authority like the executive branch, a major political party, a parliamentary majority, or by a lower court.

time of the Parliament that the adultery of husbands ceased to be a crime in Turkey as of 27.12.1997 while, ironically, the article on the adultery of wives remained intact.

In 1998, with the appeal of the Criminal Court of First Instance of Torbalı the Constitutional Court also annulled Article 440 on similar grounds. Since then, adultery is no longer defined as a crime under the Penal Code; however, it continues to constitute grounds for divorce equally for both spouses in civil proceedings.

Primary sources:

- **1996/34 Anayasa Mahkemesi Kararı (Constitutional Court Decision), 23 September 1996, published in the Official Gazette on September 23, 1996, No. 22860 (7 pages)**
<http://www.anayasa.gov.tr/eskisite/KARARLAR/IPTALITIRAZ/K1996/K1996-34.htm>
(accessed on 17 April 2007)
- **1998/28 Anayasa Mahkemesi Kararı (Constitutional Court Decision), 23 June 1998, published in the Official Gazette on June 23, 1999, No. 23638 (7 pages)**
<http://www.anayasa.gov.tr/eskisite/kararlar/IPTALITIRAZ/K1998/K1998-28.htm>
(accessed on 17 April 2007).

1997

Divorce, Separation, Marriage

In 1997, the Parliamentary Justice Commission agreed on a draft law concerning an amendment in Article 153 of Civil Law. Later, the amendment was adopted by Türkiye Büyük Millet Meclisi (TBMM) (Turkish Grand National Assembly) to grant women **the right to maintain their maiden name** along with the name of their spouse—if hyphenated with that of her spouse. The amended provision was preserved in the New Civil Code, adopted in 2001.

Changes in Identity Cards: The Ministry of Interior declared a decree upon the request of State Minister Işıl Saygın and the proposal of Kadının Statüsü ve Sorunları Genel Müdürlüğü (KSSGM) (Directorate General on the Status and Problems of Women). The decree changed the **declaration of the marital status**, entailing the descriptive phrases of “married/single/widowed/divorced” in officially issued identity cards to only “married” or “single”. The purpose was to combat indirect and/or latent forms of discrimination against women because of their marital status.

Primary sources:

- **Türk Medeni Kanununun Soyadı ile ilgili 153. maddesinde değişiklik kararı (The Amendment to the Article 153 of the Civil Code regarding the Family Surname), published in the Official Gazette on May 22, 1997.**

1998

Divorce, Separation, Marriage

In line with the regulations on ID cards by the Ministry of Interior, the General Directorate of the Retirement Fund made a **change in identity cards** of widows and orphans (who are legally specified as receivers of the social security benefits of an insured benefactor). Previously identity cards specified the beneficiaries of social security services as “orphan” /

“widowed woman”; with the change only the degree of the relationship to the deceased benefactor was to be specified, such as “spouse”, “daughter”, “son”, “father”, and “mother”.

Amendment in the Law on Income Tax

The amendment annulled the provision on the issuing of tax declarations by men as the head of family and enabled married women to submit separate income tax declaration forms.

Primary Sources:

- **Nüfus Hizmetleri Kanununun Uygulanmasına İlişkin Yönetmelik; 138. Madde C Bendi (Article 138/C of the Regulation on Population Services Law), published in the Official Gazette on November 23, 2006 No: 26355. (2 lines)**
<http://mevzuat.basbakanlik.gov.tr/mevzuat/metinx.asp?MevzuatKod=3.5.200611081>
(accessed on 20 April 2007).

2001

Constitutional Amendment

On 19 March 2001, the Türkiye Büyük Millet Meclisi (TBMM) (Turkish Grand National Assembly) accepted the Turkish National Programme for the Adoption of the *Acquis* (NPAA). The government gave high priority to the preparation of a new constitutional amendment along with the short- and mid-term goals specified in the National Program. A sub-commission formed by the representative deputies from each party worked on the package and in the end offered 51 constitutional amendments to Parliament for final touches.²²

One of these amendments, along with their relevance to the Political Criteria section of NPAA, was on the provision of ‘equality between men and women’ in the family. This amendment, among other issues, did not create much tension within the Turkish Parliament. The Community dimension of the promotion of gender equality had already been considered in the making of new legislation and amendments.

In October 2001 Article 41 of the Constitution under the title ‘Protection of the Family’ was amended; to the former clause that the “Family is the foundation of the Turkish society”, the phrase “and is based on the equality between the spouses” was added.²³ With this amendment, **equality between men and men in the family** is guaranteed at the constitutional level.²⁴

²² While the work of the Commission was in progress, the content of the amendments were published in Turkish newspapers leading to debates over certain issues in the proposed amendments. In particular, MHP (Nationalist Action Party) then a member of the coalition government in office, opposed issues such as broadcasting in languages other than Turkish, the abolition of death penalty and expansion of civil and political rights and freedoms. AKP (Justice and Development Party) then in the opposition opposed only the death penalty change, knowing its vote would not impede the package’s passing. ANAP, (Motherland Party) was the new laws’ main advocate, hoping it would lead to electoral support and the EU’s agreement to advance Turkey’s membership application. During the debates, nine influential NGO’s (business and trade unions) put an advert in the newspapers to support the Constitutional amendment package.

²³ This formulation was criticized by some women’s organizations and feminists since it defines equality between men and women only within marriage, and fails to provide a gender equality perspective in other domains.

²⁴ It was claimed that this amendment is undertaken in the light of:
- Article 14 of the ECHR titled “Prohibition of discrimination”;

Amendment on Citizenship Law

In the 2001 Constitutional amendment package, Article 66 of the Constitution on Turkish citizenship was also changed. While previously children with foreign fathers (as opposed to children with foreign mothers) in their quest for Turkish citizenship were subject to different laws, this provision was deleted in October 2001. Article 66 came to allow Turkish mothers and fathers to pass their citizenship to their offspring on equal terms.

Primary Sources:

- **Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında 4709 Sayılı Kanun (The Law No. 4709 on the Amendments of Some Articles of the Turkish Constitution), published in the Official Gazette on October 17, 2001, No. 24556**
<http://rega.basbakanlik.gov.tr/main.aspx?home=http://rega.basbakanlik.gov.tr/eskiler/2001/10/20011017m1.htm&main=http://rega.basbakanlik.gov.tr/eskiler/2001/10/20011017m1.htm> (accessed on 12 May 2007)

Secondary Sources:

- **Süral, Nurhan. Legal Framework for Gender Equality. In World Bank. 2006. *Bridging the Gender Gap in Turkey: A Milestone Towards Faster Socio-economic Development and Poverty Reductions: Poverty Reduction and Economic Management Unit.* (22 pages)**
<http://siteresources.worldbank.org/INTECAREGTOPGENDER/Resources/TurkeyCGA.pdf> (accessed on 10 May 2007)

The New Civil Code

It has been stated that since 1951 there have been numerous commissions formed by the Ministry of Justice to make amendments in the Turkish Civil Code that had come into effect in 2002.²⁵ The simplification of the language of the Code, and an update of its provisions in accordance with the contemporary socioeconomic conditions were among the motives. Especially with the rise of feminism in 1980s and following the demands of the women's movement, an increasing pressure for a reform in the Civil Code had grown in the country. In 1994, with the participation of experts from academia, judiciary, professional organisations, the Ministry of Justice and civil society organisations that could provide legal opinion, a Commission to work on a new Turkish Civil Code was formed. Following the establishment of the Commission some women's NGO's (e.g. Women for Women's Human Rights, Turkish Women's Union) initiated a campaign; through an international letter and fax traffic that

- Article 5 titled "equality between spouses" of Protocol No. 7 of the ECHR;

- Article 1 titled "General prohibition of discrimination" of Protocol No. 12 of the ECHR;

and was deemed relevant to the Political Criteria Section 2.1.11. of the ECHR, entitled "Full Enjoyment by All Individuals All Human Rights and Fundamental Freedoms, Moroğlu, Nazan. 2003. *Constitutional Amendments*

<http://www.istanbulbarosu.org.tr/Detail.asp?CatID=1&SubCatID=5&ID=231>

²⁵ Women for Women's Human Rights (WWHR) – NEW WAYS, 2005, Turkish Civil And Penal Code Reforms from A Gender Perspective: The Success of Two Nationwide Campaigns: 5.

included the signatures of 100,000 Turkish women delivered to TBMM (Turkish Grand National Assembly), they demanded full equality with men in the new Civil Code.

The Commission completed its work on the preparation of the new Code in 1998. On February 17, 1998, the draft was publicised with a meeting organized jointly by the Ministry of Justice and the Kadının Statüsü ve Sorunları Genel Müdürlüğü (KSSGM) (Directorate General on the Status and Problems of Women) and delivered to the Grand National Assembly on 16 September 1998. Due to the general elections held in April 1999, the draft was not brought to the floor and subsequently it became void; a new commission had to be formed to finalize the draft law and its enactment law in the ensuing legislative period. Hikmet Sami Türk, the Minister of Justice in the coalition government of the time, was personally active in the completion of the work. The new draft law was debated first by the Parliamentary Commission of Justice for a year and submitted to the General Assembly of the Parliament for review and discussion on June 21, 2001. The revisions were mostly in the domain of family law and particularly in clauses undermining equality between women and men. During the discussions of the Civil Code draft in the Commission, several reforms met strong resistance from religious conservatives and nationalists in the Parliament.

The most controversial issue of the New Civil Code was the reform of the clause regulating matrimonial property. Under the old Civil Code, separation of property had been the default matrimonial property regime. This means that divorced women were entitled only to property legally registered under their names. The proposed new Code set the equal division of the property acquired during marriage as a default property regime, as this was seen assigning an economic value to women's hitherto invisible labour for the well-being of the household. SP (Felicity Party), a strongly Islamist party, and MHP (National Movement Party) opposed the proposed regime with the claim that the equal sharing would be against Turkish traditions, change the family from a matrimonial union to a corporation, destroy love and affection in the family and increase the rate of divorce and consequently ruin Turkish society. At the beginning of 2001, 126 women's groups joined together to initiate a major campaign to form pressure on the religious and nationalist oppositions; with the participation of 101 women's organizations a petition to that effect was submitted to the Parliament. As a result, the equal division of acquired property upon divorce was accepted by the Parliament and on January 1, 2002, the new Turkish Civil Law came into effect. The opposition, on the other hand, succeeded in adding a last clause to the law according to which the new legal property regime would be available for implementation by default only for property acquired after January 1, 2002. Hence, property acquired by couples before this date were excluded unless they signed a contract agreeing to be covered by the new matrimonial property regime by 31 December 2002.

Marriage and Family Affairs

As it was stated above, the revisions made in the Civil Code were mostly in the domain of family law and particularly aiming to the provision of equality between men and women in this domain, especially within the context of Article 41 of the Constitution. Some other provisions regulating marriage and marital relationships (rights and responsibilities of individuals) are as follows:

-The former Article 88 of the Civil Code specified the legal age of marriage 17 for men and 15 for women. Article 124 of the New Civil Code replaced it with the requirement of 17 years of age for both sexes. The minimum legal age for marriage, to be decided by the judge, used to be 15 for men and 14 for women by the old article and with the New Code, it was raised to 16 years of age for both sexes. "Thereby, the discrepancy in the legal age of marriage between men and women aimed to be remedied."²⁶

-Article 97 of the former Civil Code required the application for marriage to be filed at the place of residence of the husband. Article 134 of the New Code replaced it with the provision that the application of marriage is to be filed at the place of residence of either the husband or the wife.

-Concerning the management of the household, Article 186 of the New Civil Code replaced Article 152 of the older Civil Code (designating the husband as the head of the household) with the provision that states "the spouses will choose the house together" and "shall manage the household together". According to the former Article 152, the expenses of the marriage were specified as to be met by the husband; the new law states that "spouses shall contribute in labour and in property to the expenses of the marriage to the extent they are able to do so." Further, the legal provision of the former Article 154, which read as "the marriage is legally represented by the husband", was removed and a new provision has been introduced, stating "both spouses may legally represent the marriage with respect to the expenses of the marital union for the duration of the marriage" by Article 188. A new provision in Article 194 of the Code gives spouses equal rights over all matters relating to the family home. Accordingly, the termination of a lease agreement, the transfer of ownership or rights pertaining to the family abode cannot be exercised by either one of the partners but requires the explicit consent of both.

-With the introduction of the Article 192, it was specified that neither of the spouses needs the agreement of the other when choosing a profession or trade. This provision is aligned with the decision taken by the Constitutional Court in 1990.²⁷ However, women's organisations have drawn attention to a second clause added to the same article, which read as "the harmony and welfare of the marriage union should be borne in mind when choosing and performing a job or profession". It has been argued that the ambiguous nature of this

²⁶ Republic of Turkey Prime Ministry, Secretariat General For Eu Affairs, Highlights of the New Turkish Civil Code with Regard to the Copenhagen Political Criteria available at: Insanhaklarimerkezi.Bilgi.Edu.Tr/Data/Ab_Turkiye/1.Doc

²⁷The constitutionality of the provision in the Article 159 of the old Civil Code was challenged with an application to the Constitutional Court in 1990. The case was about a women's refusal in obtaining her husband's permission to work outside the home. On 29 November 1990, the Constitutional Court found Article 159 unconstitutional and ruled that requiring men's permission for women's work violated the constitutional provisions— Article 10, guaranteeing equality before the law regardless of sex, and Article 49, stating that employment was the right and duty of all citizens. The court's references to the family law reforms in countries like France and Germany for the establishment of the equality of spouses and to the international human rights standards and conventions such as CEDAW have been noted. See: Mayer, Ann Elizabeth.1995. Reform of Personal Status Laws in North Africa: A Problem of Islamic or Mediterranean Laws? Middle East Journal, Volume 49, No. 3: 432-446.

statement can work against women's right to work outside the home, in that violations of this right can be justified with this clause.²⁸

-The legal provisions of the New Civil Code divide the liabilities between spouses equally. Accordingly, Article 189 replaced former Articles 187, 202-204, and 215-217, stating that spouses shall have joint liability with respect to third persons when undertaking legal transactions in representing the marital union whereas previously the husband was solely liable for these obligations. Article 268 introduces the provision that "spouses are equally liable for debts related to the marriage."

-The statement that "the vote of the father is to be decisive" when exercising the rights of guardianship (for children) stipulated in Article 263 of the former Code was deleted from the text and with Article 336 both the mother and the father have been accorded equal rights in this matter.

Divorce and Alimony

-As it was stated above, one of the most debated issues in the Civil Code Reform was the "equal division of property acquired during the marriage" introduced by the new legislation. The new law replaced the regime of "separation of property" defined in the former Article 170. This means that in cases of divorce women and men now have equal share over the properties they acquired as a couple during the marriage. The new law also enabled divorced women to retain their former spouse's surname if the former husband agreed.

-*De facto* relationships are not recognized by Turkish legislation. Therefore, neither of the partners may have a right to alimony or inheritance in case of separation, or death. Children of non-married couples were called 'illegitimate children' by the old Civil Code and lacked the right to inheritance. With Article 337 of the New Civil Code, the custody of children born outside marriage is given to their mothers, the concept of 'illegitimate children' is removed and children born outside marriage are given the same inheritance rights as others²⁹; Article 329 specifies that the mother has the right to claim alimony in the name of the children.

While the Old Civil Code required women to have adequate financial means for the husband to apply for alimony from the wife in case of a divorce, this requirement (regulated by the former Article 144) was annulled on the grounds of discrimination against men; thus Article 175 of the New Civil Code renders both spouses equally liable to pay alimony. The decision on the form of the payment (either in a single lump sum or periodically) of the alimony is left to the courts. The law foresees that periodical compensatory damages and alimony payments terminate automatically in the event of the remarriage or the death of one of the parties. Article 176 of the Civil Code also states that payments are cancelled by court decision if the receiving

²⁸ Anil, Ela, Canan Arın, Ayşe Berktaş Hacimirzalıoğlu, Mehveş Bingöllü, Pınar İlkcaracan, and Liz Erçevik Amado. 2005. *Turkish Civil and Penal Code Reforms from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: Women for Women's Human Rights (WHHR)-New Ways: 66. <http://www.wwhr.org/images/newlegalstatus.pdf>

²⁹ Anil, Ela, Canan Arın, Ayşe Berktaş Hacimirzalıoğlu, Mehveş Bingöllü, Pınar İlkcaracan, and Liz Erçevik Amado. 2005: 66. <http://www.wwhr.org/images/newlegalstatus.pdf>

party is in a *de facto* union with someone else, if the receiving person ceases to be needy or if she or he leads a dishonourable life.³⁰

Article 177 of the New Civil Code identifies the authorized court in alimony cases as the court in the region of domicile of the party who is claiming alimony. It has been stated that “this frees women from the former obligation to go back to the region of the family abode to claim alimony, which for various reasons discouraged women from following up alimony cases in the past. The right to file a case related to a marriage that has ended in divorce must be exercised within one year of the date of the final divorce ruling (Article 178 of the Civil Code)”³¹.

Another change made with the new Civil Code is the introduction of the “humiliating behaviour” as a third legal ground for divorce in addition to “plots against life” and “grave assaults and insults” (Article 162), a particularly important development for women who would like to file for divorces on this ground.

Adoption

Articles 305-320 of the New Civil Code regulate the conditions of adoption by individuals. The reform reduced the minimum age limit from 35 to 30 and enabled single persons and people who already have children to adopt as well. A heterosexual couple, if they have been married for more than five years and are over 30 years old, can adopt a child. Unmarried partners, however (since Turkish legislation does not recognize same-sex partnership *de jure*) do not have the joint right of adoption, but single persons, after taking full responsibility of a child for one year, can adopt³² meaning that one of the partners may take the legal responsibility of a child if they are willing to adopt.

Transsexuality

The New Civil Code made sex change procedures considerably more difficult compared to the former Civil Code, which was amended in 1988 (Law No 3444, Article 29)³³. The new law requires that the person who is willing to have a sex change operation is required to be over 18, and unmarried, obtain an official medical report from a teaching hospital to prove that he or she is transsexual by nature, that a sex-change is absolutely necessary for his or her mental health, and that he or she is chronically infertile. After the sex-reassignment surgery, the operation needs to be approved by a further official medical report for the authorisation of the

³⁰ Anıl, Ela, Canan Arın, Ayşe Berktaş Hacimirzalıoğlu, Mehveş Bingöllü, Pınar İlkaracan, and Liz Erçevik Amado. 2005: 21..

³¹ Anıl, Ela, Canan Arın, Ayşe Berktaş Hacimirzalıoğlu, Mehveş Bingöllü, Pınar İlkaracan, and Liz Erçevik Amado. 2005: 21

³² Anıl, Ela, Canan Arın, Ayşe Berktaş Hacimirzalıoğlu, Mehveş Bingöllü, Pınar İlkaracan, and Liz Erçevik Amado. 2005: 21

³³ The story behind of 1988 amendment is unique since it derived from a particular case: Bülent Ersoy, a popular singer in Turkey underwent a sex reassignment surgery in 1981 and became female. Ersoy's public performances, however, were banned along with those of other transsexual and transgendered people in Turkey by the military regime of 1980s. The singer appealed to the Turkish courts to circumvent the ban but her case was rejected. As a protest she left the country and lived in Germany for a while. In 1988, due to public demand and a personal favour of Turgut Özal, the Prime Minister of the time, a piece of legislation was drafted and adopted in four months revising the Turkish Civil Code. The revision meant that those who had sex reassignment surgery received the right to apply for a pink or blue (pink for female, blue for male) identity card by which they were legally recognized in their new sex.

court. According to the New Civil Code, it is only after authorisation has been issued that the transsexual person can apply for the necessary corrections in her or his civil status.

Primary Sources:

- 4721 sayılı Türk Medeni Kanunu (The Law No 4721 New Turkish Civil Code), published in the Official Gazette on December 8, 2001, No. 24607 (161 pages)
<http://rega.basbakanlik.gov.tr/main.aspx?home=http://rega.basbakanlik.gov.tr/eskiler/2001/12/20011208.htm&main=http://rega.basbakanlik.gov.tr/eskiler/2001/12/20011208.htm> (accessed on 20 May 2007)
- 4722 sayılı "Türk Medeni Kanununun Yürürlüğü ve Uygulama Şekli Hakkında Kanun" (The Law No. 4722 Governing the Enforcement and Implementation of the Civil Code), published in the Official Gazette on December 8, 2001, No. 24607 (7 pages)
<http://rega.basbakanlik.gov.tr/main.aspx?home=http://rega.basbakanlik.gov.tr/eskiler/2001/12/20011208.htm&main=http://rega.basbakanlik.gov.tr/eskiler/2001/12/20011208.htm> (accessed on 20 May 2007)
- Türk Medeni Kanunu Yasa Tasarısının Genel Gerekçesi (The Justification of the Turkish New Civil Code Draft) (27 pages)
<http://www.belgenet.com/yasa/medenikanun/gerekce.html> (accessed on 18 April 2007)

Secondary sources:

- Anıl, Ela, Canan Arın, Ayşe Berktaş Hacımırzalıoğlu, Mehveş Bingöllü, Pınar İlkaracan, and Liz Erçevik Amado. 2005. *Turkish Civil and Penal Code Reforms from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: Women for Women's Human Rights (WHHR)-New Ways.
<http://www.wwhr.org/images/newlegalstatus.pdf>

2002

Penal Code Reform Campaign

Following the Civil Code reform in 2002, TCK Kadın Platformu (Women's Platform on the Turkish Penal Code) spearheaded "The Campaign for the Reform of the Turkish Penal Code from a Gender Perspective". The campaign aimed a comprehensive change in the Penal Code, which embodied discriminatory, patriarchal provisions and clauses that might operate against human rights of women, gays and lesbians. A working group, formed by the coalition of women's NGO's, bar associations and academia, studied the old Code and the proposed law, prepared its recommendations, including more than 30 amendments and sent them to all the MP's, NGO's and media. At the time of the campaign, the coalition government formed by DSP (Democratic Left Party), MHP (Nationalist Movement Party) and ANAP (Motherland Party) that had been in power had called for an early election following a political crisis in July 2002. According to the Turkish Constitution, an independent is appointed for the Minister of Justice (along with Ministries of Transport and of Land). A female law professor, Aysel Çelikel, who was also an active member of the reform campaign, was appointed to the post. Under her watch, a commission with some of the members of the working group revised the draft law in accordance with women's demands.

Following the elections, the conservative AKP (Justice and Development Party) came to power and another draft was prepared, this time by the new government. This created a big final public debate. The women's movement pointed out that the new draft law prepared by the new government foresaw reform of almost all articles of the Penal Code except those pertaining to women. All articles concerning women were taken verbatim from the old Turkish Penal Code (which was adopted by the Italian Penal Code of 1889) into the government's proposed law. For the women's organisations, this was the traditional nationalist and religious conservatives' attempt to use sexuality and gender as a major tool for constructing women's identities in Turkey as against the efforts of feminist or LGBT groups to re-construct notions of sexuality.

The only proposal for change was on the extension of the legal abortion period from 10 to 12 weeks, which was later refuted by the Parliament. While the conservative wing opposed the twelve-week time limit on moral grounds, a woman deputy from Republican People's Party opposed it on another ground. She argued that such an extension could be used against women; by 12 weeks it is possible to know a baby's sex and some husbands who do not want to have a girl baby might force their wives to terminate their pregnancy.

Secondary Sources:

- **Süral, Nurhan. Legal Framework for Gender Equality. in World Bank. 2006. *Bridging the Gender Gap in Turkey: A Milestone Towards Faster Socio-economic Development and Poverty Reductions: Poverty Reduction and Economic Management Unit.*
<http://siteresources.worldbank.org/INTECAREGTOPGENDER/Resources/TurkeyCGA.pdf> (accessed on 20 May 2007)**

2003

Law on Establishment, Jurisdiction and Trial Procedures of Family Courts

Although the establishment of Family Courts was a demand by women's organisations and feminist legal experts, no steps were taken by the governments for years. When the new Civil Code came into effect in 2002, it required the establishment of specialised 'family' courts, responsible for handling issues regarding family law such as divorce, family property and child custody. With this Law (no.4787/2003), The Law received criticisms from feminists and legal experts for it required that the judge responsible for the handling of the cases and the social services expert were married and preferably were also parents (Article 3 and 5). Further, the provision that reads "Family Courts encourage the enhancement of respect and love within family and resolution of problems with the help of experts when necessary" is interpreted as coercive.

Primary sources:

- **Aile Mahkemelerinin Kuruluş, Görev ve Yargılama Usullerine Dair Kanun (The Law on the Establishment, Jurisdiction and Trial Procedures of Family Courts), published in the Official Gazette on January 18, 2003, No. 24997 (3 ppages)**

<http://rega.basbakanlik.gov.tr/main.aspx?home=http://rega.basbakanlik.gov.tr/eskiler/2003/01/20030118.htm&main=http://rega.basbakanlik.gov.tr/eskiler/2003/01/20030118.htm> (accessed on 20 May 2007)

Penal Code Reform Campaign

The widespread and intensive national debate concerning the draft Penal Code's provisions regarding gender and sexuality in Turkey triggered a massive public campaign initiated by women's and LGBT groups against the conservative government in Turkey. The campaign was launched in May 2003 with a conference where the proposed amendments to the draft law on the table and the government's resistance to them were presented to the media. Several meetings, conferences, and press releases were held to widen the participation and support for the campaign along with the lobbying efforts of women's organisations with the members of the Justice sub-Commission, Justice Commission, EU officials and media representatives. The campaign was exceptionally successful and most of women's demands were legislated in the Penal Code that eventually came into effect.

Amendment on Citizenship Law

The Turkish Citizenship Law No. 403, effective since 22 May 1964 defining the procedures of acquiring, changing and losing nationality for women and men, has been amended several times. In 2000s, the EU candidacy of Turkey and the increasing rate of migration to the country necessitated changes in Citizenship Law. The changes were mostly in accord with the European Citizenship Convention and the international agreements to which Turkey is bound.

Regulations regarding non-nationals

Since the 1990s, the country has been increasingly confronted by a large-scale inflow of regular or irregular migrants.³⁴ The management and control of migration flows to Turkey has not been solely the country's problem. The EU has been concerned about irregular migration flows through Turkey and thus applied pressure to governments for the harmonization of Turkey's legislation with the *acquis communautaire*. Along with this pressure, Turkey has recently started to change its legislation and policies thereby consolidating its status as a long-standing accession candidate to the EU. In Palermo, on 13 December 2000, Turkey signed the United Nations Convention against Transnational Organized Crime and its two additional protocols, including the Protocol to Prevent, Suppress and Punish Trafficking, especially of women and children. The convention and the protocols were ratified in March 2003. In 2002 and in February 2003, the Turkish government adopted several laws to prevent and regulate irregular migration, and to punish human trafficking and smuggling. An amendment to Article 5 of the Constitution on citizenship was approved by the parliament on 4 June 2003. The amendment has had a twofold impact: on the one hand, the amendment addressed gender

³⁴ Four particular reasons are offered for understanding and analyzing the increased rate of irregular migration to Turkey. First, the ongoing political turmoil and instability experienced in the neighboring countries; second, Turkey's geographical location (between East and West and North and South), which makes the country a transit zone; Third, the policies of so-called 'Fortress Europe'—increased immigration control, surveillance of transits and hardening of entrance. Fourth, Turkey's relative economic prosperity within the region. See Ahmet İçduygu, 2005, *Transit Migration in Turkey: Trends, Patterns and Issues*, CARIM Research Report

inequality in the acquisition of citizenship by foreign men and women. On the other hand, it hardened the conditions of acquiring citizenship for foreign nationals in general. Previously, a foreign woman who married a Turkish citizen acquired Turkish nationality with a declaration made to the marriage officer. (She acquired Turkish nationality 'automatically' if she lost her former nationality upon marriage or she was stateless at the time of marriage.) However, a foreign man married to a Turkish woman was not able to acquire Turkish citizenship like a foreign woman; he was entitled to a simplified naturalisation procedure. With this amendment, both sexes are required to go through same legal procedures. However, in order to avoid fake marriages the law does not speak of automatic acquisition of citizenship. Further, a period of three years of marriage has been imposed on couples as a requirement for the application for citizenship, along with the requirements of cohabitation and intention to remain married (Article 1 of amending Article 5)

Regulations regarding nationals

While the amendment to the Citizenship Law relatively hardened the conditions of acquiring citizenship, it has eased the conditions for Turkish nationals who would like to hold dual citizenship. In the previous law, a Turkish woman who married a foreigner was not losing her citizenship unless she had acquired her husband's nationality (automatically through marriage or *via* application). A Turkish man, on the other hand, had to have the permission of the Council of Ministers for a denunciation of citizenship. With the Law No. 4866 of June 4, 2003, both sexes are granted the right to acquire dual citizenship. Furthermore, women who had lost their citizenship prior to this Law are given the right to re-acquire their citizenship with a decision of the Council of Ministers.

The naturalisation of one spouse (renunciation or the loss of citizenship) does not affect the nationality of the other spouse; however, a stateless woman acquires Turkish nationality upon naturalisation of the husband. Minor children acquire Turkish nationality simultaneously with their father, but they acquire it with their mother if they are stateless, or if their father is dead, unknown or stateless, or if parental authority has been conferred upon their mother. This unequal treatment remains the same.

Primary Sources:

- **Türk Vatandaşlığı Kanununda Değişiklik Yapılmasına İlişkin Kanun (The Law No. 4866 on the Amendment to Turkish Citizenship Law No 403), published in the Official Gazette on June 12, 2003, No. 25136.**
<http://rega.basbakanlik.gov.tr/main.aspx?home=http://rega.basbakanlik.gov.tr/eskiler/2003/06/20030612.htm&main=http://rega.basbakanlik.gov.tr/eskiler/2003/06/20030612.htm> (accessed on 12 May 2007)

Secondary Sources:

- **İçduygu, Ahmet. 2005. *Transit Migration in Turkey: Trends, Patterns and Issues*, CARIM Research Report.**

Reproductive Rights

The news of a draft law prepared by the Justice and Development Party grabbed attention and fuelled another debate, this time on **abortion**. The draft 'Disability Law' prepared by the Prime Ministry Administration for Disabled People included a clause which aimed at a ban on abortion carried out for medical reasons in public and private health institutions. The Population Planning Law, which is still in effect, allows abortion after ten weeks when the mother's life is in danger, and/or when it was assessed that the baby has serious health problems. The proposed law, however, aspired to prevent the termination of pregnancy, especially in case of an assessment of a physical or mental disability in babies. While conservative wings approved the proposal, women's organisations and media protested against the article, which later was removed from the draft law.

2004

Penal Code Provisions on Adultery

An MP belonging to the ruling AKP (Justice and Development Party) proposed an amendment to the penal Code to **re-criminalise adultery**. The conservative government argued that adultery should be penalised since it was against the societal values and the unity of the family. In the process it also became apparent that AKP had reached an agreement with the main opposition party, CHP (Republican People's Party), on this amendment on the condition that an equal penalty would be applied to both sexes. After the news of reconciliation was mentioned in the press, CHP took a backward step. The news of the amendment gave way to an unexpected wave of criticism by both national and international actors, prompted by the women's movement. The adultery controversy took centre stage in media, was discussed by public figures and intellectuals and it led to a demonstration by various women's groups in September 2004. The EU took an active part in the controversy as well. Günter Verheugen (the EU Enlargement Commissioner at the time) declared that European Union countries could interpret this move as Islamic law entering Turkish law and argued that such an amendment could hinder Turkey's entrance into EU. Due to the strong opposition at a domestic and international level, the government withdrew the proposed draft law in the same month.

Secondary Sources:

- **10 September 2004, 'Verheugen Warns Turkey on Adultery Law'. Deutsche Welle**
<http://www.dw-world.de/dw/article/0,1564,1324102,00.html> (accessed on 15 May 2007)

Discrimination on the Basis of Sexual Orientation

On May 24 2004, representatives of KAOS GL and Lambdaistanbul met with a deputy from CHP (Turkish Republican Party) who was also a member of the Parliamentary Justice Commission. During the meeting, the speaker of the LGBT groups demanded that lesbians, gays, bisexuals and transgender people should be included in the groups that are protected by the Turkish Penal Code. On January 29, 2004, the Justice Commission offered a clause in the Penal Code in order to criminalise 'discrimination based on sexual orientation'. LGBT

organisations actively supported the Penal Code Reform and they cooperated with women's organisations for the elimination of gender based discriminatory clauses from the Penal Code.

Discrimination on the Basis of Sexual Orientation

On July 6 2004, the Justice Commission decided to replace the proposed discrimination clause in the Penal Code with the existing discrimination clause in the Constitution (Article No.10). While prohibiting discrimination based on language, race, skin colour, gender, political opinion, religion, denomination, and similar reasons, the Constitution does not directly refer to sexual orientation. Cemil Çicek, the Minister of Justice, argued that the clauses 'discrimination based on gender' and 'discrimination based on sexual orientation' are the same, so a specific reference to sexual orientation is not necessary.

Penal Code Reform

The amendments to the Penal Code were finalized by the Ministry of Justice and submitted to the Office of the Prime Minister for consideration. In September 2004 with a special session, the Parliament adopted the New Penal Code. Major changes in the New Penal Code include the transformation of the underlying philosophy of the law including recognition of women's control over their own bodies and their sexuality. More than thirty amendments imply a radical shift in the legal discourse from "the law as the protector of the nation's (and women's) morality" to "the law as the protector of people's sexual and bodily integrity".³⁵ All references to traditional concepts such as morality, chastity, honour or virginity were removed from the Code. The discrimination against non-virgin women and unmarried women was eliminated. (See the section on gender based violence for detailed information)

The article on 'indecent behaviour' was amended to refer explicitly to sexual intercourse in public and to acts of exhibitionism. This article in the old Code foresaw criminalization of the so-called 'indecent behaviour', or 'acts that severe others feelings of chastity', vague and subjective notions that were open to misuse by security forces and courts.³⁶ The article had been used to prosecute sexual minorities on unfounded grounds. It could also be used to restrict women's sexual freedoms and rights.

Despite the failure of the campaign to criminalize discrimination against sexual orientation, the public discussion around the issue prompted other parts of the judicial system to be responsive to LGBT rights. The attorney-general was later to declare that "being homosexual does not mean being immoral" and affirmed the "notion of freedom of will."

However, two new articles added to the New Penal Code are evaluated as a backlash. One of these articles criminalises consensual sexual relationships of youths aged between 15 and 18 upon complaint. The other new article criminalises publication of obscene material, which is seen as a threat against freedom of expression and legitimising discrimination based on sexual orientation. In fact, the proceedings against KAOS GL in 2006 verified the possible use of the article against freedom of rights of gays and lesbians (see below).

³⁵ Pinar Ilkcaracan. 2008. Deconstructing Sexuality in the Middle East: Challenges and Discourses, pp.12.

³⁶ Women for Women's Human Rights (WWHR) – NEW WAYS, Women's Human Rights in The New Turkish Penal Code: The Success of the Campaign for the Reform of The Turkish Penal Code from a Gender Perspective. Summary Outcome Report; available at: http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/Summary_Outcome_Penal_Code__WWHR_.pdf

Primary Sources:

- **5237 Sayılı Türk Ceza Kanunu. (The Law No. 5237 New Turkish Penal Code), published in the Official Gazette on October 12, 2004. No. 25611**
<http://rega.basbakanlik.gov.tr/main.aspx?home=http://rega.basbakanlik.gov.tr/eskiler/2004/10/20041012.htm&main=http://rega.basbakanlik.gov.tr/eskiler/2004/10/20041012.htm> (accessed on 21 May 2007)

Secondary Sources:

- **Women for Women's Human Rights (WWHR) – NEW WAYS, Women's Human Rights 'n The New Turkish Penal Code: The Success of the Campaign for the Reform of The Turkish Penal Code from a Gender Perspective. Summary Outcome Report (5 pages)**
http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/Summary_Outcome_Penal_Code_WWHR_.pdf
- **İlkkaracan, Pınar (ed.). 2008. Deconstructing Sexuality in the Middle East: Challenges and Discourses (editor). London: Ashgate**

Discrimination on the Basis of Sexual Orientation

Although the 2004 Regular Report on Turkey's Progress towards Accession, published on October 6, 2004, addressed discrimination based on sexual orientation twice, LGBT groups criticised the report by stating that the language was vague and the problems of the Turkish LGBT community were not mentioned at all. They argued that the EU has failed to react to discrimination against homosexuals as strongly as it does to other human rights abuses in the country. In the following year, KAOS GL and Lambdaistanbul issued numerous press releases to both Turkish and EU officials in order to draw attention to the concerns and demands of their community.

Primary Sources:

- **Commission of the European Communities, 2004 Regular Report on Turkey's Progress towards Accession (187 pages)**
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2004/rr_tr_2004_en.pdf

Secondary Sources:

- **Lisa Pavan-Wolfe, Speech on 'Combating Discrimination in the European Union and in Turkey: Legislation, Implementation, Equality Bodies', Ankara (11-12 Oct. 2004) (12 pages)**
- **KAOS GL press release issued on 21 April 2005 "Letter to European Officials about the New Turkish Penal Code" (2 pages)**
<http://news.kaosgl.com/item/74> (accessed on 1 July 2007)
- **KAOS GL press release issued on 21 April 2005 (2 pages)**

<http://news.kaosgl.com/item/2005/4/21/kaos-gl-press-statement-about-turkish-penal-code>
<http://news.kaosgl.com/item/2005/4/21/kaos-gl-press-statement-about-turkish-penal-code> (accessed 1 July 2007)

Changes in the Law on Establishment, Jurisdiction and Trial Procedures of Family Courts

Article 3 of the Act on Family Court regarding the judge present in the trials, stating that they should be “married, with children, over thirty years old”, was replaced with the statement “preferably married, having children and over thirty years old”.

Primary Sources:

- **Aile Mahkemelerinin Kuruluş, Görev ve Yargılama Usullerine Dair Kanunda Değişiklik Yapılmasına İlişkin Kanun (Law No. 5133 on Amendment to the Law on Establishment, Jurisdiction and Trial Procedures of Family Courts), published in the Official Gazette on April 14, 2004. No. 25439**
<http://rega.basbakanlik.gov.tr/main.aspx?home=http://rega.basbakanlik.gov.tr/eskiler/2004/04/20040420.htm&main=http://rega.basbakanlik.gov.tr/eskiler/2004/04/20040420.htm> (accessed on 23 May, 2007)

Divorce, Separation, Marriage

The Case of Ünal Tekeli on Family Name: The ECHR reached a decision in Ünal Tekeli's case (on the possibility of the use of her maiden name) in 2004 favouring the plaintiff, and awarded her EUR 1,750 in costs to be paid by the Turkish state. Turkey did not use the right to file a notice of appeal within three months; the Minister of Justice declared that the government could consider a further action for amendment of the Turkish Civil Code in view of the ECHR's decision. The issue remains unsettled as of the present. A deputy from CHP (Turkish Republican Party) prepared an amendment proposal to be submitted to the Parliament, which introduces the notion of a 'family name' to be determined by couples jointly. Various women's rights organisations pointed out that Article 187 of Civil Code regarding the clause on 'women's surname' is against the principle of equality, and favoured the offer of 'family name'.

Primary Sources:

- **European Court of Human Rights' Judgment in the Case of Ünal Tekeli vs. Turkey released on 16.11.2004**
http://www.womenslinkworldwide.org/pdf/co_reg_echr_tekeli.pdf (accessed on 18.04.2007)
- **Press Release Issued by the Registrar Chamber hearing on the merits in the case of Ünal Tekeli v. Turkey on Tuesday 13 January 2004**
<http://www.echr.coe.int/eng/Press/2004/Jan/TekeliUnaHearing.htm> (accessed on 17.04.2007)

2005

Divorce, Separation, Marriage

Family Name: In 2005, AKP (Justice and Development Party) attempted to make another amendment, which aimed to remove the use of two surnames by married women (a practice that has become increasingly prevalent) and to make married women choose to either retain their maiden names or acquire their husbands' surnames. This draft law, however, was withdrawn when women's organisations and media severely criticised the proposal.

Secondary Sources:

- **Soyadı Ayrımcılığının Önlenmesi İnsiyatifi tarafınca TBMM Adalet Komisyonu'na ileilmek üzere 100'e yakın kadının ve kadın örgütünün imzaladığı, Medeni Yasa'nın 187. maddesinin ve çocukların soyadını düzenleyen 321. maddesine ilişkin metin. (The text prepared to be submitted to the Commission of Justice by the Women's Organisations Initiative for the Prevention of Family Name Discrimination), 2006, (2 pages)**
http://www.ucansupurge.org/index.php?option=com_content&task=view&id=2847&Itemid=71 (accessed on 18.04.2007)
- **03 September 2005, "CHP: Erkek de karısının soyadını alabilir" (Republican People's Party: 'Let Men Use Their Wives' Surnames Too', Hürriyet.**
<http://webarsiv.hurriyet.com.tr/2005/03/09/610889.asp>
- **Moroğlu, Nazan. 2000. *Kadının Soyadı* (Surname of Women) Beta Yay: İstanbul.**
- **Moroğlu, Nazan. 2005. *Kadının Soyadı ve Bir Öneri* (Surname of Women and a Suggestion). İstanbul Barosu Dergisi. (Journal of Istanbul Bar Association) 79(5): 1493 -1510**

Reproductive Assistance

In Turkey, the issue of reproduction has not been much debated at the policy level. The first regulation on medically assisted procreation was the "Regulation on Centres for in vitro Fertilization and Embryo Transfer", issued on 21 August 1987 in accordance with the "Governmental Decree No: 181 with Having the Power of Law on Organization and Functions of the Ministry of Health" of 13 December 1983. It was amended later by the regulation dated 19 November 1996 (in Official Gazette, no. 22822 of 19 November 1996).

The new regulation renamed several concepts relating to In vitro fertilization (IVF) and Embryo Transfer (ET). It has named the concept of in vitro fertilization (IVF) and embryo transfer (ET) as "Methods for Assisted Procreation (MAP)". Moreover, the heading of the regulation of 21 August 1987 was changed to "Regulation Concerning Treatment Centres for Assisted Procreation". With this law, only married couples are permitted to benefit from treatment methods for assisted reproduction (Article 17). A consent form has to be completed by the couples upon application for assisted reproduction. In the case of multiple embryos, the regulation allows them to be frozen and stored with the consent of both spouses for three years. After three years, frozen embryos should be destroyed (Article 17). They can also be destroyed upon the joint request of the spouses or in case of a death or a divorce. Any intervention on the embryo requires the couples' consent; using, selling, or transferring the

embryos- created from the eggs and sperms taken from the candidates that were to receive IVF and ET treatment- to other candidates is not allowed.

In Turkey, egg, sperm and embryo donation is not permitted. Since having children is a highly valued notion in Turkish society, an increasing number of couples have recently been going to countries where such procedures are allowed. Religious authorities and jurists have started to discuss the impacts of these methods. While the egg, sperm and embryo donation and/or transfer is seen as against religion by religious wings, legal experts point out the complexities which derive from issues of descent and inheritance.

Primary Sources:

- **Üremeye Yardımcı Tedavi (ÜYTE) Merkezleri Yönetmeliği 2005 (Regulation on Centres for in vitro Fertilization and Embryo Transfer), published in the Official Gazette on August 21, 1987, No.23227.**

Secondary Sources:

- **Elçioğlu, Ömür, and Atilla Yıldırım. 2004. Ethical and Legal Problems with Assisted Reproduction in Turkey *JISHIM-Journal of the International Society for the History.***

Discrimination on the Basis of Sexual Orientation

In September 2005, KAOS Gay and Lesbian Cultural Research and Solidarity Association (KAOS GL) applied to the Ministry of Interior for the authorisation of its NGO status yet was faced with a lawsuit filed by the Governor of Ankara for the closure of the organisation.

On October 12, 2005, the public prosecutor decided to decline the case, allowing KAOS GL to continue to operate. Gay rights activists praised the decision as a big step in combating discrimination in the country. Another official demand to ban Rainbow Solidarity and Cultural Association in the city of Bursa was rejected by a prosecutor on October 6 2006, allowing the organisation to continue to operate. Again, on November 2006, the request to ban the first Turkish transgender rights group, Pink Life, was rejected by a prosecutor in Ankara.

2006

On July 21, 2006, the police confiscated the LGBT magazine, published by KAOS GL. Further, the issuing of the journal was banned by the 12th District Court in Ankara for including pornographic content. All issues of the journal were ordered to be seized by the judge, as some of the content and pictures were deemed to breach 'general morality'. On December 13, 2006, a criminal court case was filed against the chief editor and owner of KAOS GL Magazine, based on Turkish Penal Code Article 226 for publishing pornographic issues. In **March 2007**, the judge rejected to sentence the editor from the charges of peddling 'pornography' in KAOS GL Magazine.

Secondary Sources:

- **Press Statement by KAOS Gay and Lesbian Cultural Research and Solidarity Association, December 25, 2006**
<http://news.kaosgl.com/item/2006/12/26/lawsuit-against-the-turkish-lgbt-magazine-s-publisher> (accessed on 01 July 2007)

c) Issue History for Gender-Based Violence

Introduction to the Sub-issues and Topics

In the Turkish case, the sub-issues most relevant to the QUING project are domestic violence; honour killings; virginity tests; rape and sexual assault; forced and early marriages; and, prostitution and trafficking.

While in recent years the most active policy debates in the area of gender-based violence have taken place on the issues of domestic violence and honour killings, the other topics have also moved in and out of the national policy agenda and public debate with considerable frequency.

Starting in the 1980's, various women's groups in Turkey initiated different activities to address **domestic violence** and these activities and campaigns of women's NGOs played a significant role in raising public awareness on the issue. There was also considerable support for these activities from international sources and a landmark development occurred in 1998 with the adoption of the Law on the Protection of the Family, a piece of state of the art legislation on domestic violence including restraining orders and allowing for third-party complaints as well as ex-officio prosecution of perpetrators. Civil society engagement on domestic violence has been important in paving the way for the development of legal and policy mechanisms to prevent violence against women and protect victims, and international involvement (CEDAW and the Beijing Process) has helped transform it into legislative policy. Media sensitivity to the issue has also noticeably increased in the last decade. In this period, not only has there been better and more coverage of events in the media in the area of violence against women in the domestic sphere, but also a change of attitude in reporting domestic violence from a matter of fact and often insensitive handling of issues to more critical reporting reflecting basic human rights standards. *Hürriyet*, an influential Turkish newspaper, launched the campaign "No to Domestic Violence" on October 2004 in partnership with the Contemporary Education Foundation, CNN Turk and Istanbul Governorate Human Rights Department with the aim of taking a public stance against domestic violence in society and initiating social transformation. This culminated in a series of legislative actions for the protection of the victims. However, due to the low political commitment of authorities and continuing patriarchal values and decision-making structures, little was achieved in terms of changing the behaviour of individuals and implementing the new laws.

Honour killings, a form of gender-based violence observed in families living and originating in tribal based East and Southeast Turkey has started to receive a lot of media attention and strong negative societal response, particularly in the last five years. The issue has been critically discussed in public fora and remains important on the agenda of the women's movement. At the national and international level, the state is committed to denounce and prosecute these acts and the civil society is increasingly sensitive to it. At the UN, among the countries in which honour crimes are reported, Turkey has been the only one to take an active denunciatory position on the issue since early 2000's. In 2002, Turkey was the co-sponsor

(along with the UK) of the resolution against honour killings passed by the UN General Assembly. So far as legal policy goes, the new Penal Code (2005) -as explained later in the text -has also taken a strong punitive stance against honour killings.

Virginity tests violating women's bodily integrity have been regarded as a gross violation of women's human rights. Since 1992, when two young women who were asked to undergo virginity tests by a school principal committed suicide, virginity testing has been an important issue and the subject of intensive protests by the women's movement in Turkey. A lot of media attention has also been mobilized on this issue. The current regulation adopted in the new Penal Code (2005) prohibits the practice except when ordered by a judge as part of a criminal court case.

Regarding **rape**, the most important point in the pre-QUING period was the nullification of Article 438 in the then-existing Turkish Penal Code as a result of widespread protests and intensive efforts by the women's movement in 1990. The provision had allowed for reduction in the sentences for rapists of prostitutes. It was cancelled by the Constitutional Court in November 1990. Prostitutes who have been subjected to violence while performing a sexual act can file charges against their aggressor under Article 102 of the new Turkish Penal Code. **Marital rape** has been defined as a punishable offence in the new Turkish Penal Code.

With regard to **forced and early marriages**, it should be pointed out that although the minimum age for marriage is 17 for both sexes in the new Civil Code (Article 124) adopted in 2001, this does not reflect the entire reality in Turkey. In the rural areas, many girls are married as young as 13 years regardless of the law. These marriages cannot be registered officially and often a religious ceremony is organized where an "imam" sanctifies the conjugal relation. This union has no legal validity in Turkey and is neither reflected in official statistics nor can be grounds for any kind of legal rights in cases of separation, divorce or death. As such, it presents a major disadvantage for women in terms of enjoying their legal rights. Also, the fact that arranged marriages (only some of which lack the consent of the couple) are still common in many contexts makes it difficult to determine which marriages are "forced". The issue of forced and early marriages is not currently an area of public debate in Turkey. Despite the prevalence of the practice, it has not so far become subject to legal and policy regulation.

Concerning **trafficking and prostitution**, over the past decade Turkey has become a major transit country for trafficked women and girls for the purposes of prostitution. Most of the existing laws and regulations in place to combat irregular migration and control illegal prostitution are also applied to combat trafficking in women in Turkey. Under the existing legislation, prostitutes and other people who earn their living by inciting women into prostitution, and who are involved in trafficking in women and other trafficking activities, are prohibited from entering to Turkey. Also, under the Turkish Penal Code incitement into prostitution and the trafficking in women constitutes a criminal offence. Irrespective of the nationality of the perpetrators or the place of the offence, both are investigated *ex officio* and are punishable in Turkey. Furthermore, anyone who establishes an organization with the

intention of committing a crime, or who is involved in such an organization, is punished. This includes the incitement to and mediation of prostitution.

Actors in the Policy Area of Gender-Based Violence

State Actors

Kadın Statüsü Genel Müdürlüğü (KSGM) (General Directorate on the Status of Women) established in 1990 as the national machinery mandated to develop national policies and plans for governmental services and programs to eradicate violence against women.

Sosyal Hizmetler ve Çocuk Esirgeme Kurumu (SHÇEK) (General Directorate on Social Services and the Protection of Children) is a state agency which opened the first women's guesthouse and it now provides services for battered women or those at risk of encountering violence through guesthouses for women. Besides guesthouses, SHÇEK serves women through its 29 community centres where social workers counsel women, and where different education programs are offered.

Parliamentary Research Commission on Prevention of and Measures to Combat Violence against Women and Children, and Custom and Honour Crimes was established in 2005 in order to address the issue of honour killings in depth and to determine the causes of violence against women and children.

State Ministry for Women and Family Affairs

Ministry of Justice

Ministry of Education

Ministry of Health

Ministry of Interior

Civil Society Actors

Mor Çatı Kadın Sığınağı Vakfı (Purple Roof Women's Shelter Foundation) was established in 1990 in order to struggle against violence in the family and to support women's efforts in constructing a new life.

Kadın İnsan Hakları-Yeni Çözümler Vakfı (WWHR) (Women for Women's Human Rights-New Ways) is an organization established in 1993. The foundation's main aim is to support women's political and social participation. It has been actively involved in many campaigns. The campaign to change the discriminatory articles of the Civil Code, the enactment of the Law on Protection of the family and the establishment of the Women's Platform on the Turkish Penal Code are among the activities of the foundation.

Uçan Süpürge (Flying Broom) was founded in 1996 with the aim of strengthening communication between women's organizations.

Kadın Merkezi (KA-MER) (Women's Centre) was established in Diyarbakır in South-eastern Turkey in 1997 to support women who are confronted with domestic violence as well as to raise consciousness around women's issues and to inform women about their rights. It is specialized on sexual violence and especially on honour killings. The Centre produces radio and television programmes and organizes awareness raising groups dealing with incest.

İstanbul Barosu Kadın Hakları Uygulama Merkezi (Istanbul Bar Association Women's Rights Implementation Centre) established in 1999 provides legal support to women and

organizes seminars and conferences on violence against women.

The **Media** has been played an important role in discussing different types of gender-based violence especially domestic violence and honour killings and in raising public awareness. The campaign “No to Domestic Violence” launched by *Hürriyet*, for example, forms the unique example of a movement against domestic violence started by a newspaper in the world.

Türk Ceza Kanunu (TCK) Kadın Platformu (Women’s Platform on the Turkish Penal Code) composed of over 30 women’s NGOs which has played an important role in transforming the principles of the Penal Code in order to safeguard women’s rights.

International Actors

Council of Europe Turkey, which became a member of the Council of Europe in 1949, is taking part in the campaign “Stop Domestic Violence” introduced by the Council of Europe in November 2006. This project aims at raising awareness of domestic violence and promoting the implementation of effective measures for preventing and combating violence against women together with its member states’ governments, parliamentarians, local and regional authorities, NGOs and civil society.

United Nations (UN) - Turkey has been a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) since 1985. In General Recommendation 19, the Committee on the Elimination of All Forms of Discrimination against Women concluded that gender-based violence including torture is a form of discrimination against women as defined under Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. Turkey ratified the Optional Protocol on 29 October 2002.

United Nations Population Fund (UNFPA), a specialized UN agency, has been working with the Turkish government and civil society to put national action plans in place that prevent and address violence against women. In the “Stop Violence Against Women” advocacy campaign against domestic violence, which started in 2004 and ended in December 2005, UNFPA became a partner of the KSGM and provided technical support.

International Organization for Migration (IOM) established in 1951 is the leading inter-governmental organization in the field of migration working closely with governmental, intergovernmental and non-governmental partners. It has conducted a counter-trafficking project with the objectives of increasing cross-border cooperation in law enforcement, including mutual legal assistance requests, improving comprehensive reporting of trafficking caseloads and trends, and implementing multi-country prevention campaigns in Turkey, Moldova, Ukraine, Belarus and Russia.

Timeline

Pre-QUING Period

1980s

Domestic Violence

In the second half of the 1980s, the independent women’s movement in Turkey took to the streets in a simple divorce case. It was heard that a judge in the city of *Çankırı*, in dismissing the case of a pregnant woman (with three children) subjected to violence by her husband, made reference to an old folk saying “*No woman should be without a child in her womb and a*

stick on her back” and scores of women took to the streets, launched campaigns and organized protests. The “*Campaign against Battering*” was the first systematic action of women against domestic violence. In time, they assembled a strong pressure group and demanded the establishment of shelters for victims of domestic violence. On May 17, 1987, women mounted the first mass demonstration. The march was organized by feminist and socialist women. 2500 women participated in this march. On October 4, 1987, a day-long festival was organized to raise money to publish a book on the personal accounts of women who had been beaten or otherwise exposed to violence. That same year, in the *TUYAP* book fair organised in Istanbul, women continued their campaign with a stand named “*Dayağa Karşı Dayanışma* (Solidarity against Battering)”. In 1988, The Purple Roof Foundation published a book titled “*Bağır Herkes Duysun* (Scream, Let Everyone Hear)”. This book, based on the stories of women who were victims of violence, discussed why such violence has been tolerated in Turkish society. It argued forcefully that violence in the home was not a private issue but a public concern requiring public action.

1989

Rape and Sexual Assault

Women activists launched the campaign “Our Bodies are Ours, Say No to Sexual Harassment” on November 1989 in Istanbul to call attention to sexual harassment. In this campaign, activists distributed purple pins to women in spaces open to the public, revoking their experiences of harassment and suggesting ways of protection from attacks. The campaign was important in bringing the issue to public attention. Another campaign used the slogan “we demand back the streets and the nights”, signalling the readiness to reclaim public spaces without harassment.

1990

Domestic Violence

On April 1990, the first women’s shelter, the Purple Roof Women’s Shelter Foundation, was established in Istanbul by a group of fourteen feminists with the aim of struggling against violence in the family and supporting women’s efforts in constructing a life that was free of violence. This was the first concrete institutional step towards fighting violence against women. Two municipalities in Istanbul opened the first shelters and one municipality in Izmir opened a women’s counselling centre.

Rape and Sexual Assault

In this period, the independent women’s movement also took on the existing inequalities in laws and practice. An important example was the first legal accomplishment of the women’s movement after 1980, the abolishment of Article 438 of the Penal Code which had reduced the sentences for rapists of prostitutes by the Law Numbered 3679. For the annulment of the law, women orchestrated a number of activities and they were even arrested. With the campaign “Our Bodies are Ours, Say No to Sexual Harassment” women attempted to question and unmask the sexist moral norms of society. In the march in 1990 “All Women against Article 438”, the discrimination between chaste and unchaste women was protested against using the

theme “No Rape is justified”. The struggle waged to revoke this article on the grounds that it violated the principle of equality guaranteed in the Constitution (Article 10) was successful.

1991

Domestic Violence

In 1991, *Kadın Dayanışma Merkezi* (Women’s Solidarity Foundation) was established in Ankara with the aim of offering services to women subjected to domestic violence.

1992-1993

Virginity Tests

Two young women in two different cities in southern Turkey committed suicide because they were asked to undergo ‘virginity tests’. The news of the deaths of the two young women led to protests by women from different cities. Several women’s groups came together and started a campaign that they called, “No to Virginity Tests! This is my Body!” A bulletin entitled “Yeter (Enough)” was published during the campaign which lasted 6 months. At the end of the campaign, a booklet was published which included analyses of virginity as an important issue in society and of the campaign as a political process. The *Boğaziçi* University Women’s Group politicised the issue by calling meetings at the University and publishing two bulletins “On Virginity” and “On Sexuality”. In these two bulletins, the value accorded to virginity in Turkish society, the construction of women’s sexuality and enforced virginity tests were all questioned. Although many women came together to protest the suicides and enforced virginity tests, feminist activism had no direct impact on the issue in 1992 and 1993 in terms of changes to the legal system. However, media attention and strong public support were mobilized. Following the protests, for example, the Association of Medical doctors made several statements recommending that doctors should refuse to perform enforced virginity tests under any circumstances.

1994

Virginity Tests

Human Rights Watch issued a report entitled “A Matter of Power: State Control of Women’s Virginity in Turkey” and declared enforced virginity tests a violation of the basic human rights of bodily integrity and privacy.

Primary Sources:

- T.C. Başbakanlık Kadının Statüsü Genel Müdürlüğü (Turkish Republic Prime Ministry Directorate General on the Status of Women). 2006. *Töre ve Namus Cinayetleri ve Kadınlara ve Çocuklara Yönelik Şiddetin Sebeplerinin Araştırılarak Alınması Gereken Önlemlerin Belirlenmesi Amacıyla Kurulan TBMM Araştırma Komisyonu Raporu* (Report of Parliamentary Research Commission on Prevention and Measures to Combat Violence against Women and Children, and Custom and Honour Crimes) (288 pages)
- Boğaziçi University Women’s Group. 1993. *On Virginity*. Istanbul: Boğaziçi University Press.

- **Boğaziçi University Women's Group. 1993. On Sexuality. Istanbul: Boğaziçi University Press.**

Secondary Sources

- **Human Rights Watch. 1994. A Matter of Power: State, Control of Women's Virginity in Turkey. <http://www.hrw.org/reports/1994/turkey/> (accessed on 29 May 2007).**

Secondary Sources:

- **Ka-Der. The Position of Women in Turkey and in the European Union: Achievements, Problems, Prospects. Istanbul: Ka-Der Press.**
- **T.C Başbakanlık Aile Araştırma Kurumu (Turkish Republic Government: Family Research Institution). 1998. *Aile ve Toplum İçinde Şiddet (Violence in the Family and Society)*. Ankara: Family Research Institution.**
- **Amnesty International. 2004. Turkey: Violence originating in the family. London: AI. <http://web.amnesty.org/library/Index/ENGEUR440212004> (accessed on 22 February 2007)**
- **Arın, Canan. 1998. "Kadına Yönelik Şiddet (Violence against Women)" in *75. Yılda Kadınlar ve Erkekler (Women and Men in the 75th Anniversary of the Republic)* ed. Türkiye Ekonomik ve Toplumsal Vakfı., Istanbul: Numune Matbaası.**

QUING Period

1997

Domestic Violence

Several events at the global level took place in 1997 that brought together favourable factors leading to a new law on domestic violence. Turkey presented its country report to the CEDAW Committee. The Turkish delegation was composed of feminist academics, bureaucrats and headed by the Minister for Women's affairs, Işıl Saygın. The NGO alternative or shadow report prepared by an international women's NGO mentioned gender-based violence in Turkey. The CEDAW committee questioned the delegation on this specific issue, asking what the Turkish government had done about gender-based violence so far and about its future plans. The concluding comments of the CEDAW Committee reflect these concerns. Minister Saygın returned home with domestic violence as a priority on her agenda. As a longstanding politician with a strong traditional and conservative line, domestic violence may not have necessarily coincided with the Turkish minister's own priorities. Regardless of the underlying motivation, however, once she had announced domestic violence as the most pressing problem confronting her office, this not only placed the issue in the centre of mainstream politics but also connected it to the women's movement. Eventually, she resigned from the cabinet as well as her party (DYP-True Path Party) on the grounds that her efforts in passing a bill against domestic violence were being blocked by the Islamist wing (RP-Welfare Party) of the coalition government. The impact of this political move resulted in the fact that the issue of domestic violence against women gained an official platform in Turkish politics.

Primary Sources:

- **CEDAW, Second and Third Periodic Report of Turkey (1994 and 1997), CEDAW/C/TUR/2-3**
- **International Women's Rights Action Watch. 1997. IRAW to CEDAW Country Reports. Minnesota: University of Minnesota (64 pages).**

1998

Domestic Violence

On January 1998, as a result of two decades of activism and lobbying by the women's movement in Turkey and triggered by the actions of the women's ministry once again occupied by Minister Saygin, the Turkish Parliament approved the first-ever law on domestic violence. In anticipation of probable opposition, those who proposed the law named it as the Law on the Protection of the Family No. 4320 rather than naming it a domestic violence law. Under the new law, any member of a family subject to domestic violence can file a court case for what is known as a 'protection order' against the perpetrator of the violence. The new law is significant because it has made a private matter 'public' for the first time under law. This law embodies measures designed to penalize domestic violence against women and children. According to Article 1 of this law, if a spouse, child or other family member living under the same roof is subject to abuse, and notification is made either by the victim or by the Public Prosecutor, a Justice of the Peace can pass one or more of the rulings or take any other measures that are deemed appropriate in addition to the provisions of the Civil Code. The concept of "living under the same roof" has been considered fundamental because violence against women and children may sometimes originate from sons or brothers. According to Article 2 of the law, the court entrusts a copy of the protection order to the Public Prosecutor who monitors the application of the order through the police.

The first Regular Report by the EU Commission on the development of Turkey published in 1998 stated that Parliament passed legislation in January 1998 against domestic violence, making spousal abuse illegal. However, it criticized the fact that there still were no explicit provisions for dealing with violence towards women in marriages in the Penal Code.

Virginity Tests

Virginity once became an issue when the female Minister for Women and Family Affairs declared in an interview that she was in favour of virginity tests. She said, "What if some girls commit suicide because of this practice? We need it to protect our children. This society has certain values". Upon the publication of this statement, women's groups organized a joint campaign and demanded her resignation. The issue was soon taken up by the Minister of Human Rights and the Minister of Justice. Both made statements that virginity tests constituted a violation of human rights.

Primary Sources:

- **4320 Sayılı Ailenin Korunmasına Dair Kanun (The Law No:4320 on the Protection of the Family, No: 4320) published in the Official Gazette on 17 January, 1998, No:23233.**

Secondary Sources:

- Parla, Ayşe. 2001. The Honour of the State: Virginity Examinations in Turkey. *Feminist Studies* 27(1):65-84.
- Altınay, Ayşe Gül. 2000. "Talking and Writing Our Sexuality: Feminist Activism on Virginity and Virginity Tests in Turkey," in *Women and Sexuality in Muslim Societies*, ed. Pınar Ilkkaracan, 403-411. Istanbul: Women for Women's Human Rights-New Ways.
- Cindoğlu, Dilek. 1997. Virginity Tests and Artificial Virginity in Modern Turkish Medicine. *Women's Studies International Forum* 20(2): 215-228.

1999

Domestic Violence

Apart from independent women's organisations, there was the institutionalisation in professional organisations like bars on the subject of violence against women. The Istanbul Bar Association Women's Rights Enforcement Centre can be regarded as the first example of these institutions. Established in 1999, the centre aimed at providing legal information and support to women who experience all kinds of violence including physical, sexual, psychological and economic violence or who request legal assistance in the areas regarding family law.

Virginity Tests

On 13 January 1999, the Ministry of Justice, in response to protests and public pressure, issued a decree banning the bodily examination of women for reasons of disciplinary punishment against their consent or in a manner which would hurt or torment them. The decree eliminated virginity testing by distinguishing it from the legally required vaginal or anal examinations under conditions of rape, sexual conduct with minors, and encouraging or acting as an intermediary for prostitution. In such circumstances, if deemed necessary, the judge may order vaginal or anal examinations without the consent of the woman. However, the judicial decree needs to be accompanied by written approval from the public prosecutor.

2001

The Civil Code was reformed. For more details, see the section on intimate citizenship.

Primary Source:

- 4721 Sayılı Türk Medeni Kanunu (The Law No. 4721 New Turkish Civil Code) published in the Official Gazette on 8 December, 2001, No. 24607 (161 pages).
- 4722 sayılı "Türk Medeni Kanununun Yürürlüğü ve Uygulama Şekli Hakkında Kanun" (The Law No. 4722 Governing the Enforcement and Implementation of the Civil Code) published in the Official Gazette on 8, December, 2001, No. 24607 (5 pages). <http://www.belgenet.com/yasa/medenikanun/k4722.html> (accessed on 20 May 2007),

2002

The Penal Code reform campaign was initiated by women's organizations.

Honour Killings

Turkey was the co-sponsor (along with the UK) of the resolution against honour killings passed by the UN General Assembly.

Virginity Tests

As a result of pressure from women's groups and public debate, with the recommendation of KSGM on 26 February 2002, the Ministry of Education removed the reference to "proof of unchastity" as a valid reason for expulsion from the formal educational system from the Statute for Awards and Discipline in the High School Education Institutions, thus eliminating a gross gender based discrimination.

Trafficking

Law on Trafficking³⁷: The Ministry of Justice drafted a law (Addition of Some Articles to Turkish Penal Code and Amendment of an Article in the Law to Combat Organised Crime) in conjunction with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. The law was adopted by the Parliament on 3 August 2002. The law criminalises forced work, provision of involuntary services, enslavement-like treatment, soliciting organ donation by way of threat, force, pressure and misuse of position, and deceit and exploitation of those who are vulnerable to engage in the smuggling, transporting, detaining and trafficking of women, children and men.³⁸

Primary Sources:

- **2003 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime**
http://www.unodc.org/unodc/crime_cicp_signatures_trafficking.html (accessed on 22 May 2007) (12 pages).

³⁷ The principal legal bases applicable to irregular migration are the following: (1) The Passport Law (Law 5682); (2) The Penal Code (Law 765); (3) The Labour Law (Law 1475); (4) The Law concerning the fight against global criminal organizations (Law 4422); (5) The Law Regulating the Sojourn and Movement of Aliens (Law 5683); (6) The Law Regulating the Employment Position of Turkish Citizens in Turkey (Law 2007); (7) The Social Security Law (Law 506); (8) The Regulations concerning International Road Transport of People and Goods; (9) The Regulation on the Inter-City Transportation of People; (10) The Law regulating the Movement, Parking, Control, Safety and Customs Procedures of International Transport Vehicles.

³⁸ The Ministry of Foreign Affairs promotes national coordination of issues related to trafficking in human beings. The Ministry chairs the National Task Force on Combating Trafficking in Human Beings, members of which include representatives from the Human Rights Presidency of the Prime Minister's office, IKGV (Foundation for the Development of Human Resources), the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Justice, the Ministry of Labour and Social Security, and KSGM (Directorate General of the Status and Problems of Women).

Secondary Sources:

- Parla, Ayşe. 2001. The Honour of the State: Virginity Examinations in Turkey. *Feminist Studies* 27(1):65-84.
- Altınay, Ayşe Gül. 2000. "Talking and Writing Our Sexuality: Feminist Activism on Virginity and Virginity Tests in Turkey," in *Women and Sexuality in Muslim Societies*, ed. Pınar Ilkcaracan, 403-411. Istanbul: Women for Women's Human Rights-New Ways.
- Cindoğlu, Dilek. 1997. Virginity Tests and Artificial Virginity in Modern Turkish Medicine. *Women's Studies International Forum* 20(2): 215-228.
- Women for Women's Human Rights. 2005. *Turkish Civil Code and Penal Code Reform from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: Women for Women's Human Rights.
- Women for Women's Human Rights. 2002. *The New Legal Status of Women in Turkey*. Istanbul: Women for Women's Human Rights.
- Arın, Canan. 1998. "Kadına Yönelik Şiddet (Violence against Women)" in *75. Yılda Kadınlar ve Erkekler (Women and Men in the 75th Anniversary of the Republic)* ed. Türkiye Ekonomik ve Toplumsal Vakfı. Istanbul: Numune Matbaası.
- Ka-Der. *The Position of Women in Turkey and in the European Union: Achievements, Problems, Prospects*. Istanbul: Ka-Der Press.
- Women for Women's Human Rights. *Women for Women's Human Rights. 2003. Gender Discrimination in the Turkish Penal Code Draft Law and Proposed Amendments*. Istanbul: Women for Women's Human Rights-New Ways.

2003

The strong resistance of the government to the demands of the Working Group resulted in a public campaign. The campaign was launched in May 2003 with a big press conference at which the proposed amendments and the government's resistance to them was presented to media. The press conference also served to expand and transform the Working Group into a national platform named '*TCK Kadın Platformu (Women's Platform on the Turkish Penal Code)*' composed of more than 30 NGOs. During 2003-2004, numerous conferences, meetings and press conferences were held in several cities. The campaign was successful and it has completely transformed the viewpoint of the penal code to recognize women's ownership of their bodies and sexuality as individuals. Most of women's demands have been accepted as a result of the Campaign for the Reform of the Turkish Penal Code from a gender perspective.

Domestic Violence

One of the most notable developments in the institutionalization of the fight against violence is the Women's Shelters Assembly, held annually since 1998. The assemblies, held for the 6th time in 2003, aimed to build a web for transfer of information and communication between organizations engaged in the fight against violence against women. The agenda of the assemblies demonstrated that beyond the '80's Campaign against Battering and Sexual Harassment', violence against women had been gradually defined more inclusively and problematised.

Honour killings

KA-MER initiated a project titled “No More “If Onlys”: Project for the Development of Permanent Methods in the Struggle against Killings in the Name of Honour in the Southeast and East Anatolia” in 13 cities of eastern and south-eastern regions of Turkey. The project aimed at protecting women who are potential victims of honour killings, alerting authorities and at developing several preventive measures in the struggle against honour killings.

Trafficking

In July 2003, The Ministry of Interior issued a Circular to the police to the effect that all investigations into crimes of trafficking in human beings are to be carried out in accordance with Article 201/b. The amendment to the Turkish Penal Code (Article 201/b) makes trafficking in human beings a criminal offence, pursuant to the UN Convention against Transnational Organized Crime and its additional protocols, and punishes traffickers with up to 5-10 years imprisonment. On September 2003, the Human Resource Development Foundation (HRDF) signed a protocol with the Ministry of Interior General Directorate of Security to collaborate in combating human trafficking.

Primary Sources:

- **5237 Sayılı Türk Ceza Kanunu. (The Law No.5237 New Turkish Penal Code) published in the Official Gazette on 12 October, 2004, No. 25611 (68 pages). <http://www.tbmm.gov.tr/kanunlar/k5237.html> (accessed on 22 June 2007)**
- **Keşke Dememek İçin: Güneydoğu ve Doğu Anadolu Bölgelerinde Namus Adına İşlenen Cinayetler ile Mücadele Kalıcı Yöntemler Geliştirme Projesi Raporu (Report of the Project for the Development of Permanent Methods in the Struggle against Killings in the Name of Honour in the Southeast and East Anatolia. 2004. KA-MER, (197 pages).**

Secondary Sources:

- **Women for Women’s Human Rights. 2005. *Turkish Civil Code and Penal Code Reform from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: Women for Women’s Human Rights.**
- **Women for Women’s Human Rights. 2003. *Gender Discrimination in the Turkish Penal Code Draft Law and Proposed Amendments*. Istanbul: Women for Women’s Human Rights-New Ways.**
- **Süral, Nurhan. Legal Framework for Gender Equality. in World Bank. 2006. *Bridging the Gender Gap in Turkey: A Milestone Towards Faster Socio-economic Development and Poverty Reductions: Poverty Reduction and Economic Management Unit*. <http://siteresources.worldbank.org/INTECAREGTOPGENDER/Resources/Turkey>**
- **Erder, Sema and Selma Keskin. 2003. *Irregular Migration and Trafficking in Women: The Case of Turkey*. Geneva: IOM.**
- **İcduygu, Ahmet. 2003. *Irregular Migration in Turkey*. International Organization for Migration (IOM) Research Series.**

http://www.old.iom.int/documents/publication/en/mrs_12_2003.pdf

- İcduygu, Ahmet. 2004. Demographic Mobility and Turkey: Migration Experiences and Government Responses. *Mediterranean Quarterly*. 15(4): 88-99.

2004

The Shadow NGO Report on Turkey's Fourth and Fifth Combined Periodic Report to the CEDAW Committee was prepared by WWHR. It focused on a number of critical issues pertaining to on-going advocacy and lobbying efforts of women's organizations with the Government regarding legal and public administrative reform processes, especially on the Penal Code.

On September 26th, 2004, the Turkish Penal Code Draft Law was adopted in the Turkish Parliament. Women's organizations declared that they had successfully transformed the Penal Code into a law that "protect the rights and freedoms of individuals". With corrected definitions and increased sentences for sexual crimes, criminalization of marital rape and sexual harassment at the workplace, adoption of measures to prevent sentence reductions to perpetrators of honour killings, rape and abduction and with the elimination of references to patriarchal concepts such as chastity, honour, morality, shame or indecent behaviour and of the discriminatory clauses against non-virgin and unmarried women, a progressive and egalitarian vision is introduced into the Penal Code.³⁹

Domestic Violence

With the reform of the Turkish Penal Code, even though there is no specific article regulating the crime of domestic violence, Article 96 of the new Penal Code stipulates that anyone causing torment to their spouse or family members will be sentenced to three to eight years in prison. Article 232 of the Penal Code provides for imprisonment of up to one year for the maltreatment of anyone inhabiting the same abode.

In August 2004, after lengthy discussions with the government institutions, it was decided that a national awareness campaign should be started with the representation from government, Parliament, NGOs, private sector and celebrities. The State Minister for Women and Family Affairs asked UNFPA to support the government in designing and implementing a campaign entitled "Stop Violence against Women". UNFPA agreed to take part in this campaign and to provide support. In addition to the campaign "Stop Violence against Women", in October 2004 another campaign by *Hürriyet*, "No to Domestic Violence", in partnership with the Contemporary Education Foundation, CNN Turk, and Istanbul Governorate Human Rights Department was initiated. Within the scope of this campaign, *Hürriyet* organised training sessions titled "Spouse Relationship Support Program" in order to help improve communication and conflict resolution within families. Training sessions for participants, male and female, were provided in a specifically designed bus that served as a mobile classroom in the districts of Istanbul. These sessions covered several important topics such as description of domestic violence, ways of coping with violence and alternative problem-solving methods.

³⁹ Women for Women's Human Rights. 2005. *Turkish Civil Code and Penal Code Reform from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: Women for Women's Human Rights. pp.14.

Honour Killings

Honour killings are killings of women and girls suspected of sexual involvements that are seen as improper by the community. They are carried out by younger, usually minor, male members of a family following the decision of a family council in closed tribal communities in the east and southeast of Turkey or among those that have migrated from these regions. Several NGOs, particularly KA-MER, have been active fighting against honour killings in the region. They have attempted to raise consciousness, protect women and girls from honour killings, to monitor authorities in order to prevent honour crimes and to punish perpetrators.

With the reform of the Penal code, most of the discriminatory articles against women were abolished and heavy penalties were provided for cases of honour crimes. Two articles particularly address honour killings in the New Penal Code. The “Unjust Provocation” article, previously employed to grant sentence reductions in honour killing cases, was amended so that the justification of Article 29 states that no reduction will be applied in killings in the name of honour. However, women’s organizations point out that the justification somehow grants room for leniency since the Article also states that the abolishment of the reduction of sentence is not applicable in all honour killings.⁴⁰ In Article 82 of the Penal Code, similarly, “killings in the name of custom” are defined as an aggravated circumstance affirming the problem women’s organizations have pointed out. The use of the term ‘custom’ instead of the internationally accepted term honour killings is again criticised for it might allow judges to fail to punish honour crimes as aggravated assaults. Applications of the law so far have shown that judges tend to give the maximum penalty in cases of honour crimes. Article 38 of the Penal Code states that any person who forces a person to commit a crime receives the same sentence as the perpetrator, and if the person forced is a minor, the sentence is increased. Despite the overall success of the women’s campaign for the reformation of the Penal Code, some of women’s demands have not been accepted in the new Turkish Penal Code. It is demanded that “honour killings” have to be explicitly defined as aggravated homicide in the Penal Code in order to include all murders in the name of honour, not just those in the name of custom.

“The Honour Killing Project”, initiated by the Population Association⁴¹ with the support of the UNFPA and the United Nations Development Program (UNDP), started with the objective of understanding honour killings in a wider framework of perceptions of honour and related values, gathering information that could constitute the basis for future action plans and sharing the findings with relevant institutions. In order to gather information, research was carried out in four cities (Istanbul, Şanlıurfa, Adana and Batman) selected from among those determined to have the highest rates of honour killings according to a 2004 UNFPA survey of honour/‘custom’ killing reports in three newspapers over a five year period.

⁴⁰ Women for Women’s Human Rights. 2005. *Turkish Civil Code and Penal Code Reform from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: Women for Women’s Human Rights. pp.63.

⁴¹ The Population Association was established in 2004 to carry out activities in the field of demography, to participate in studies carried out by different disciplines in this field and to support those working for these studies, to contribute to the dissemination of information produced during demographic studies and to ensure professional solidarity, communication, collaboration and interaction among those working in the field of demography and population related issues.

Virginity Tests

The New Penal Code included an inadequate provision regarding virginity testing. Despite the efforts of the women's movement, although the actual term 'virginity test' is not used in the Penal Code, Article 287 entitled "genital examination" has been included in the new law. The article stipulates that anyone who performs or takes a person for a genital examination without the proper authorization from a judge or a prosecutor can be sentenced to between three months to one year of imprisonment. Women's groups are protesting against this article as it fails to explicitly name and ban the practice, and also because the article does not require the woman's consent for genital examination, thereby leaving room for forced examination and human rights violations.

Rape and Sexual Assault

Rape and sexual assault used to be defined as "forced or consensual seizure/attacks of chastity" rather than attacks on individual sexual integrity in the old penal code. In the reformed Penal Code, sexual assault is defined as "any sexual behaviour violating a person's bodily integrity". The definition of rape has been expanded to include anal and oral penetration as well as the insertion of any object or any organ into the body. Psychological coercion is recognized as a means of coercion by the perpetrator and damage to the victim's psychological state is acknowledged as an aggravating circumstance.

Rape and sexual assault have been regulated in Article 102 of the Penal Code entitled "Sexual Assault". While punishment for sexual assault varies from two to seven years, the prison sentence for rape can be up to 12. The crime of rape now includes the insertion of a sexual organ or object into the body. The previous notions of consensual rape and consensual sexual abuse have been removed. However, article 104 of the new Penal Code leaves room to penalize the consensual sexual relations of youths between 15-18 years upon complaint. Women's groups have been protesting against the adoption of this article, as it legitimizes young people's human rights violations due to complaints by families and teachers.

In the old penal code, there were provisions assuming that sexual abuse of children could occur with "their consent" and foreseeing reduced sentences in such cases. In the reformed Penal Code, the notion which assumed that rape, sexual assault or sexual abuse of children could occur with the victim's consent has been eliminated and all references to consensual rape, sexual assault or sexual abuse of children have been removed.

Marital Rape

Marital rape was not acknowledged as a crime in the old Penal Code. The justification of the article regulating rape stated that marital rape did not constitute a sexual offence. With the reform of the Turkish Penal Code in 2004, two important amendments for women and children in Turkey have been the explicit criminalization of marital rape and sexual abuse in the family. Article 102 of the Penal Code, criminalizes marital rape, with a prison sentence of up to 12 years upon complaint. Sexual abuse of children is also regulated in Article 103 which foresees prison sentences ranging from 5 to 20 years for sexual abuse in the family.

In the old Penal Code, sexual offences were regulated under the section "Crimes against Society" in the sub-section "Crimes against Morality and Family." This classification reflected a

patriarchal notion that women's bodies and sexuality did not belong to themselves, but rather to their families. In the New Penal Code, crimes of sexual assault are explicitly named and properly defined under the section "Crimes and Sexual Inviolability". Sexual Violence, previously regulated as "Felonies against Public Decency and Family Order" under "Crimes against Society", is now defined in crimes against individuals, thereby marking a significant break with the patriarchal notion and discriminatory outlook of the old law. Sexual crimes are regulated in Articles 102-105 of the Penal Code with progressive definitions and high sentences.

Sexual Harassment in the Workplace

Sexual Harassment in the workplace was included in the new Turkish Penal Code. Article 105 Paragraph 2 criminalises sexual harassment in the workplace. The sentence can be up to three years if it entails the abuse of the work or hierarchical relationship. It can be perpetrated by employers, superiors or co-workers. If the harassment causes the victim to leave her job, the sentence cannot be less than one year. Article 24 of the Labour Law, however, grants workers the right to immediately terminate their contract in case of sexual harassment by the employer or co-workers, another improvement for women workers.

Trafficking

The Ministry of Health announced a circular to all state hospitals on providing free medical care for victims of human trafficking. HRDF signed a protocol with General Commandership of Gendarmerie to collaborate in combating human trafficking on June 14, 2004.

Primary Sources:

- **Shadow NGO Report on Turkey's Fourth and Fifth Combined Periodic Report to the Committee on CEDAW (July 2004), prepared by WWHR, Turkey (12 pages).**
- **5237 Sayılı Türk Ceza Kanunu. (The Law No.5237 New Turkish Penal Code) published in the Official Gazette on 12 October, 2004, No. 25611 (68 pages). <http://www.tbmm.gov.tr/kanunlar/k5237.html> (accessed on 12 June 2007)**
- **4857 Sayılı Türk İş Kanunu (The Law No.4837 Turkish Labour Law) published in the Official Gazette on 10 June, 2003, No.25134 (53 pages). http://www.csqb.gov.tr/mevzuat/4857_is_kanunu.htm (accessed on 5 June 2007).**
- **UNDP, Population Association, UNFPA. 2007. The Dynamics of Honour Killings in Turkey: Prospects for Action. Ankara: UNDP and UNFPA (87 pages).**
- **T.C. Sağlık Bakanlığı, Tedavi Hizmetleri Genel Müdürlüğü İnsan Ticareti Magdurları Tedavisi Giderleri Hakkında Genelge, 2004/62 (Turkish Republic Health Ministry, Circular on the Provision of Health Services to Victims of Human Trafficking) No: B100THG0100001/1047 24.04.2004/6679**

Secondary Sources:

- **Women for Women's Human Rights. 2005. *Turkish Civil Code and Penal Code Reform from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: Women for Women's Human Rights.**

- **Women for Women's Human Rights. 2003. *Gender Discrimination in the Turkish Penal Code Draft Law and Proposed Amendments*. Istanbul: Women for Women's Human Rights-New Ways.**
- **Amnesty International. 2004. Turkey: *Women Confronting Violence*. London: AI.**
- **Ertürk, Yakın. 2006. Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences. United Nations.**
- **Bozkurt, Emine. 2005. *Report on Women's Role in Social, Economic and Political Life in Turkey*. European Parliament.**
- **Ka-Der. *The Position of Women in Turkey and in the European Union: Achievements, Problems, Prospects* .**
- **International Public Relations Association (IPRA). 2006. *2006 United Nations Award: No to Domestic Violence*. London: IPRA**
- **UNFPA. 2006. *Turkey: Celebrities Kick into Action to Curb Violence against Women*. Ankara: UNFPA.**
http://www.unfpa.org/endingviolence/html/pdf/chapter_turkey.pdf

2005

The 2005 shadow report of Flying Broom on the occasion of Turkey's joint 4th and 5th periodic report claimed that although the 'Law on Protection of Family' had been in effect for 7 years, it was not widely implemented. According to the report, although efforts were made to prevent the problems in the implementation of the protective measures, the public personnel concerned with the implementation were not fully trained. During the application of law, although no fees were required at the onset of the application, women were not exempted from paying fees in the continuation of the process, and the bureaucratic formalities were not reduced. The report also emphasized the fact that the Turkish Government did not produce a state policy and plan of action for the women exposed to violence. In addition, supports such as shelters had not been improved.

In the concluding comments of the CEDAW Committee on Turkey, it was stated that the State party had undertaken significant law reform since the consideration of its combined second and third periodic reports in 1997 but the Committee called upon Turkey to intensify its efforts to prevent and combat violence against women including domestic violence. The Committee underlined also the need to fully implement and carefully monitor the effectiveness of the Law on the Protection of the Family, and of related policies, in order to provide protection and support services to the victims. It also recommended continuous training for public officials, especially law enforcement officials, the judiciary and health care-providers.

Domestic Violence

TBMM (The Turkish Grand National Assembly) established a parliamentary research commission on Prevention of and Measures to Combat Violence against Women and Children, and Custom and Honour Crimes with the aim of understanding the causes of honour killings and examining various dimensions of violence against women and children.

The two campaigns- the campaign launched by *Hürriyet* and the one initiated by UNFPA and KSGM- joined forces to organize an international conference entitled "No to Domestic Violence! Conference 2005: Good Practices" where different experiences were discussed via

the representation of NGOs, public institutions, local governing bodies, the private sector and academics. The purpose of the conference was to sensitize and mobilize NGOs, the private sector, governmental agencies and politicians through sharing national and international practices for the formation and development of preventive and protective policies.

The Municipal Law amended on July 13 2005 with Article 14 required all municipalities with a population of over 50,000 and all metropolitan municipalities to establish shelters for women and children and to provide social services.

“Hello 183 Family, Women, Children and Disabled Social Service Information Line” has been set up by the General Directorate of Social Services and Child Protection Agency. The line has been allocated by the Turkish Telecommunication Company for the purpose of preventing the exploitation of women and children, enhancing the status of women in society and providing better conditions for children.

Honour Killings

The honour killings report which was commissioned in 2004 was completed in September 2005. The report’s main findings are as follows: 1) While honour exists as an important concept within society, honour itself should be dissociated from acts of crime and violence; 2) Youth is surprisingly more accepting and supportive of killing in the name of honour than their elders. This view is reinforced by recent findings that the majority of young women expect to be beaten as part of their married life. These findings show that a significant effort needs to be made to change the attitudes of youth through education; 3) At the same time, there are a number of initiatives and policies to eradicate the notion that honour killings are acceptable within Turkish society.

Virginity Tests

Concerning virginity tests, the CEDAW Committee emphasised in its concluding comments that the consent of the woman should be a prerequisite for genital examinations under all circumstances.

Trafficking

The Turkish Government launched a national multi-lingual anti-trafficking hotline in May 2005. This hotline helped rescue 52 victims from their traffickers. Turkish authorities at key border crossings and consular officials abroad also distributed small passport inserts to travellers to publicize the hotline and warning signs of trafficking. The Turkish Gendarmerie printed and distributed an additional 150,000 copies of their anti-trafficking brochures to police, precincts and citizens throughout Turkey in 2005.

Primary Sources:

- **UNDP, Population Association, UNFPA. 2007. The Dynamics of Honour Killings in Turkey: Prospects for Action. Ankara: UNDP and UNFPA (89 pages).**
- **5393 Sayılı Belediye Kanunu (The Municipal Law No: 5393) published in the Official Gazette on 13 July, 2005, No. 25874 (42 pages).**

- **Shadow NGO Report on Turkey's Fourth and Fifth Combined Periodic Report to the Committee on CEDAW (January 2005), prepared by Flying Broom, Turkey (11 pages).**
- **CEDAW, 2005, Concluding Comments: Turkey, CEDAW/C/TUR/CC/4-5, 15 February 2005 (9 pages).**
- **T.C Başbakanlık Sosyal Hizmetler Ve Çocuk Esirgeme Kurumu Genel Müdürlüğü Sayı: B.02.1.SÇE.0.15.00.03/M-5-4/2002-230 (Turkish Republic Prime Ministry General Directorate of Social Services and Child Protection Agency No: B.02.1.SÇE.0.15.00.03/M-5-4/2002-230) (12 pages).**

2006

Domestic Violence

The parliamentary research commission on Prevention of and Measures to Combat Violence against Women and Children, and Custom and Honour Crimes published a report in 2006 analysing several dimensions of violence by defining several causes of honour killings and by outlining some important preventive measures. The report which was concluded with some recommendations to combat violence and honour killings emphasised the importance of improving the level of education in the society.

Based on this report, the Prime Ministry of Turkey published a circular about domestic violence, and especially the case of honour killing, which underlines the need for cooperation between different institutions and organizations in the struggle against domestic violence and honour killings. According to the Circular, the Social Services and Child Protection Agency will be responsible for engaging in work to prevent violence against children, while KSGM will be responsible for working with violence against women and 'honour' killings. The circular asks the institutions such as the Ministry of Justice, Ministry of Health, Ministry of National Education, Ministry of Interior, Ministry of Agriculture and Rural Affairs, Social Services and Child Protection Agency, State Planning Organization, KSGM, universities, municipalities and several NGOs to gather information on the issues and to report quarterly the activities which have been realized in these fields. The circular is an important turning point because it aims at gathering related data by periodical reports at governmental level. Three reports based on the collected data by the responsible organizations and institutions have thus far been prepared by KSGM concerning activities in the issue of domestic violence.

Kadın Girişimcileri Derneği (KAGIDER) (Women Entrepreneurs' Association of Turkey) initiated a campaign titled "Stop Violence against Women" in order to stop violence against women by fund-raising and creating social awareness. This campaign can be regarded as an important example in the private sector of involvement in the struggle against domestic violence.

Primary Sources:

- **T.C. Başbakanlık Kadının Statüsü Genel Müdürlüğü (Turkish Republic Prime Ministry Directorate General on the Status of Women). 2006. *Töre ve Namus Cinayetleri ve Kadınlara ve Çocuklara Yönelik Şiddetin Sebeplerinin Araştırılarak Alınması Gereken Önlemlerin Belirlenmesi Amacıyla Kurulan TBMM Araştırma Komisyonu Raporu* (Report of Parliamentary Research Commission on**

Prevention of and Measures to Combat Violence against Women and Children, and Custom and Honour Crimes).

- **2006/17 Sayılı Başbakanlık Genelgesi (Prime Ministry Circular No: 2006/17) published in the Official Gazette on 4 July, 2006 No: 26218 (5 pages).**
http://www.basbakanlik.gov.tr/genelge_pdf/2006/2006-0010-006-08717.pdf#page=1
- **KSGM. 2006/17 Başbakanlık Genelgesi Kapsamında Kadının Statüsü Genel Müdürlüğü'ne İletilen Kurum ve Kuruluşlara Ait Birinci Üç Aylık Döneme İlişkin Faaliyetler, Eylül 2006 (The First Quarter Report about the Activities of Public Organizations and Institutions, September 2006) (28 pages).**
<http://www.ksgm.gov.tr/Raporozetson.doc> (accessed on 5 July 2007).
- **KSGM. 2007. 2006/17 Başbakanlık Genelgesi Kapsamında Kadının Statüsü Genel Müdürlüğü'ne İletilen Kurum ve Kuruluşlara Ait İkinci Üç Aylık Döneme İlişkin Faaliyetler, Ocak 2007 (The Second Quarter Report about the Activities of Organizations and Public Institutions, January 2007) (64 pages).**
<http://www.ksgm.gov.tr/duyurular/ikincidonemfaaliyetraporlari.doc> (accessed on 6 July 2007).
- **KSGM. 2007. 2006/17 Başbakanlık Genelgesi Kapsamında Kadının Statüsü Genel Müdürlüğü'ne İletilen Kurum ve Kuruluşlara Ait Birinci Üç Aylık Döneme İlişkin Faaliyetler, Nisan 2007 (The Third Quarter Report about the Activities of Organizations and Public Institutions, April 2007) (65 pages).**
<http://www.ksgm.gov.tr/3.3aylikrapor.doc> (accessed on 6 July 2007).

2007

Domestic Violence

The report of the Parliamentary Research Commission based on research on domestic violence and the Prime Ministry Circular (2006/17) mentioned the need for amendment to the Law on the Protection of Family because of some deficiencies. In order to remove these deficiencies in the Law on the Protection of Family No.4320, under the coordination of KSGM, several meetings were held with the participation of public institutions and legal experts of civil societies. At the end of these meetings, a draft amendment was proposed and was submitted to the Justice, Health and Work and Social Affairs Commission in the Parliament. After their approval, the amendment was adopted in the Turkish Parliament in 26 April 2007. Although the Law on the Protection of Family aimed to prevent domestic violence in the family, the main objective of the amendment has been to interpret domestic violence from a wider perspective. Accordingly, it has been pointed out that couples and children who do not live under the same roof/in the same house because of reasons such as divorce or separation may be also subjected to violence. In other words, the principle of 'living under the same roof' has been removed. Additionally, it has been pointed out that, if the Public Prosecutor finds it necessary, the aggressor can be subjected to a medical centre for a medical examination in order to find out if the perpetrator of violence has a physical or mental disease.

On February 2007, a new campaign aiming to protect women from domestic violence has been inaugurated in Ankara with the participation of the State Ministry for Women and Family Affairs, Council of Europe and UNFPA. Within the framework of this project, a national action

plan and a communication strategy defining the means to prevent violence will be prepared. Additionally, a nationwide database will be established to monitor incidents of domestic violence.

Primary Sources:

- **Ailenin Korunmasına Dair Kanunda Deęişiklik Yapılması Hakkında Kanun Tasarısı ve Sağlık, Aile, Çalışma ve Sosyal İşler ile Adalet Komisyonları Raporları (1/1272) (Draft Law about the Amendment on the Law on the Protection of Family and Reports of Justice, Health, Family, Work and Social Affairs Commissions) (7 pages).**
- **5636 Sayılı Ailenin Korunmasına Dair Kanunda Deęişiklik Yapılmasına Dair Kanun(The Law on the Amendment about the Law on the Protection of Family No.5636) published in the Official Gazette on 4 May, 2007, No.26512 (2 pages).**
- **Council of Europe. Stop Domestic Violence against Women. http://www.coe.int/t/dc/campaign/stopviolence/default_en.asp (accessed on 8 July 2007).**

3. Conclusions

While it has traditionally had a very salient, symbolic place in defining the character of the modern Turkish state, gender equality policies have been non-systematic, non-comprehensive and piecemeal throughout the history of the Turkish Republic. This continues to be the case at the present.

Very early attempts at gender equality, throughout the Republican period, were legalistic, public sphere oriented and state initiated. From the 1980s on, one can observe increasing civil society (feminist) activism, which also led to private sphere issues becoming more visible. In that period, both on the government and civil society sides, measures, policies and/or initiatives targeting the patriarchal mentality and challenging its institutions and practices started to gain ground. Among these, public campaigns to raise awareness on issues such as violence against women and the unequal division of labour and activity within the family constituted the main axes of civil activism.

The 1990s witnessed an institutionalisation of gender equality in state bureaucracy and academia. In this context, especially with the establishment of the national machinery for gender equality KSGM (General Directorate for Women's Status) and setting up of the gender and women's studies programmes in the universities, civil activism of the earlier period found new grounds of expression. In this period, funding from international sources (UNDP, WB) supporting the development of gender equality policies in Turkey, especially through research and implementation projects, including government and civil society capacity building efforts, increased. International monitoring of UN CEDAW and Beijing processes, both on state and civil society level, became more commonplace and effective. Such support and monitoring gave gender issues unprecedented visibility, but at the same time, these international donors and pressures became the main actors to set the gender agenda on both state and civil society sides.

The hot topic of the period was violence against women. In this period, political participation, education (especially of young women) and informal sector employment of women also continued to have a place on the agenda as topics of interest in Turkey. In the 1990s, demands from academics and civil society for a comprehensive systematic gender equality policy were made and new issues were introduced. Issues such as honour crimes and sexual harassment at the work place were some of the new topics included under violence against women. The national machinery (KSGM) remained weak in terms of its budget and personnel; it had developed very good relations with women's NGOs and academics and continued to depend on the resources of these groups to carry out its mandate. Although the national machinery has the responsibility to coordinate gender policy among different ministries and offices, in the 1990s its activities mainly pertained to awareness raising and gender-sensitivity development - often carried out in collaboration with the women's NGOs. KSGM's agenda does not have a reference to other inequalities; hence, the intersections and linkages with other inequalities are not clear within gender equality policies. This is also reflected in the fact that, with the exception of Prime Ministry Administration for Disabled

People, there are no other specific governmental machineries for equality. Regional policies for economic, social and cultural development have a gender component and are carried out by responsible state institutions as part of the national economic development plans.

With Turkey's new status as a candidate country to the EU in 1999, a new dimension and component appeared on the gender equality sphere. In the 2000s, legal reforms once again took precedence. Signifying a paradigm shift (especially with the Civil and Penal Codes) from existing legislation, new laws addressed the place of women not only in the public but also in the private spheres and rested on the principle of women's rights as individuals rather than as community and/or family members. This period also witnessed an increasing visibility of employment matters such as the gender pay gap, discrimination at the workplace and reconciliation of family life and work. EU-based policies and demands, accompanied by EU funds and programmes/projects, encouraged both the state and civil society.

Today, the legal basis of gender equality has been adequately established in Turkey. While a great deal of the necessary legislation is now in place, it is difficult to argue that they are yet fully implemented. This remains a problem, especially because of dominating patriarchal values and a lack of support mechanisms for implementation. That deficiency has been continuously highlighted in the various reports of international institutions such as the UN CEDAW Concluding Comments to Turkey (2005), the European Parliament (Resolution on Women's Role in Social, Economic and Political Life in Turkey) (2005, 2006) and various official documents of the European Commission such as the Progress and Regular Reports in the 2000s.

As an overall assessment, one can conclude that political commitment to gender equality policy in the recent years has been more 'superficial' than 'essential'. It often appears to be in response to international pressures such as the EU and the UN CEDAW requirements and national civil society demands when these become too vocal and/or visible to ignore. The 'pick and choose' or 'back and forth' attitude that has characterised much of the governmental action on gender equality since the 1990s is also a consequence of the constant tension between the gender equality standards of modernist groups and conservative (sometimes Islamist) worldviews in the country. Consequently, Turkey still lacks a comprehensive systematic gender equality policy and the political will to implement such policy.

Considering the issues selected for QUING analysis, the following conclusions can be reached.

Female **non-employment** is still the norm in Turkey. Although some attempts are made to increase the rate of women's employment such as active labour market programmes and programmes to give support to women entrepreneurs, these policies remain patchy without the strong support of a national employment strategy. In addition, little is actually done to encourage women to move into the labour market. In fact, some policies such as childcare provisions at workplaces and maternity leave seem to end up discriminating against women and pushing them further out of the labour market as these policies make female labour more

expensive for employers. The provisions of the Labour Law that still prohibit access of women to certain jobs can also be seen as remnants of gender-based discriminatory attitudes in labour legislation and absence of legal and other measures to prohibit and monitor them contribute to gender-discrimination among workers.

While Turkey's legal reforms, as a part of the strategy for European Union accession, have helped to eliminate fundamental discriminatory provisions against women, there is still need to put the provisions of the new laws and amendments into practice. Inconsistent policies of gender equality and weak commitment to implementing recent changes are traceable in every policy document as well as being observable in the actions of social partners engaged in policy making. In the absence of a strong feminist defence of gender equality in the area of employment, the most influential social actors have been employers' organisations as they capitalised upon the opportunity to introduce flexible work conditions into the Labour Law. Yet as their motivation is neither feminist nor women's-rights-determined, when an issue such as paternity leave is raised they oppose the legislation. The recent attempt by feminist women's groups to form an NGO specifically operating in the area of women's work and employment is, in this sense, a very new development.

The new Labour Law in 2003 may lead to gender equality policies in the long term which will affect the rate of women moving into the labour market, as well as policies in regard to part-time and flexible employment, and equal treatment and pay. Yet these policies cannot be expected to have a direct impact on 'inactive' women whose work mostly remains invisible in the informal sector. Gender equality policies that include those in the informal sector and some homemakers as the most vulnerable groups excluded from any form of social security are needed to eliminate existing imbalances.

In Turkey, the most prominent topics in the issue of **intimate citizenship** emerge from the area of marital union. The legislative reforms are predominantly for the improvement of women's status within the family: the provision, recognition and the protection of the equal rights and responsibilities of women with respect to men in the private sphere (i.e. the removal of the clause that defines the husband as the head of the conjugal union). Several forces influenced Turkey's willingness to implement laws and policies: compliance with universal standards of women's human rights (CEDAW); the active support of women's organisations which since the late 1990s had gained strength and experience in organisation, mobilisation and lobbying both at national and international levels; as well as EU demands in the accession process. One might argue that the New Civil Code, adopted in 2001, is the embodiment of demands from national and international actors for gender equality within the family.

There are three points worth mentioning in the analysis of these reforms. Although in terms of the juridical-legal discourse the provision of equal rights to both men and women within the family signifies an important transformation, the impact of this reform in practice cannot be assessed easily. Thence, the emergence of the issue of 'matrimonial property' as the most debated topic in this process is critical since it points out that equality in practice could only be effective when the state's direct intervention is present. Secondly, it became apparent that the

conception of gender equality within the private sphere is only relevant for the marital union in Turkey. Women's rights in the private sphere are mostly defined *via* family concerning the reparation of a disadvantageous position of women *versus* men. Hence, issues such as sexual rights and civil partnerships are not policy issues at all. Thirdly, since heterosexual partnership signifies the legal norm, that is the only form of officially authorized union, issues such as same-sex partnerships and gay marriages fall outside of the legal and political discourse. The criminalisation of discrimination based on sexual orientation has been an ongoing demand of LGBT groups. Being more visible and organised in 2000s, they have been voicing their demand for equality and protection from the governments and the EU. Though not evident, it seems that the EU refrains from an explicit demand for legal provisions on LGBT rights and same-sex partnerships due to possible conservative reactions against the EU.

Reproductive rights have not been part of policy discourse though practices of assisted conception and artificial insemination are common in the country. Since the child is a valued notion in association with the family in Turkish society, the peripheral discussions in the popular media verify the supremacy of family over the individuals in the issue of reproductive rights in particular, and on the issue of intimate citizenship in general. The media promotes these practices, but only for married and heterosexual couples, going along with the conservative wings to debate the issue within moralistic/religious frames.

Concerning the sub-issues for **gender-based violence**, the issues of domestic violence and honour crimes are currently the most important areas of policy debate and subjects of legal regulation in Turkey.

Domestic violence came into the picture in the 1980s as a part of the women's movement. Women's NGOs played a crucial role in raising public consciousness through different activities such as panel discussions, lobbying and street demonstrations. These activities paved the way for the improvement of legal mechanisms to prevent violence against women. In this context the Law on the Protection of the Family was adopted in 1998. While this was a state-of-the-art law providing legally effective means to prevent domestic violence and punish its perpetrators, its effectiveness was limited owing to the lack of societal and cultural support mechanisms. It is also a fact that the legal system's treatment of gender-based violence reflected the gender norms existing in the society where women were not perceived as 'individuals' but are defined in their collective identities as mothers and wives. The Law on the Protection of Family, for example, made spousal abuse illegal but as its name reveals, it aimed at protecting the harmony of family lying at the centre of Turkish society. In other words, many legal regulations and policies have been established but in most of these principles the 'family' has been considered as the suffering party rather than the women and girls who are subjected to violence. Furthermore, lack of vigour in public policy and government intervention against domestic violence continues to be justified in the name of family privacy; a view often voiced in conservative circles.

In Turkey, particularly in the last decade, the media has contributed to combating gender-based violence by disseminating information, raising public consciousness around violence-oriented issues and reflecting basic human rights. The role of international organisations has also been of crucial importance in bringing the issues to the agenda and in discussing them in public fora such as those related to CEDAW and the Beijing Platform for Action.

A major step towards the elimination of gender-based violence has also been taken with the adoption the New Penal Code in 2004. This legal reform, as different from those that preceded it, meant a change of legal attitude towards treating women as individuals and as controllers of their own bodies with the resultant provisions that punish honour killings severely, put barriers on virginity tests and define sexual crimes as crimes against the person rather than against community “values” or “morality”.

Sociologically speaking, in Turkey violence against women is embedded in social norms and is an accepted part of everyday life in many contexts. Male superiority and the male right to control female behaviour, especially female sexual behaviour, are deeply entrenched in the psyche of the society. This is reflected in many folk sayings that denigrate women to an inferior position compared to men. These perceptions are challenged and are slowly changing in the society. Several nation-wide campaigns against domestic violence by civil society, media, the state authorities and recently the private sector have been organised to combat these perceptions. Their impact, so far, is to be observed in the changing attitudes of the more enlightened segments of society (including the judiciary) and with respect to the most blatant examples of gender-based violence such as honour killings, where recent court decisions clearly reflect the judiciary’s commitment to implement the law.

Abbreviations

ANAP	Anavatan Partisi	Motherland Party
AKP	Adalet ve Kalkınma Partisi	Justice and Development Party
CEDAW	Kadına Karşı Her Türlü Ayrımcılığın Önlenmesi Sözleşmesi	The Convention on the Elimination of All Forms of Discrimination against Women
DİSK	Türkiye Devrimci İşçi Sendikaları Konfederasyonu	Confederation of Revolutionary Workers' Labour Unions
DPT	Devlet Planlama Teşkilatı	State Planning Organisation
DSP	Demokratik Sol Parti	Democratic Left Party
DYP	Doğru Yol Partisi	True Path Party
ECHR	Avrupa İnsan Hakları Mahkemesi	European Court of Human Rights
EU	Avrupa Birliği	European Union
Hak-İş	Hak İşçi Sendikaları Konfederasyonu	Confederation of Turkish Real Trade Unions
HRDF	İnsan Kaynakları Gelişimi Vakfı	Human Resource Development Foundation
IOM	Uluslararası Göç Örgütü	International Organization for Migration
İŞKUR	Türkiye İş Kurumu	Turkish Employment Organization
KADAV	Kadınlarla Dayanışma Vakfı	Foundation for Solidarity with Women
KA-DER	Kadın Adayları Destekleme ve Eğitim Derneği	Association for Supporting and Training Women Candidates
KAGIDER	Türkiye Kadın Girişimciler Derneği	Women Entrepreneurs' Association of Turkey
KA-MER	Kadın Merkezi	Women's Centre
KAOS GL	KAOS GL Derneği	KAOS Gay and Lesbian Cultural Research and Solidarity Association
KASAUM	Ankara Üniversitesi, Kadın Sorunları Araştırma ve Uygulama Merkezi	Ankara University, Research and Implementation Centre on the Problems of Women
KAUM	İstanbul Üniversitesi Kadın Sorunları Araştırma ve Uygulama Merkezi	Istanbul University, KAUM Research and Implementation Centre on the Problems of Women
KEIG	Kadın Emeği ve İstihdamı Girişimi	Initiative for Women's Work and Employment
KSGM	Kadının Statüsü Genel Müdürlüğü	General Directorate on the Status of Women
KSSGM	Kadının Statüsü ve Sorunları Genel Müdürlüğü	General Directorate on the Status and Problems of Women
MHP	Milliyetçi Hareket Partisi	National Movement Party
Mor Çatı	Mor Çatı Kadın Sığınağı Vakfı	Purple Roof Women's Shelter Foundation
NGO	Sivil Toplum Kuruluşu	Non-governmental Organisation
NPAA	Avrupa Birliği Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programı	National Programme for the Adoption of the Acquis
ÖDP	Özgürlük ve Dayanışma Partisi	Freedom and Solidarity Party
OECD	Ekonomi İşbirliği ve Kalkınma Teşkilatı	Organisation for Economic Cooperation and Development
RP	Refah Partisi	Welfare Party

SHÇEK	Sosyal Hizmetler ve Çocuk Esirgeme Kurumu	General Directorate on Social Services and the Protection of Children
SHP	Sosyaldemokrat Halkçı Parti	Social Democratic People's Party
SP	Saadet Partisi	Felicity Party

TBMM	Türkiye Büyük Millet Meclisi	Turkish Grand National Assembly - Turkish Parliament
TC	Türkiye Cumhuriyeti	Republic of Turkey
TCK Women's Platform	Türk Ceza Kanunu Kadın Platformu	Women's Platform on Turkish Penal Code
TESK	Türkiye Esnaf ve Sanatkârları Konfederasyonu	The Confederation of Turkish Tradesmen and Craftsmen
TİSK	Türkiye İşveren Sendikaları Konfederasyonu	Turkish Confederation of Employer Associations
TOBB	Türkiye Odalar ve Borsalar Birliği	The Union of Chambers and Commodity Exchanges of Turkey
Türk-İş	Türkiye İşçi Sendikaları Konfederasyonu	Turkish Confederation of Labour Unions
TÜSİAD-	Türkiye Sanayici ve İşadamları Derneği	Turkish Industrialists' and Businessmen's Association
UN	Birleşmiş Milletler	United Nations
UNDP	Birleşmiş Milletler Kalkınma Programı	United Nations Development Programme
UNFPA	Birleşmiş Milletler Nüfus Fonu	United Nations Population Fund
WB	Dünya Bankası	World Bank
WHHR	Kadının İnsan Hakları – Yeni Çözümler Vakfı	Foundation of Women for Women's Human Rights-New Ways
WTO	Dünya Ticaret Örgütü	World Trade Organisation

Annex: Governments of Turkish Republic since 1980

#	Name of the Government	Political Parties	Period
43	VI. Demirel Government	DYP-MHP-MSP	12 November 1979–12 September 1980
44	Ulus Government		20 September 1980–13 December 1983
45	I. Özal Government	ANAP	13 December 1983–21 December 1987
46	II. Özal Government	ANAP	21 December 1987–9 November 1989
47	Akbulut Government	ANAP	9 November 1989–23 June 1991
48	I. Yılmaz Government	ANAP	23 June 1991–20 November 1991
49	VII. Demirel Government	DYP-SHP	20 November 1991–25 June 1993
50	I. Çiller Government	DYP-SHP-CHP	25 June 1993–15 October 1995
51	II. Çiller Government	DYP	15 October 1995–5 November 1995
52	III. Çiller Government	DYP-CHP	5 November 1995–12 March 1996
53	II. Yılmaz Government	ANAP-DYP	12 March 1996–08 July 1996
54	Erbakan Government	RP-DYP	8 July 1996 – 30 June 1997
55	III. Yılmaz Government	ANAP-DYP-DSP	30 June 1997 – 11 January 1999
56	V. Ecevit Government	DSP	11 January 1999–28 May 1999
57	VI. Ecevit Government	DSP-ANAP-MHP	28 May 1999–18 November 2002
58	Gül Government	AKP	18 November 2002–11 March 2003
59	Erdoğan Government	AKP	14 March 2003 – ...