



GENDER EQUALITY AND WOMEN'S RIGHTS

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I. LEGAL FRAMEWORK

Convention on the Elimination of All Forms Of Discrimination Against Women (CEDAW) entered into force in 1986.

The Optional Protocol to the Convention entered into force in 2003.

Principle of Equal Opportunities

Constitution

Art.10 (2): Men and women have equal rights and the State is responsible to implement these rights.

Art.41: (See above)

Art.90: (See above)

Turkish Criminal Code

Principle of Equality Before Justice and the Law

Article 3 (2)

During the implementation of the Criminal Code; no discrimination among persons shall apply and no privilege may be granted based on race, language, religion, sect, nationality, colour, sex, political or other views or ideas, philosophical beliefs, national or social origin, birth, economic or other social status.

Turkish Criminal Code

Solicitation

Article 38(2): In case of solicitation to commit offence by using the power originating from lineage (antecedent/descendent) relation, the sentence of the soliciting person is increased from one third to one half.

The lineage relation is not sought for increase of sentence pursuant to the provisions of this subsection in case of solicitation of minors to commit offence.



Turkish Criminal Code

Statute of Limitations

Article 66(6) : In offenses committed against the minors by the antecedents or the persons who hold control or power on these persons, the statute of limitation starts to run from the date on which the minor reaches the full age of eighteen.

Crimes Against Humanity

Article 77: The following acts inflicted systematically against a civilian group of the population in line with a plan with political, philosophical, racial or religious motives shall constitute crimes against humanity:

- f) sexual assault and sexual abuse of children.
- g) impregnation by force.
- h) forced prostitution.



Turkish Criminal Code

Trafficking in Human Beings

Article 80 : A person who procures or kidnaps persons or takes or transfers persons from one place to another or harbours persons with a view to forcing them to work, or provides a service, or in order to subject them to slavery or similar, or donate their organs by exerting threats, pressure, force or violence, by abusing their authority, by deceit or by obtaining consent by taking advantage of the helplessness of such persons, or opportunities to control them shall be penalised.

Turkish Criminal Code

Art.81 - Intentional Homicide (See above)

Art.82 - Qualified Intentional Homicide (See above)

Art.84 - Directing to suicide (See above)

Turkish Criminal Code

Art.86: Intentional Injury

In case of the commission of deliberate injury crime

- a) against an ascendant or descendant relative, a spouse or a sibling
 - b) against people who cannot defend themselves physically or mentally.
- sentence shall be aggravated.

Turkish Criminal Code

Art.87: Heavy Injury

In the following cases sentences are aggravated:

(1) If deliberate injury act

a) caused the weakening of senses or functioning of one of the organs

d) caused a situation of life danger

e) committed against a pregnant woman and caused premature birth

(2)

c) loss of ability to speak or give birth

d) lasting disfigurement of the face

e) committed against a pregnant woman and causing miscarriage



Turkish Criminal Code

Article 94 - Torture (See above)

**Article 95 – Torture aggravated by its consequences
(See above)**



Turkish Criminal Code

Article 96 – Torment (See above)

Article 99 - Causing Abortion (See above)

Article 101 – Sterilisation (See above)

Turkish Criminal Code

Sexual Assault

Art.102: (1) Any person who violates the physical integrity of another person by means of a sexual act shall be sentenced to imprisonment from 2 to 7 years upon the complaint of the victim.

(2) The commission of the act by means of inserting an organ or other object into the body is defined as the qualified version of this crime and the criminality is aggravated.

(3) In case:

- a) Against a person who is physically or mentally incapable of defending him/herself,
- b) By a breach of duty and/or abuse of official status,
- c) Against a person of first, second or third degree blood relation or a relative by marriage,
- d) By using a weapon or with the cooperation of more than one person, sentence imposed in accordance with the paragraphs above shall be increased.

Turkish Criminal Code

Sexual harassment Article 105

(1) A person who sexually harasses another shall be imprisoned or fined upon a complaint by the victim.

(2) In cases where these acts are committed through abuse of position of influence arising from a hierarchy, a relationship of service, training or education, or due to intra-family relations, or by taking advantage of a shared workplace, the sentence imposed by the above paragraph shall be increased by one half.

Turkish Criminal Code

Deprivation of the Freedom of the Person

Article 109: (1) A person who unlawfully deprives the freedom of another person to go or to stay somewhere, shall be sentenced.

(3) If this crime is committed against:

e) antecedent or descendant relatives, or spouse of the person the sentence shall be doubled.

(4) If this crime is committed with a sexual intent the sentence shall be increased by half.

Turkish Criminal Code

Prevention of education and training

Art.112 (1) The use of force or the threat of any kind of illegal act

(a) Prevention of any kind of education and training activities established by the government or being implemented with the permission of public authorities shall be penalised.

Turkish Criminal Code

Discrimination

Article 122 (1) A person who applies discrimination on grounds of language, race, colour, gender, disability, political ideas, philosophical beliefs, religion, sect or other reasons; by (a) Preventing the sale or transfer of personal property or real estate or the performance or enjoyment of a service or who makes the employment of a person contingent on one of the conditions listed above shall be sentenced to imprisonment from 6 months to 1 year or a judicial fine.



Turkish Criminal Code

Prostitution

Art. 227 (1) Anyone who encourages or facilitates a child to prostitution or who prepares or shelters with this purpose or who acts as an intermediary for the child to engage in prostitution shall be sentenced to imprisonment from 4 to 10 years or a judicial fine.

(2) Anyone who encourages, facilitates someone to prostitution or who acts as an intermediary for someone to engage in prostitution or provides a place for this act shall be sentenced to imprisonment from 2 to 4 years or a judicial fine. To profit from the income of the person who is forced into prostitution for partial or complete financing of living shall be considered as encouragement to prostitution.

(4) The sentence of a person who makes another person engage in prostitution by the use of force, threat, deceit or by taking advantage of his/her desperation shall be increased by half to double.

(5) If the crimes described in the provisions above are committed by spouse, descendant relatives, descendant relatives in law, sibling, adopter, legal guardian, supervisor, teacher, other people who are obliged to protect and supervise or by abusing the power gained by a public service or service relation, the sentence shall be increased by half.

(8) A person who is forced into prostitution shall receive cure or therapy.



Turkish Criminal Code Maltreatment

Art.232 - (1) Anyone who maltreats any other person who lives in the same dwelling shall be sentenced to imprisonment from 2 months to 1 year.

(2) Anyone who abuses the discipline authority on someone under his/her guidance, or obliged to raise, to get educated, care, preserve or to teach a profession or craft gained from the disciplining right shall be sentenced to imprisonment of up to 1 year.

Violation of Obligations Derived from Family Law

Art. 233 - (1) Anyone who does not execute the obligations of nursing, education or support derived from family law shall be sentenced to imprisonment of up to 1 year.

(2) Anyone who leaves his wife knowing that she is pregnant or leaves the women he lives with and has impregnated in a desperate situation shall be sentenced to imprisonment from 3 months to 1 year.

Turkish Criminal Code

Article 287 - Unauthorized Genital Examination

(1) A person who without the permission of the authorised judge or prosecutor refers a person for genital examination or performs such an examination shall be sentenced to Imprisonment from 3 months to 1 year.

Criminal Procedure Code

Examination of women

Article 77 - Where possible and requested by the woman, the physical examination shall be conducted by a female doctor.

Judicial Control

Article 109 :(3) Judicial control, includes the suspect to be responsible to one or more obligations below:

(i) to guarantee to fulfil family responsibilities and to regularly pay the maintenance allowance according to legal provisions.

Criminal Procedure Code

Hearing the aggrieved and complainant parties

Article 236 -

(2) Child or the aggrieved party, whose mental health is disturbed because of a crime committed, may be listened to once in the investigation or prosecution of that crime.

(3) During the hearing of aggrieved children or other aggrieved parties whose mental health are disturbed because of a crime committed, as witnesses, an expert in the field of psychology, psychiatry, medicine or education shall be present.”



Law on Enforcement and Implementation of Criminal Procedure Code (Law no: 5275, O.G: 29.12.2004, 25685)

Basic principle of execution

Article 2 (1) The rules about the execution of penalties and security measures shall be applied without any discrimination or granting any privilege on the basis of race, language, religion, sect, nationality, colour, sex, political or other views or ideas, philosophical beliefs, national or social origin, birth, economic or other social status.



LAW ON ENFORCEMENT OF PENALTIES AND SECURITY MEASURES

Detention Institutions for Women

Art.10 - Detention institutions for women are institutions where female convicts are imprisoned and that are established according to the Articles 8 and 9 of this Law.

In these institutions, the internal security forces consist of women. If the institutions established for this purpose are insufficient, then female convicts shall be imprisoned in locations separate from the male convicts.

Open Detention Institutions

Art.14 - (1) Open detention institutions can be established as open detention institutions for women depending on need.

LAW ON ENFORCEMENT OF PENALTIES AND SECURITY MEASURES

Art.16: The delay of imprisonment due to illness

(4) Imprisonment is delayed for pregnant women and for those who have given birth less than six months ago. If the child has died or is given for adoption, the sentence shall be served two months following the birth.

Art.65 Sheltering the dependent children of the convict

(1) Children whose mothers are convicts, between the ages of 0-6 may stay with their mothers if they do not have any other guardians. Such children shall be sheltered in Agency for Social Services and Child Protection or nurseries of other institutions within the detention institution during daytime.



LAW ON ENFORCEMENT OF PENALTIES AND SECURITY MEASURES

Art.72 - Nutrition of the convict

(4) Appropriate food shall be given to children staying with their mothers and to nursing mothers.



LAW ON ENFORCEMENT OF PENALTIES AND SECURITY MEASURES

Special Execution Procedures

Art. 110 (2)(as amended by 5485/1-6/4/2006) Provided that all legal responsibilities are reserved, reinstating the condition prior to the crime or reimbursing the damage caused due to crime for the imprisonment;

(a) The sentence for women or senior citizens above the age of 65 may be served in their residence for six months or less.

Institutions where arrest decisions are implemented

Art.111 (3) Detention houses for women, children and minors can be established separately. Detainees are sheltered as grown ups, women, minors and children based on their crimes at the detention houses or due to lack of financial means they can be sheltered in the divisions for the detainees in detention institutions.



LAW ON THE PROTECTION OF THE FAMILY

(O.G. 17 April 1998, No. 23233)

Provisions concerning domestic violence are stipulated in this Law. This Law regulates protection decisions to protect the aggrieved parties and the sentences passed in case of the violation of those decision made by the Family Court Judge when woman or children, who are exposed to violence, apply in person or writing to the Public Prosecutor or by the application of someone who is aware of the domestic violence to a police station. This matter is not dependent on complaint and the sentence is from three to six months. Judge of family court may decide on one or more of the precautionary measures or other precautionary measures listed below, as appropriate.



The spouse may not:

Act in violence or frightening behaviour against the spouse or children or other family members living in the same house.

Approach the house or the work place where the spouse and children are staying after being banned from the common house.

Damage the belongings of the spouse, children and the other family members living in the same house.

Disturb by communicating to the spouse, children or other family members living in the same house.

Preliminary Draft Law for amending the Law on the Protection of the Family is under discussion.

TURKISH CIVIL CODE

Surname of women

Art. 187 - Married women shall bear their husband's name. However, they can make a written declaration to the Registration Office upon signing the matrimonial pact, or at the Registration Office after the marriage, if they wish to keep their maiden name together with their surname.

Profession and Job of Spouses

Art. 192 - Neither of the spouses needs to obtain the permission of the other when choosing a profession and job. However, in the selection of job and profession the peace and the interest of the marriage union is taken into account.



Property regime between spouses

Art. 202 - Regime regarding the ownership of acquired property is essential between spouses.

Adoption without being married

Art. 307 - A single person can adopt solely if he or she is at least thirty years old.

If Mother and father are married

Art.336 - As long as the mother and the father are married, the custody of children is shared equally between the mother and the father. If they separate or divorce, the judge may decide to give the custody of the children to one of the spouses. In the event of the death of one of the spouses, custody belongs to the surviving spouse.



If Mother and Father are not married

Art. 337 - If mother and father are not married the custody belongs to the mother.

Inheritance of the family residence and property by the surviving spouse

Art. 652 - If there is grounds for it, upon the request of the surviving spouse or other legal heirs, the right to reside or usufruct can be granted in lieu of ownership.

MUNICIPALITY LAW

In the clause (a) of the Article 14 of the Municipality Law of 13 July 2005, it is stated that;

a) Metropolitan Municipalities and municipalities that have a population of over 50.000 shall build shelters for women and children.

BY-LAW ON THE PRINCIPLES AND PROCEDURES OF RADIO AND TELEVISION BROADCASTS

In the (t) and (u) clauses of Article 5 of the By-law (O.G.17 April 2003, No. 25082), it is stated that

t) Broadcasts that exploit sexual emotions, indicate individuals as sexual objects, demote the human body to an impulse element, include intimate words and behaviours which cannot be exposed in social life shall not be allowed.

u) Discrimination, physical and psychological violence against women, weak and minors shall not be encouraged. Broadcast that legitimises, simplifies and provokes subjects like violence, inside the family, beating, sexual harassment, rape, approves inequality between the family members, ignores the rights of women to assent, approve and represent shall not be allowed.



CIRCULAR ON MEASURES TO BE TAKEN TO PREVENT ACTS OF VIOLENCE AGAINST CHILDREN AND WOMEN AND HONOUR AND CUSTOM-MOTIVATED CRIMES

In spite of measures taken at the national level, and the international obligations, violence against women, which is a social problem, is at its gravest in the form of “honour and custom-motivated murders”. In 2005, a parliamentary commission has been established for “Investigating the Reasons Behind Honour and Custom-Motivated Murders and Violence Against Women and Children, and Identifying the Measures to be Taken”.

The commission has completed its work and issued a report, which was discussed in the General Assembly of the Parliament.

The Report puts forth the vital tasks to be carried out by social bodies for the prevention of such crimes and changing the sentences together with the traditional mind-set on the issue.

Within the framework of this Report, the Prime Ministry Circular no.26218 (2006/17), dated July 4, 2006, has been issued to coordinate the activities of the related governmental institutions, universities and the media on the topic of “The Measures to be Taken on the Prevention of Violence Against Women and Children, and Honour and Custom-Motivated Crimes”.

Although the mentioned circular is about the implementation of solutions and recommendations to prevent violence towards children and women, and the honour and custom-motivated murder; both the measures that need to be taken and the educational activities towards enhancing equality of genders in the society have an important role.

II. INSTITUTIONAL CAPACITY

GENERAL DIRECTORATE ON THE STATUS OF WOMEN

Established in 1990

Its organisational Law was enacted in 2004 and it was restructured
Affiliated to the Prime Ministry

Objectives:

- To protect and develop women's human rights
- To strengthen women's social, economic and political status
- To enable women to benefit equally from rights, opportunities and possibilities.

Departments:

Department of Strengthening Women's Economic Status

Department of Promoting Women's Social Status

Department of Foreign Relations

Department of Communication, Documentation and Publication

Department of Human Resources and Support Services

Department of Promoting Strategy

- 40 personnel
- Studies**
 - Legal Studies
 - Coordination Activities
 - Awareness Raising Activities
 - International Relations
 - Projects
- Responsibilities:**
 - To develop strategies, plans and programs,
 - To contribute to the policy making
 - To examine laws and administrative regulations from a gender equality perspective
 - To work for the prevention of all forms of violence
 - To promote gender equality
 - To develop gender segregated statistics
 - To conduct projects and research, at national and international levels

CONSULTATIVE COMMITTEE ON WOMEN STATUS

- Law on Organisation and Responsibilities of the General Directorate on the Status of Women (OG: 4 November 2004, No: 5251)
- Public Institutions, NGOs, Universities
- The main aim is to improve gender mainstreaming.
- The first meeting has been recently held.

COMMISSIONS FOR IMPROVING STATUS OF WOMEN

- Since 1996, Education, Health, Employment, Law Commissions on Women, which were established by NGOs, have been working in cooperation with GDSW.
- In February 2006, International Relations Commission, Environment and Natural Disaster Commission and Media Commission have been established. Employment Commission was renamed as Employment and Entrepreneurship Commission.
- All Commissions held meetings in May 2006 under the coordination of GDSW

III. ACTIVITIES FOR STRENGTHENING GENDER EQUALITY

PROMOTING GENDER EQUALITY PROJECT

Implemented by GDSW

The overall objective is to promote gender equality and protection of women's human rights in Turkey.

Total Budget : 2 million Euro

Duration : 2 years

Component 1: Institutional Capacity Building

To strengthen the *National Machinery's* (NM/ KSSGM) ability to mainstream gender issues into all public policies with the participation of central and local authorities and NGOs and to develop a model for Gender Equality Body.

Component 2:

Combating Domestic Violence Against Women

To strengthen the capacity of all stakeholders to eliminate domestic violence against women through making research for filling knowledge gaps, producing better and more holistic governmental policies on the basis of this research, establishing a database model for following the changes and developing service models and various awareness and in-service training programme modules by taking into account the best practices in selected EU countries.

Gender Component of 4th Country Programme by UNFPA

- Political and budgetary commitment increased and enabling laws, policies, plans and budgets for the social sector adopted and implemented effectively for women.
- Awareness of policymakers, decision makers and the media increased on combating violence against women.
- Capacities strengthened at both national and local levels for reporting on, protecting and enforcing the rights of women

"THE PROJECT OF SHELTERS FOR WOMEN SUBJECT TO VIOLENCE"

By the Ministry of Interior and UNFPA
(8 new shelters will be established)

RECENT ACTIVITIES FOR COMBATING VIOLENCE AGAINST WOMEN

The first meeting in the context of the Prime Ministry Circular issued to coordinate the activities of the related governmental institutions, universities and the media on the topic of “The Measures to be Taken on the Prevention of Violence Against Women and Children, and Honour Crimes”. was held on September 8, 2006 with the parties described in the Circular.

SHELTERS FOR THE WOMEN SUBJECTED TO VIOLENCE

Total 30 SHELTERS

- 17 Women Guest Houses affiliated to the Agency for Social Services and Child Protection (SHÇEK). The total capacity is 325.
- “Pursuant to the Regulation on the Women Guest Houses opened by the Public Institutions, Foundations and Private Legal Persons” 2 shelters were established. The total capacity is 43.
- 9 foundations/units/departments belonging to private and public institutions, providing services for the women subjected to violence are active.
- 2 shelters in Ankara and Istanbul established by NGOs for the victims of human trafficking.

COMMUNITY CENTERS

- To provide social services with co-operation of public institutions, local authorities, NGOs and universities especially for women, children and youth.
- Some examples of their programs:
Mother and Child Training Program
Women's Human Rights Program
Supporting Fatherhood Training Program

CRISIS INTERVENTION UNITS

- Interdisciplinary efforts have been accelerated in order to prevent suicide incidents among women which have been observed recently in some regions of Turkey.
- The Ministry of Health has been conducting a special training program on this issue for general physicians, psychologists and social service workers since 2004.
- Another program has been developed to provide psycho-social support in the emergency service for suicide attempts
- In 31 provinces where suicide attempts are higher in proportion, special units have been set up in hospitals for prevention of such attempts.

AWARENESS-RAISING

To transform the general mentality of the public.

With the collaboration of the Turkish Armed Forces visual materials on violence against women has been distributed in 600 garrisons in Turkey.

Training materials on Gender Equality and violence against women were also prepared to be used in the lectures for the recruits.

CAMPAIGNS

“STOP VIOLENCE AGAINST WOMEN”

BY GDSW & UNFPA

“NO TO DOMESTIC VIOLENCE!”

BY HÜRRİYET NEWSPAPER

.

IN-SERVICE TRAINING

- For judges and public prosecutors “Violence Against Women in Society” symposium (2002)
- For judges and public prosecutors “Presentation and Implementation of New Civil Code” (2002), Human Rights (including CEDAW) (2004), “Presentation and Implementation of New Criminal Code” (2005), “Comparative Criminology with Experimental and Theoretical Dimensions: Domestic Violence Meeting” (2006) training programmes
- For judges and public prosecutors working in Family Courts, “Domestic Violence” (2006)
- For specialised intern medical doctors, “Reproduction Health Education”.

IN-SERVICE TRAINING

- SHCEK organised training programs on Gender Equality, Violence Against Women, Women's Human Rights for staff of women guest houses and community centres with co-operation of GDSW, Universities, NGOs, Bars etc.
- In Police Academies and in-service training programs for police, "Human Rights Lecture" is obligatory.
- In December 2005, "Gender sensitivity and media training program" was conducted for 60 experts of Radio and Television Supreme Council with the co operation of universities.
- For public officials and NGOs "Improving Women's Rights: Fighting against domestic violence" TAIEX seminar organised by EU & EUSG in July 2006.

NATIONAL TASK FORCE ON COMBATING TRAFFICKING IN HUMAN BEINGS

- Coordinated by Ministry of Foreign Affairs
- Related Ministries (Ministry of Interior, Ministry of Justice, Ministry of Health, etc) & NGO
- Has held meetings every 6 months since 2002
- National Action Plan approved by Prime Ministry in 2003

GDSW'S ACTIVITIES ON HUMAN TRAFFICKING

In accordance with this Action Plan, in order to protect the victims' human rights and provide them support and assistance, and to inform and raise the awareness of the broader public and media on the issue of trafficking,

Conference on “Trafficking in Human Beings: Determining Regional Necessities and Tendencies -The Role Of NGOs” (22-23 June 2006)

Georgia, Russia, Moldova, Azerbaijan, Ukraine, Uzbekistan, Kyrgyz Republic, Belarus, public institutions & NGOs specialized in fighting human trafficking

Strengthening Institutions in the Fight against Trafficking in Human Beings

(Implemented By Ministry of Interior, Turkish National Police)

Purpose: Prepare Turkey to meet the minimum standards for the elimination of trafficking in human beings as well as to strengthen the institutions dealing with trafficking, to adopt an anti-trafficking strategy and to implement sectoral action plans.

Budget: 1.2 million Euro

Duration: 18 months

PROJECTS BY IOM

Under the coordination of the Turkish Government, IOM is implementing Turkey's Counter Trafficking Program aimed at increasing identification of victims of trafficking, increasing prosecution of traffickers and raising public awareness to prevent trafficking.

Public Awareness Campaign

157 Helpline / "Have you seen my mother?"

"To develop local action plans against Trafficking in North-East Turkey

GENDER STUDIES AT UNIVERSITIES

- to establish networking and cooperation to mainstream the women's studies at the universities
- to develop of knowledge and experience on women's studies
- to initiate and support feminist research in academic and non-academic circles
- to publish newsletters, periodicals, and book on women's issues
- to organise special adult educationn programs and empowerment training for women,
- to establish co-operation and networking among centers, institutions, women's groups and initiatives.

Gender and Women's Studies Graduate Programs
(at 4 Universities)

Women's Studies Centre (at 13 Universities)

CAMPAIGNS

“LET GIRLS GO TO SCHOOL ”

By National Education Ministry and UNICEF

“SUPPORT THE BASIC EDUCATION PROGRAM”

By National Education Ministry and EU (MEDA)