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United Nations Division for the Advancement of Women**

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**Good Practices in Legislation on Violence against Women in Turkey and  
Problems of Implementation**

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\* *The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

## **I. Introduction**

The UN Secretary General's 2006 in depth study on violence against women indicates that while in many states have yet to adopt legislation that criminalizes all forms of violence against women, even existing legislation on the issue is often inadequate in its scope and coverage and may contain inappropriate or discriminatory definitions and remedies.<sup>1</sup> Until the end of the 1990s this was definitely the case in Turkey: m



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A campaign between 1996 and 1998 finally resulted in the enactment of a new law on domestic violence enabling a survivor of domestic violence to file a court case for a "protection order" against the perpetrator of the violence.<sup>3</sup>

.An extensive reform of the Civil Code took place in 2001, as a result of an intensive campaign run by more than 120 women's NGOs from all around the country, the widest coalition ever formed for a common cause since the emergence of the new f Tc 0.Tw ("pr91 Twve refortev TD -I

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only reference made by the EC concerning women in the penal code was related to honor crimes, but even that was unsatisfactory and misleading as it targeted only one of the articles in the penal code granting reduced penalties for perpetrators of honor killings<sup>6</sup> and completely ignored another article that served the same purpose.<sup>7</sup>

While the group's efforts were under way, a political crisis in Turkey led to early elections in November 2002, which resulted in a stunning victory for the newly formed religious right Adalet ve Kalkinma Partisi - AKP (Justice and Development Party). This development shook the political scene like an earthquake, as a religious right party gained the majority in parliament for the first time in Turkey's history. The Justice Minister of the newly formed AKP government refused to meet representatives of WWGPC for almost half a year. Faced with this dramatic setback and the persistent refusal of the new Minister of Justice to meet with members of the WWGPC, the group decided to transform its efforts into a massive public campaign through setting up a wider national Platform by the addition of other NGOs that supported its demands; increasing its lobbying efforts towards the members of the parliament; more systematic advocacy targeting the media and increased awareness raising on the issue throughout the country by organizing conferences and meetings.

The three-year campaign that triggered numerous, wide-ranging public debates and made frequent front page headlines in the media, occupied the public agenda in Turkey for three years, and generated the widest discussion and broke several taboos on issues related to women's autonomy over their bodies, sexual crimes and various customary practices that aim to control women's sexuality in Turkey. The main aim of the campaign was to transform the underlying philosophy and principles of the old Turkish penal code that constructed women's bodies and sexuality as belonging to their families, fathers, husbands and society; eliminate all articles in the old penal code that led to or supported violence against women and to ensure progressive definitions of sexual crimes. Throughout the campaign, advocates emphasized the *holistic* nature of their demands, stating that their aim was not the revision of a number of articles, but rather a complete reform of the penal code, overhauling the patriarchal framework of the code so as to legally recognize women's autonomy over their bodies and their sexuality and their right to protection from all kinds of violence within Turkish law.

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<sup>6</sup> Article 462 of the old Turkish penal code.

<sup>7</sup> Article 51 of the old Turkish penal code.



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consideration the specific circumstances, a Justice of the Family Court can pass one or more of the following rulings or take any other measures that are deemed appropriate:

**a.** Not to use violence or threatening behavior against the other spouse or children (or another

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However, women's organizations and feminist jurists continue to criticize the law on its inadequacies as it does not explicitly cover unmarried or divorced women and as it does not provide guidelines for the principle of urgent decision.<sup>10</sup>

**B. Reform of the Turkish Civil Code in 2001 : Equality in the family, matrimonial property regime, marriage age and forced marriages**

In 2001, the reform of the Turkish Civil Code brought forth full equality to women in the family. The reform came about as a result of a campaign by a very broad coalition of women's groups from all around the country. There was a strong resistance from the religious conservatives and nationalists in the parliament to the campaign, especially to the provisions regarding the equal matrimonial property regime. As a result of the campaign by women's groups, the opposing forces had to accept the new property regime, which entitles women to an equal share of the assets accumulated throughout the duration of the marriage.<sup>11</sup> However, due to a last minute law formulated by the opposition parties, this clause was deemed to be valid only for property acquired after January 1, 2002.<sup>12</sup> Women's groups are still continuing their advocacy efforts for the annulment of this law.

According to the Civil Code, the marriage age for women has been raised to 17 to prevent early marriages, which constitutes a form of violence against girl children. In case of forced marriage, women can apply to court for the annulment of the marriage within first 5 years of



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rights violations such as honor crimes, rape or abduction of women. Though the law was adapted from the Italian Penal Code of the time, it is noteworthy to state that this notion is shared by e tiTj -394.7 -19.5 -10-0.1007 Tc 0 .51 Tw (ridu ) influencof thOttoman and European Ce os.Tj 21.765 C



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A major achievement of the reform is the criminalization of marital rape. The law also brings measures to prevent sentence reductions granted to perpetrators of honor killings. Two major amendments have been made in regards to honor killings: Article 29 regulating “unjust provocations” has been limited in scope to “unlawful acts” and the justification to the article relates that the article cannot be applied to honor killings. Formerly, this article was used to grant perpetrators sentence reductions on the basis of the notion that violation of a man’s honor is a justification of murder. Furthermore article 82 on aggravated homicide has been changed to include “clause j: homicides by motivation of custom” as an aggravated



acquittals). Another significant finding in terms of procedural issues was that all applicants were examined more than once, which can be traumatic for the subject.<sup>19</sup>

The institutional framework falls short on many levels since there is no integrated and established state policy. In terms of shortage of support mechanisms, the most blatant example is the number of women's shelters. Even though the Local Administration Law stipulates the creation of shelters in municipalities with more than 50000 inhabitants, currently the total number of shelters in Turkey is 38. The General Directorate of Women's Status indicates that this number is expected to rise to 50 by the end of 2008.<sup>20</sup> There is not sufficient allocation of resources to complement the legal framework and advance implementation neither for state institutions nor as support to civil society. Even though there have been a limited number of attempts undertaken by Governorships to establish a coordinated intervention mechanism including law enforcement, social services, judiciary, and health official, together with women's organizations, they have been stuck in the planning phases.

## **V. Examples of Impact of the Legal Reforms**

While the necessary measures for effective implementation remain to be met, the legal reforms have led to subsequent positive developments in terms of precedent court cases. In addition, violence against women has become more of a topic of debate in the parliament and there have been further –though limited in scope and depth– initiatives by the government. Simultaneously, public and media attention to the issue has also increased, which has led to media campaigns and more mainstream awareness.

The campaign for the penal code reform and the subsequent amendment to sentence reductions granted to honor killing perpetrators (though not adequate), has resulted in life long prison sentences in a few recent court rulings on honor killings. In one case in Urfa, 6

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<sup>19</sup> Bora Büken et al., "Evaluation of the Examination Process of Sexual Assault Cases presented to the Forensic Medicine Department of Duzce Medical Faculty Between the Years 2000-2005", *Adli Bilimler Dergisi / Turkish Journal of Forensic Sciences*, 7 (1), (2008): 19- 30.

<sup>20</sup> The General Directorate of Women's Status, *The Status of Women in Turkey* (Ankara: 2008), <http://www.ksgm.gov.tr/kadindurumu.pdf> (Accessed May 2, 2008).

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months before the new law was adopted, the brother who strangled Emine to death for “going around with boys” was sentenced to life imprisonment, along with six other male relatives who received prison sentences for abetting.<sup>21</sup>

## **VI. Conclusion**

In the case of the legal reform process on violence against women in Turkey, a number of factors are striking as effective strategies and achievements: There has been a significant shift in the discourse and legal approach to violence against women in the last ten years. The uninterrupted and determined advocacy efforts of the women's movement over a period expanding two decades have been pivotal to the progress achieved. In addition to introducing considerably adequate provisions to address violence, the language and approach of the legislation has also cleared from discriminatory patriarchal language and has been simplified.

This is important as it increases women's access to the law, and serves towards a long term objective of transforming the attitudes of law and policy makers and relevant institutions. While it is disconcerting that the gap between the laws on paper and implementation remains vast, it should also be taken into consideration that all these reforms happened within a ten-year time frame, and there is yet time and room for more effective implementation. However, an institutionalized political will, and a coordinated comprehensive policy that includes all ministries with specific targets to eliminate violence against women within a defined time frame are essential to this process.