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Turkey



Turkey: women confronting family violence

“Generally, we live in fear. Fear of our fathers, brothers, and husbands. We are frightened because we experience violence from them... From now on, we don’t want to be exchanged. We don’t want to marry someone whose face we’ve never seen. We don’t want to be made a present of. We don’t want to stay uneducated. We don’t want to be married as children. We don’t want to live in continual fear of being punished for no good reason.”

Nebahat Akkoç, founder of KA-MER (Women’s Centre), a women’s group in Diyarbakır, Turkey, that works against family violence.

Introduction

Güldünya Tören named her new baby “Hope”. She knew that the two of them might not have long to live. After she became pregnant, she had refused to marry her cousin and was sent to her uncle’s house in Istanbul. There, one of her brothers gave her a rope and told her to hang herself. She escaped and begged for police protection, but was assured that her uncle and brother promised not to kill her. In February 2004, weeks after the birth, her brothers reportedly shot and wounded her in the street. From her hospital bed, she pleaded for the police to save her. She was left to face her murderers alone. Late at night, her killers entered the unguarded hospital and shot her in the head. Her life support machine was later turned off.¹

“Zeynep”’s partner stabbed her at least 52 times, in front of her seven-year-old son. He was not the only witness. At least 10 police officers watched the assault, which was photographed and videotaped by journalists. “They could have intervened, but apparently they did not have permission. What sort of permission is this! I find them guilty. When I saw the police had arrived I

was pleased, obviously they will save me. But they did not do anything,” “Zeynep” said. After her partner was charged with attempted murder, his relatives threatened to kill “Zeynep” and her lawyers.² The 10 police officers were initially



Güldünya Tören and Umur © private

suspended but returned to duty after the Ministry

¹ *Radikal* newspaper, 1 March 2004

² On April 5 2004 her husband was sentenced to twelve years and six months’ imprisonment, with an early release date of five years.

of the Interior determined that they had no case to answer.³

As in countries throughout the world, the human rights of hundreds of thousands of women in Turkey are violated daily. At least a third and up to a half of all women in the country are estimated to be victims of physical violence within their families. They are hit, raped, and in some cases even killed or forced to commit suicide. Young girls are bartered and forced into early marriage.

Violence against women is an abuse of the human rights of women and girls which violates rights such as the right to mental and physical integrity, right to liberty and security of the person, freedom of expression and the right to choice in marriage. Violence may lead to treatment amounting to torture, to cruel, inhuman and degrading treatment and in extreme cases, may violate the right to life. Violence against women prevents the full enjoyment of rights and fundamental freedoms such as the right to health and employment. States which fail to protect women's rights may also be held accountable for violations because they have failed to prevent violence, to ensure adequate penal sanctions and provide redress.

Husbands, brothers, fathers and sons are responsible for most of these abuses. Sometimes they are acting on the orders of family councils, gatherings of family or clan elders who decide the "punishment" for women deemed to have infringed traditional codes of honour. Tradition all too often serves as a pretext for acts of brutality against women for daring to choose how to lead their lives. The underlying cause of the violence is discrimination that denies women equality with men in every area of life.

Violence against women is widely tolerated and even endorsed by community leaders and at the highest levels of the government and

³ *Milliyet* newspaper, 8 March 2004; Amnesty International interview with Zeynep's lawyer in Adana, Turkey, November 2003.

judiciary. The authorities rarely carry out thorough investigations into women's complaints about violent attacks or murders or apparent suicides of women. Courts still reduce the sentences of rapists if they promise to marry their victim, despite recent moves to end the practice.

Individual women and groups working for human rights in Turkey have courageously exposed the culture of violence in which many women live and which is often invisible to the outside world. They help women to escape violent men and to hold their attackers to account. They confront the prejudices that hold women's protests and complaints about ill-treatment to be shameful to the family. They seek to bring together deeply divided communities. Threats and assaults, from the families of women they support, face them daily. Women they assist are just the tip of the iceberg.

Women should not face these challenges unsupported. The state has a duty to protect women from violence committed not only by agents of the state but also by private individuals and groups. Under international human rights law, states must exercise due diligence to secure women's rights to equality, life, liberty and security, and freedom from discrimination, torture and cruel, inhuman and degrading treatment. They must have policies and plans to fulfil these rights, to protect people from abuses of these rights, and to provide redress and reparation to those whose rights have been violated.

In Turkey, proposals on legal protection for women have been strengthened due to lobbying and campaigning by women's rights activists. 2003 saw important reforms debated and the repeal - in draft form - of parts of the Penal Code that discriminated against women. A draft revised Penal Code is yet to be passed by Parliament, reportedly around July 2004. Proposed reforms include restricting the power of the courts to reduce sentences imposed on perpetrators of so-called "honour crimes"; abolishing the postponement of sentences for

men who marry the women they abduct or rape; and not allowing as a legal defence the alleged “consent” of a child to rape. In two recent trials, sentences have been passed that reflect a new awareness within the judiciary of the horror of “honour killings”.⁴

Amnesty International is concerned that the government has failed to ensure the effective implementation of existing legislation and fears that further reforms will also be resisted by the courts and other parts of the criminal justice system. The police frequently fail to investigate or press charges against perpetrators of violence against women. Women are not encouraged to bring complaints against their attackers and receive almost no effective protection from vengeful husbands and relatives. Those responsible – including the heads of family councils – are rarely brought to justice. Shocking failures to uphold the law persist in courts that continue to blame women who have been attacked, raped or killed and to confer less responsibility on their attackers on grounds of honour.

This report is one of a series published as part of Amnesty International’s *Stop Violence against Women* campaign, which was launched in March 2004.⁵ The global campaign highlights the failure of countries around the world to prevent, investigate and punish violence against women. Through the campaign, Amnesty International joins the women and men who have fought against this violence, some of whom have achieved dramatic changes in laws, policies and practices. Amnesty International seeks to show how the human rights approach can galvanize the state, the community and individual men and women everywhere to confront and overcome violence against women.

⁴ The Turkish version of this report uses the preferred term *töre cinayetleri*, the literal translation for which is ‘custom murders’. The English translation will use the conventional ‘honour killings’ (*namus cinayetleri*).

⁵ See Amnesty International’s report, *It’s in our hands – Stop violence against women*, March 2004 (AI Index: ACT 77/001/2004).

In drawing attention to human rights violations against women in Turkey, Amnesty International does not suggest that violence against women is peculiar to Turkey. Nor does it wish to focus what the Special Rapporteur on violence against women has described as “the arrogant gaze of the outsider” on cultural practices in Turkey.⁶ Throughout the world, violence against women is excused on grounds of love, jealousy, passion, honour or tradition. Amnesty International believes that none of these can ever justify violence against women. Amnesty International’s research and campaigning are based on concerns identified by human rights defenders in general, and women’s rights activists in particular, within the country and the changes they are advocating. The cases of individual women who have suffered violence in the family are featured in the report. However, its recommendations are focused on the reforms of government systems and structures that are needed to protect all women from violence and on the implementation of such reforms.

In this report, Amnesty International calls for women who have suffered violence to be able to enforce their rights to protection, reparation and redress. In recommendations to the government, the report calls for violence against women to be prevented and wherever that fails, to be recorded and monitored, and for the police, judiciary and other officials to act promptly and effectively in response to allegations of, or threats of, violence against women. Many more shelters are needed for women fleeing violent partners or families. Such women should have prompt access to judicial mechanisms and appropriate health care. The authorities must cooperate with women’s rights groups and other non-governmental organizations (NGOs) in ending the restrictions on women’s rights to make decisions about their lives – their choice of partner, how they express their sexuality, their mobility and access to economic and social rights, their engagement in political life, their right even to leave the house.

⁶ The UN Special Rapporteur on violence against women, Commission on Human Rights, 59th session, 6 January 2003, *UN Doc. E/CN.4/2003/75*.

This report draws on Amnesty International's own research and academic research on Turkey, including during visits to Turkey in June and July 2003, and on information from Turkish NGOs, lawyers and the media. The Turkish section of Amnesty International was also involved in the production of the report. There are considerable difficulties for research in this field, particularly in making direct contact with abused women. Amnesty International has worked with women who, for fear of being ostracized or accused of "dishonour" or because they do not feel entitled to speak about the violence they have suffered, have found it difficult to protest at their ill-treatment. In spite of the obstacles, many do find the courage to speak out. Their bravery deserves the recognition and support of their government and the international community.

The names of the survivors of violence whose cases have been highlighted in this report have usually been changed and are in quotation marks. The exceptions are adult women who have consented to their names being used. Lurid and sensationalist press coverage of violence against women in Turkey frequently humiliates its victims and increases their suffering. Amnesty International has used the real names of women and girls who have been killed.

What is violence against women?

"We talk to women and we ask them, have you experienced violence? They say no. Then we ask, have you ever been slapped? Yes, of course. Have you ever been beaten? Yes, of course. They tend to understand violence as something that requires you to go to hospital."

Women's activist in Istanbul⁷

Defining violence against women

The UN Declaration on the Elimination of Violence against Women⁸ defines violence

against women as "*any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life*" (paragraph 1). Recent interpretations of this definition also include "*the withholding of economic necessities from the victim*".⁹

According to the Committee on the Elimination of Discrimination against Women, gender-based violence against women is violence "*directed against a woman because she is a woman or that affects women disproportionately*".¹⁰

In its preamble, the Declaration describes violence against women as "*a manifestation of historically unequal power relationships between men and women*" and as one of the "*crucial social mechanisms by which women are forced into a subordinate position compared with men*".

The World Health Organization has defined partner violence as any behaviour within an intimate relationship that causes physical, psychological or sexual harm, including:

- Acts of physical aggression, such as slapping, hitting, kicking and beating
- Psychological abuse – such as intimidation, constant belittling and humiliation
- Forced intercourse and other forms of sexual coercion
- Various controlling behaviours – such as isolating a person from their family and friends, monitoring their movements, and

⁹ Radhika Coomaraswamy, Special Rapporteur on violence against women, Report to the Commission on Human Rights, UN Doc. E/CN.4/2003/75, 6 January 2003, para.30.

¹⁰ Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 84 (1994), para. 6.

⁷ Amnesty International interview, July 2003.

⁸ G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993).

restricting their access to information or assistance.¹¹

In Turkey, violence against women by family members spans the spectrum from depriving women of economic necessities through verbal and psychological violence, to beatings, sexual violence and killings. Many acts of violence involve traditional practices, including “crimes of honour”, forced marriage, including early marriage, *berdel* (the barter of women to avoid paying dowries and other marriage expenses) and *beşik kertmesi* (a form of arranged marriage in which families barter newborn daughters, forcing them to marry as soon as they are considered old enough). Some women who have apparently committed suicide have in fact been killed or forced to kill themselves by family members. Although men may also be subjected to family violence, the vast majority of victims are women. Focusing on physical abuse can hide the range of other forms of violence used against women, just as concentrating solely on “crimes of honour” can deflect attention from the routine violence that many women suffer every day. In addition, although many women conform to the expectations of their family and community and are not subjected to physical violence, they remain constantly under threat. The example of other women who have been ostracized, beaten or killed serves as sufficient warning to restrict their behaviour and limit their life choices.

The scale of violence

Statistical information about the extent of violence against women in Turkey is limited and unreliable. As in many other countries, there have been no concerted efforts to learn its extent. In 1994 there was a public outcry at findings by the Office for the Status of Women that more than 40 per cent of men believed it acceptable to

¹¹ World Health Organization, *World Report on Violence and Health*, Geneva, 2002. (http://www.who.int/violence_injury_prevention/violence/world_report/wrvh1/en/)

“discipline” women and girls with violence. In the 2000 census, questions about violence against women were not included.

Amnesty International believes that governments’ first measures towards eradicating violence against women should include a comprehensive recording and statistical monitoring of its prevalence, no matter how intractable the problem seems.

Across the world, an estimated one in three women has been beaten, coerced into sex or otherwise abused in her lifetime. Usually the abuser is a member of her own family or someone known to her. Between 40 and 70 per cent of murdered women are killed by an intimate partner.¹² A series of small scale studies in Turkey suggest that rates of violence against women could be similar or even higher.

- Of women who rang an emergency telephone help line, 57 per cent had experienced physical violence, 46.9 per cent sexual violence, 14.6 per cent incest, and 8.6 per cent rape.¹³
- A 1995 survey among women living in squatter housing (*gecekondü*) in the capital, Ankara, found that 97 per cent were assaulted by their husbands.¹⁴
- A survey of middle and upper-income families in 1996 found that 23 per cent of women said their husbands were violent towards them when initially questioned, but that this figure rose to 71 per cent when

¹² Heise, L. Ellsberg, M. & Gottemoeller, M. ‘Ending Violence Against Women’. Population Reports, Series L, No. 11. Baltimore, Johns Hopkins University School of Public Health, December 1999, p.1; World Health Organization *World Report on Violence and Health*, p.118.

¹³ This survey was of telephone calls by 1,702 women to women’s organization KA-MER between 1999 and 2003

¹⁴ *Women in Turkey 2001*, General Directorate on Women’s Status and Problems, Ankara, August 2001, p.112. In a study carried out by the Women’s Solidarity Foundation, of the women questioned, 46.8 per cent reported being subjected to “mild” forms of violence from time to time by their husbands; 34.6 per cent said their husbands used violence of “medium severity”, while 15.6 per cent reported being frequently subjected to violence.

they were asked questions about specific types of violence.¹⁵

- Another study estimated that 58 per cent of women suffered family violence, not only at the hands of husbands, fiancés, boyfriends and brothers, but also the husband's family, including his female relatives.¹⁶
- Of a group of middle and upper class women, 63.5 per cent were found to have experienced some form of sexual assault.¹⁷
- In one study, out of 40 women who suffered violent deaths, 34 died at home, 20 were found hanged or poisoned, 20 showed clear signs of having been murdered, and 10 had experienced family violence before their deaths.¹⁸
- A survey at community health centres in the city of Bursa, northwest Turkey, found that 59 per cent of women were victims of violence.¹⁹
- A survey of 1,259 women, conducted by *Mor Çatı*, the Purple Roof Foundation, between 1990 and 1996, found that 88.2 per cent lived in an environment of violence and that 68 per cent were hit by their husbands.²⁰
- According to another study of women in Ankara, 64 per cent experienced violence from their husbands, 12 per cent from

husbands they had separated from, eight per cent from partners they were living with, and two per cent from their husband's family. Sixteen per cent said their husbands had raped them.²¹

- A study of 599 women in the southeast found that 51 per cent had experienced marital rape and 57 per cent physical violence.²²

Speaking out

"He does this in front of everyone in the entire community. I can't stand seeing her, sitting outside her house crying, with blood running out of her mouth. Everyone can see and hear how he hits her and abuses her... He puts out cigarettes on her hands", a neighbour told a women's meeting in Izmit, appealing for support for "Emine". "Emine" did not meet anyone's eye. "He doesn't admire me... I don't know what to do. I tried changing the way I dress, but it doesn't seem to help", she said. "My husband likes women who look after themselves better... Sometimes he tells me I don't do enough housework."

The failure of "Emine"'s community to act, despite such blatant abuses, has effectively made her invisible. She has taken the first step, however. She has spoken out. Now it is up to the authorities to make her voice heard.²³

Discrimination and violence against women

Discrimination against women and violence are closely interlinked. In fact General Recommendation 19 of the Women's Committee

¹⁵ *Women in Turkey 2001*, General Directorate on Women's Status and Problems (*Türkiye'de Kadın*, TC. Başbakanlık Kadının Statüsü ve Sorunları Genel Müdürlüğü), Ankara, August 2001, p.113.

¹⁶ Symposium on Violence Against Women and Medical Profession, Ankara Chamber of Physicians, 16-17 November 2002.

¹⁷ Ü. Sayın, N. Ziyalar, & İ. Kahya, "Sexual behaviour in educated Turkish women", *Conference Proceedings*, Institute of Forensic Sciences, Istanbul, September 2003.

¹⁸ C. Bütün, S. Sözen & M. Tok, "Evaluation of violence against women resulting in death", *Conference Proceedings*, Institute of Forensic Medicine, Istanbul, September 2003.

¹⁹ N. Ergin & N. Bilgel, "A survey to establish the situation re violence against women in central Bursa" ("Bursa İl Merkezinde Kadınlara Yönelik Şiddetle İlgili Durum Saptaması Araştırması"), Uludağ University Midwifery Department student survey in Bursa, *Journal of Nursing*, Turkish Nursing Association, 2001, (51): 1-2, p.10.

²⁰ Purple Roof Foundation, *My future in my hands*, (*Mor Çatı Kadın Sığınağı Vakfı, Geleceğim Elimde*), Istanbul, 1997, pp 34-35.

²¹ A study of 190 women who had experienced violence by the Antalya Women's Support and Solidarity Centre. 1995.

²² In *Women and sexuality in Muslim societies*, P. İlkaracan (Ed.), Women for Women's Human Rights, Istanbul, 2000.

²³ Amnesty International interview, 10 July 2003.

states that gender-based violence is a form of discrimination which gravely affects women's enjoyment of their human rights.²⁴ Discrimination against women starts at birth. In some areas, families barter their newborn daughters and force young girls into early marriages. In education, fewer girls than boys attend school or go on to higher education. In adult life, women face discriminatory treatment at home, in their communities, and in employment. The physical violence they face in their homes and communities can leave them traumatized, seriously injured or dead.

Although violence against women is universal, many women are targeted because of their ethnic origin, class, culture, sexual identity or HIV status. In Turkey, a culture of violence can place women in double jeopardy, both as victims of violence and because they are denied effective access to justice. Women from vulnerable groups, such as those from low income families or who are fleeing conflict or natural disasters, are particularly at risk.

The UN Development Fund for Women has found that cultural factors associated with higher levels of family and community violence include sexual double standards; rigid gender roles; lack of access to education; women's isolation and lack of support; community attitudes that tolerate physical 'punishment' of women and children; and acceptance of violence as an appropriate means of resolving conflict.²⁵

"If you haven't been able to get an education, it is not your fault – it is the government's."

Education Minister Hüseyin Çelik, addressing schoolgirls in Van, June 2003

For women, restricting their right to education restricts their access to information about their rights, in particular their right to choose how they

²⁴ For a fuller discussion of gender-based violence against women see 'It's In Our Hands: Stop Violence Against Women' AI INDEX: ACT 77/003/2004

²⁵ UN Development Fund for Women, *Not a Minute More: Ending Violence Against Women*, New York, 2003 (http://www.unifem.org/index.php?f_page_pid=207).

live, their right to be free from violence and their access to justice. According to UNICEF, the UN Children's Fund, 640,000 girls in Turkey are not receiving compulsory education, although women have the right to equal education in law.²⁶ Of the population aged 15 years and older, 77 per cent of women and 93 per cent of men can read and write. Boys are more likely than girls to be educated beyond primary school level.²⁷ Schoolbooks reinforce gender stereotypes of men in leadership roles and women doing housework.²⁸ The government is at least partially to blame for gender discrimination in education, according to UNICEF. With the support of UNICEF, in 2003 the Turkish government launched a campaign aimed at getting all girls into school.

The culture of violence against women in Turkey has indirect consequences for girls' education. Although all teachers have to serve in rural areas at the start of their careers, women are in general less likely to seek posts in rural schools, in some cases because they fear violence. This deprives rural children of female role models, whose presence in education might also encourage families to send their daughters to school.

Depriving girls of education constitutes, among other things, a form of economic discrimination. They are less likely to fulfil their potential in all areas of employment, including in politics. Men earn higher wages: women's salaries are between 20 and 50 per cent of those of men. Men own 92 per cent of all property and approximately 84 per cent of gross domestic production. Women are under-represented in

²⁶ UNICEF, *State of the World's Children 2004* (http://www.unicef.org/sowc04/sowc04_chapters.html)

²⁷ Hacettepe University & UNFPA, *Turkey Population and Health Survey (Hacettepe Üniversitesi Nüfus Etütleri Enstitüsü)*, 1998. In 1998, the percentages of women still studying compared to men were: at the age of 6 to 15 years, 62.6 per cent to 74 per cent; at 16 to 20 years, 19.6 per cent to 31.6 per cent; aged 21 to 24 years, 8.9 per cent to 14.7 per cent.

²⁸ N. Üstündağ, *A review of the 1-3 grade school books in Turkey according to human rights and gender equality criteria*, Women for Women's Human Rights, Istanbul, 2001.

political life. After the 2002 elections, only 24 out of 550 members of parliament elected were women. Calls by Kadın Adayları Destekleme ve Eğitim Derneği (KA-DER: the Association for Supporting and Educating Women Candidates), a women's organization that supports and educates women candidates, for political parties to put forward women candidates in local government elections in 2004, have received little response. Only one per cent of local government representatives elected in 2004 are women, and only one woman holds a ministerial position in the national government. Amongst other reasons, the high fees required of political candidates deter many potential women contenders.

In addition to women's impoverishment, which can be incidental to, or a result of, violence – which research from around the world shows to be an important factor in determining whether or not women will make the decision to leave a violent relationship – the health effects of violence can be disastrous. The Council of Europe adopted a recommendation in 2002 declaring violence against women to be a public and political problem and a major cause of death and disability for women aged between 16 and 44 years.²⁹ Women risk being killed, driven to suicide or injured, or suffering depression, chronic pain, psychosomatic disorders, reproductive health problems, unwanted pregnancies, sexually transmitted diseases, or other illness. The effects of violence can continue long after the abuse has stopped, and can be cumulative.

Marriage by force

Forced marriage, in contrast to arranged marriage, has been described as “*any marriage conducted without the valid consent of both parties and may involve coercion, mental abuse, emotional blackmail, and intense family or social pressure. In the most extreme cases, it may also involve*

²⁹ Council of Europe Recommendation 1582 (2002), Domestic violence against women. Adopted September 27 2002.

physical violence, abuse, abduction, detention, and murder of the individual concerned”.³⁰

A study in several provinces in east and southeast Turkey, where women's access to education and services is more restricted than in other parts of the country, found that 45.7 per cent of women were not consulted about their choice of marriage partner and 50.8 per cent were married without their consent. In the same study, the expectations of unmarried women that their families would arrange their marriage ranged from 57 per cent of women with no or incomplete primary education to 9.3 per cent of women with secondary or higher education.³¹

Men have used forced marriage to evade punishment for sexual assault, rape and abduction. The government has proposed removing from the draft new Penal Code the provision that has allowed men to escape or reduce their punishment for these crimes by marrying their victim. Contributing to the debate on removing this legal loophole, Minister for the Interior Abdulkadir Aksu reported in November 2003 that the law had allowed 546 men in 2002 and 163 men in the first four months of 2003 to receive reduced sentences after being convicted of “taking someone's virginity with the promise of marrying them”.³²

Without consent

A convicted rapist in Samsun, northern Turkey, was released from custody and his sentence of nearly seven years' imprisonment was postponed after he agreed to marry the 14-year-old girl he had raped. The girl told the

³⁰ Ain O Salish Kendra and Shirkat Gah, *Information Gathering Exercise on Forced Marriages*, submission by Interights to the Home Office Working Group, UK, March 2000. (<http://www.soas.ac.uk/honourcrimes/FMsubmission.htm>)

³¹ “Exploring the context of women's sexuality in Eastern Turkey” in *Women and sexuality in Muslim societies*, P. İlkkaracan (Ed.), Women for Women's Human Rights, Istanbul, 2000, p.237.

³² *Radikal* newspaper, Istanbul, 9 November 2003. The law has sometimes also been used as a means for young people to circumvent family permission in order to marry.

court that she could not walk around in her village or talk to anyone after the rape because she was so ashamed.³³

A woman from Urfa who had been beaten throughout the seven years of her marriage, returned to her father's family in another city. Her husband had broken several of her ribs and she was receiving medical treatment. When she learned that her father was planning to return her to her husband when she recovered, she drowned herself and her three children in the Euphrates river.³⁴

Forced marriage violates a woman's right to choose her partner, a right enshrined in the Universal Declaration of Human Rights³⁵ and provided for in the International Covenant on Civil and Political Rights³⁶ and the Women's Convention, to both of which Turkey is a state party. Moreover, the consequences may be severe: refusal can mean death. Women may have to submit to violence, and many who seek refuge with their families from violent partners are forced to return.

In some provinces, the practice of *berdel* continues. This involves, as noted, the exchange of girls – the girl from one family marrying the son of another (or from the same extended) family while his sister is given in marriage in return – to avoid having to pay 'bride prices' for the daughters.

Women are said to have been forced to marry into another family as compensation for a "blood feud" and in place of their family having a son killed. In other cases, men abduct a girl as revenge for a slight or wrongdoing by her family or an [intended] groom's family. This can have the result that the girl is no longer "acceptable" as a marriage partner.

³³ Reported in the bulletin of Flying Broom (*Uçan Süpürge*), an Ankara-based women's rights organization, December 2003.

³⁴ Amnesty International interview with a women's rights activist June 2003

³⁵ Article 16(2).

³⁶ Article 23(3).

Early marriage

"I was defending a case involving a girl who had been raped by a married man in a house she went to work in. The judge said to the man, 'Well, you son of a gun!' I was on my feet in protest, wanting to have the judge discharged from the case, but the girl's older brother wanted me to sit down again. He said, 'There is an old man who has agreed to marry her [despite this]. If the case goes on forever, he might change his mind.'"

A lawyer in Ankara³⁷

At the age of 13, "Mine" was sold for the purposes of marriage by her brother. A shepherd and her only living relative in the village, he had three children and "Mine" was another mouth to feed. The negotiations were made via neighbours in the village, "Mine" gave her "consent", and a small gold bracelet was put on her arm. The man, who bought her, and his father raped her. When her brother visited her in Istanbul, she was too ashamed to talk of the rape but did tell him she did not want to get married. He said she would get used to it in time. After three months imprisoned in a house, she was sold into prostitution and made to work on the streets for a month under threat of death. No "clients" responded to her pleas for help to escape, although a few paid her minder without having sex with her. She later worked in a nightclub, where she continued to beg for help from clients, despite threats from her minders. Finally a man with a daughter of her age allowed her to use his mobile phone. She arranged to meet a cousin and her family went to the police. The man, who had bought her initially, and his father were imprisoned and preliminary investigations against 20 other individuals were commenced.³⁸

Under Turkish law, the legal age for marriage is "having completed 17 years". A person under 18 is not of full legal age; in these cases his or

³⁷ Amnesty International interview, Ankara, September 2002.

³⁸ *Radikal*, 29 June 2003.

her family must give permission for the marriage. In extraordinary circumstances, a man or woman can also marry with the permission of a judge when they have "completed 16 years".³⁹ Under international human rights law, those aged under 18 years are defined as children. Forced and underage marriages are in breach of international legal standards and of Turkish law but the law is widely ignored in some areas of Turkey. Religious weddings (*imam nikahı*), not legally recognized and usually performed in addition to the civil law ceremony, are often carried out in illegal underage or polygamous marriages. Women not legally married may not be able to claim the protection of the 1998 Law for the Protection of the Family, although one of the aims of this law was to discourage early marriages. Child marriages by definition constitute forced marriages, as a child cannot be considered to have freely given consent.⁴⁰

The forced marriage of girls reinforces women's unequal status in society, reduces their life choices and leaves them vulnerable to violence. Early pregnancy is associated with adverse health effects for both mother and child. In the vast majority of cases, the girl's family arranges the early marriage. The lower her family's income and her level of education, the more likely she is to be forced into an early marriage. Ensuring girls' access to education is one of the most effective steps to end early marriage.

"My father didn't want me to go to school, so I was taken from school early (after three years)... At the place I worked, a manager encouraged me and I went back at 14 to get my primary school diploma. He was such an important person for me; he... gave me books to help me... I wanted to be a doctor, but I got married at 16 instead. When my husband hit me, I left the house and

³⁹ Articles 124 and 126 of the Turkish Civil Code

⁴⁰ The UN Committee on the Elimination of Discrimination against Women states that "*the betrothal of girls or undertakings by family members on their behalf... contravenes not only the Convention, but also a woman's right freely to choose her partner*" (General Recommendation 21, para. 38.).

*went to my parents' house. My father saw my husband going home that night and told me to go back before my husband and make dinner for him. I refused, and my father got very angry with me. Even though my father didn't know that my husband hit me, it wouldn't have mattered because my father hit my mother... But my husband respected my father so things improved a bit after that. I want my daughter to go to school and study."*⁴¹

Forced prostitution

The temptation for poor families to earn money from their daughters – through a "bride price" from a prospective husband - is high. In some cases prostitution has become another means of income. There are also cases in which families, either deliberately or through neglect, fail to ensure that the sale of their daughter to a potential husband does not end up with their daughter being internally trafficked for forced prostitution. In other instances families fail to protect children from sexual exploitation.

Girls most likely to be sold into forced prostitution are from low income families, demonstrating that their economic worth is valued more highly than the family's so-called "honour". Alternatively, some clients attempt to preserve children's virginity by sexually assaulting them orally, anally or digitally. This shameful practice allows children's bodies to be violated while what is prized by society, the hymen, remains intact.

Whose shame?

Scores of government officials, civil servants and soldiers are said to have paid two women for sex with 12-year-old "Zehra". In January 2003 the two women were arrested and 28 people were subsequently arrested and charged with "participating in the crime of... raping

⁴¹ Amnesty International interview, northwestern Turkey, 10 July 2003.

and holding with lustful feelings a 12-year-old girl for money, provoking and encouraging prostitution and detention". They included 18 officials. At one court hearing, a crowd of their relatives surrounded the court and shouted threats at the judge, court officials, "Zehra"'s lawyers, and observers from local human rights groups. The court released six of the accused on bail. At a later hearing, in May 2003, the remaining suspects were released to await trial. The public officials among them were permitted to return to their duties. Requests by lawyers acting for "Zehra" for the trial to be conducted elsewhere because of the threatening environment have not been met.

At the first hearing, "Zehra" had to give her testimony in open court, in full view of the men accused of raping her. No provision was made for her to give evidence in private, on videotape or from behind a screen. After protests from a number of bar associations and members of civil society in Turkey, later court hearings were closed to the press and public, but the damage had already been done. "Zehra" was not protected from sensationalist and prurient coverage of the trial, called the "shame case" by some sections of the news media, or from giving interviews to journalists. The case has deeply shocked the Turkish public, one newspaper calling it "humanity on trial".⁴²

The state's failure to recognize its duty of care towards "Zehra" was starkly demonstrated when a newspaper published a letter she had written to the Minister of Justice. "If your daughter was in my place, what would you do?" she asked him, in a letter in which she complained about her treatment by the authorities and asked for the perpetrators to be brought to justice quickly. She was summoned before the public prosecutor to make a statement and there were suggestions that she may be charged with "insulting or deriding a state official". After a public outcry, the

investigation was closed without charges being brought.

Lawyers and human rights advocates estimate that the case of 12-year-old "Zehra" represents merely the tip of the iceberg. Numerous girls from impoverished families in Turkey are caught in similar traps, facing unacceptably high risks of violence and human rights abuses, and then finding themselves further victimized by the criminal justice system, the news media and the government.

A culture of violence

Turkey has recently emerged from two decades of conflict in the southeast of the country between the Turkish armed forces and the armed opposition group, the Kurdistan Workers' Party (PKK). Over 30,000 lives were lost in the conflict and approximately one million people forcibly displaced. The state security forces carried out widespread destruction of property and villages. Thousands of human rights abuses, including unsolved murders and "disappearances", systematic torture, and severe restrictions on freedom of expression have left the population profoundly traumatized. The conflict has polarized and fragmented communities. Forced internal migration has destroyed livelihoods, eroded the agricultural sector and arrested development in the region.

The reform process gained momentum in August 2002 with improved access to legal counsel for detainees in police custody, the abolition of the death penalty, and allowing education and broadcasting in minority languages. Although most people in the west of Turkey were affected by the conflict to a lesser extent, restrictions on freedom of expression and non-violent dissent had been imposed throughout the country. Human rights defenders continue to call for the perpetrators of human rights abuses during the conflict to be brought to justice.

⁴² See *Radikal* headline, 26 February 2003

Crimes against women in the southeast have gone largely unpunished. Human rights violations, restrictions on freedom of expression, and impunity for the state security forces persist.⁴³ In a context in which the violence of state actors and armed oppositionists became normalized, women's access to justice for violence within the family was severely circumscribed, and continues to remain so.

Women are disproportionately affected by violence during and after conflicts. Levels of domestic violence also increase during periods of conflict. The effects of conflict endure long after the end of formal hostilities. Women who have been driven from their homes are at greater risk of violence from both state security forces and civilians. The burdens and tensions of living in a post-conflict society riven by forced internal migration, mistrust and destruction are increasingly placed upon women. Fear of the big city – its anonymity and the encounter with strangers – can harden attitudes that were less intractable in the village. Young women are claiming previously unknown freedoms for themselves, and choose relationships with men that make return to their families impossible without the threat of violence. Their choice of relationships can also make them vulnerable to violence from men who exploit their restricted options.

Those forced to leave the southeast to find work face poor living conditions in urban centres in the west and south. Cities are unable to cope with the extra burdens placed upon them by the influx of millions of displaced and economically disadvantaged migrants. In these conditions, women are more vulnerable to violence and more likely to be exposed to it. The authorities do not monitor rates of violence against women systematically across the country, or ensure that the infrastructure exists to protect women from

⁴³ See, for example, Amnesty International, *Restrictive laws, arbitrary application: the pressure on human rights defenders* (AI Index: EUR 44/002/2004); *From paper to practice: making change real* (AI Index: EUR 44/001/2004); *Concerns in Europe: Turkey* (AI Index: EUR 01/016/2003).

violence. Civil society groups, particularly outside urban areas, have insufficient capacity to take up these functions. Women affected by violence have been found to earn less and to be more likely to have periods of unemployment and high job turnover.

At school, 64 per cent of children are beaten by their teachers or school managers.⁴⁴ In one recent study, over 40 per cent of men on compulsory military service encountered physical violence.⁴⁵ Evidence suggests that people who use force and firearms in their work are more likely to use violence on their partners and children. Amnesty International was informed that the Ankara Bar Women's Rights Centre had published research on the wives of security officials who experience violence in the home,⁴⁶ of which the following account is exemplary:

"After marriage the beatings started. I got three reports from the Forensic Medical Institute which stated I was unfit for work for between five and seven days [these reports indicate reasonably severe physical or mental damage]. The court gave my husband a two-month restraining order [not to come near the house]. They also ordered that his guns be confiscated. However, [my husband is a policeman] and the police were the ones supposed to carry out the order and confiscate the guns. So these things didn't happen. He continued to beat me... He would beat me with a truncheon... I went to the police station once... [T]hey said they couldn't help me. 'Sister, your husband is a superintendent, what can we do?' they said, and sent me home... He holds a gun to my head and says he will kill me."

⁴⁴ *Radikal* newspaper, 26 April 2004, reported that Çukurova University Education Faculty had interviewed 280 teachers and 900 primary school students, and found that 50% of girls, and 75% of boys had been beaten.

⁴⁵ Research was conducted by the Aegean University, with the support of the European Union. "The role of lawyers in the Izmir Bar Association's Prevention of torture". December 2003, Izmir

⁴⁶ Amnesty International interview, September 2002.

Violence tolerated

“Of course he should hit you; who knows what you’ve done to deserve it.” (Brother)

“Cope with it a bit longer, it will change.” (On being locked in the house)

“I was beaten by your father as well. You don’t cross men.” (Mother)

Purple Roof Foundation, reporting on family responses to women’s complaints of violence.⁴⁷ Purple Roof has found that only one in three of the women they work with has the support of her family in combating the violence she endures at home

Women’s rights defenders struggle to combat community attitudes that are tolerant of violence against women, and are frequently shared by judges, senior government officials and opinion leaders in society. Even after legislative reforms have removed the legal sanction for discriminatory treatment, attitudes that pressure women to conform to certain codes of behaviour restrict women’s life choices.

Even within the ranks of those supposed to uphold human rights, there can be reluctance to take proactive steps to strengthen women’s rights. In June 2003 the all-male Executive Committee of the Izmir Bar Association closed the Izmir Bar’s own Women’s Rights Centre, reportedly on the grounds that it was not needed.⁴⁸ Groundbreaking work had been started by women lawyers at the Centre. They had provided training for police officers on violence against women and made progress towards a working relationship with representatives of the police and judiciary.

There is opposition at the highest levels of society to the proposed amendments to the Penal Code to stop rapists receiving reduced sentences if they marry their victims. Professor of Penal Law Doğan Soyaslan, a member of the Justice Ministry Penal Code Sub-Commission, was quoted as saying: “No-one marries someone who

is not a virgin. If something like this happens to a family then they will want the girl to marry the individual. To say otherwise is hypocritical. There are many men who would say, ‘If someone kidnaps my sister and doesn’t marry her I would kill them’... If I were a raped woman, I would marry the rapist. People get used to these things with time.”⁴⁹

In 2000, 50 per cent of a group of male university students⁵⁰ said that, if they found that their future wife was not a virgin, they would leave her immediately, throw her out onto the street, return her to her family, or even kill her. These views are not isolated.⁵¹

Even when laws change, practices persist that restrict women’s options. After the passage of a law forbidding forced ‘virginity testing’, a study at an Istanbul hospital found that 208 women “voluntarily” underwent a virginity test for “social reasons”.⁵²

*“On my wedding night I did not bleed. My husband cut his finger so there would be blood to show on the sheet. The next morning he took me straight to the doctor to have my hymen examined. Although my hymen was intact, he still sometimes treats me in a condescending manner. Until today, I still had no idea that it is natural for some women not to bleed.”*⁵³

“We live in a society in which some women consider their own lives to be less important than a tiny membrane,” Hülya Gülbahar, lawyer and

⁴⁹ *Radikal*, 23 October 2003.

⁵⁰ Study undertaken in Konya with 350 undergraduate students.

⁵¹ A survey of university students in Ankara found that 40 to 50 per cent of male students, and 18 to 36 per cent of female students, felt that women should be virgins when they married. Research undertaken by Ankara University’s Social Anthropology Dept. (İlbar, 2002).

⁵² N. Alkan, A. Baksu, B. Baksu & N. Göker, “Gynaecological examinations for social and legal reasons in Turkey: hospital data”, *Croatian Medical Journal*, 2002, 43(3), 338-341. The study was undertaken between 1999 and 2001.

⁵³ Report from a woman engaged in a women’s rights program in Turkey, cited in İlkkaracan & Seral, “Sexual pleasure as a woman’s human right” in *Women and sexuality in Muslim societies*, P. İlkkaracan (Ed.), Women for Women’s Human Rights, Istanbul, 2000.

⁴⁷ *Terror in the home (Evdeki terör)*, Purple Roof Foundation, Istanbul, 1995.

⁴⁸ Amnesty International interview with lawyers at the Women’s Rights Centre, 17 June 2003.

women's activist, told Amnesty International.⁵⁴

The consequences of violence in the home are far-reaching. Women often seem to internalize social attitudes justifying the violence against them. A number of studies in Turkey indicate low levels of self-esteem among women.

Most women believe they have less authority than men: one study found that in some areas of the country, nearly 90 per cent of those questioned believed the man to be the head of the household.⁵⁵

Many consider themselves less intelligent than men: more than 60 per cent of one group of rural women in another survey.⁵⁶

They even believe they deserve physical "punishment": more than 70 per cent in rural areas, according to one study.⁵⁷

In some cases, women are reported to have carried out their own "punishments" – by killing themselves for example – to relieve their male relatives of the responsibility and any legal sanctions.

Children who witness or experience violence in the home are also at risk. A study of secondary school children in Turkey found that 30 per cent reported an environment of physical violence at home and that 22 per cent had been assaulted by members of their family. These children were more likely to experience symptoms of

depression, to report suicidal thoughts, and to engage in self-mutilating behaviour than their peers.⁵⁸

'We will not be anyone's honour'

"There is no consensus about what constitutes a violation of honour here. In Urfa it might be walking in front of your husband, in other places it might need to be more 'serious', like talking to a boy."

A woman lawyer, Urfa⁵⁹

"Excuses for beating women at home include 'staring out of a window for a long period', 'saying hello to male friends on the street', 'if the telephone rings and there's no one on the other end', and 'spending too long talking to shopkeepers'."

A woman's rights activist, Diyarbakır⁶⁰

"They see us as well meaning crusaders... When we got involved in investigating one of these murders, a male colleague told me, 'You are very young. In time you will leave these cases alone'."

Woman lawyer investigating "honour crimes"⁶¹

A 16-year-old boy and his 23-year-old brother killed their recently divorced sister in Elazığ in October 2002, because she had been "coming home late". In their statement to police, they said, "We have cleansed our honour. We are not sorry."⁶²

"Selda", a married girl aged 13, went to the cinema with a female relative in Urfa on 28 December 1996. Her husband dragged her out of the cinema, accused her of being a prostitute, and cut her throat with a knife in a crowded square. He served only a short

⁵⁴ Amnesty International interview, İstanbul, June 2003.

⁵⁵ 1,836 people aged over 18 in 21 provinces were asked whose word carries most weight in the household: 66.8 per cent replied the man's word; 27.4 per cent the word of the man and the woman; 5.6 per cent the woman's word. E & G Research Company performed the research in 102 suburbs and villages. However, there was wide regional variation in the results. The Black Sea region reported that 87.8 per cent believed that the man was head of the household; in the Aegean region, 37.2 per cent. *Radikal*, 11 September 2002.

⁵⁶ *Women in the Nineties*. Turkish Institute of Statistics, 1996.

An average 36.5 per cent of urban and 62.6 per cent of rural women aged between 15 and 49 years of age reported this belief.

⁵⁷ *Women in the Nineties*. Turkish Institute of Statistics, 1996.

An average of 38.2 per cent of urban women, and 71.4 per cent of rural women, aged between 15 and 49 years, reported this belief.

⁵⁸ S. Muderrisoğlu & M.F. Yavuz, "Family risk factors and depression as predictors of suicidal ideation in adolescents", *EAFS Conference Proceedings*, Bilgi University & Institute of Forensic Medicine, İstanbul, September 2003. The study sample size was 1,364; average age of the students was 16.3 years.

⁵⁹ Amnesty International interview, Urfa, 10 June 2003.

⁶⁰ Selis women's organization, press release, Diyarbakır, March 2004

⁶¹ Amnesty International interview, southeastern Turkey, June 2003.

⁶² *Flying Broom Bulletin*, Ankara, December 2002.

jail sentence.⁶³

The burned body of Naciye Atmaca was identified in Kahramanmaraş in January 2004. Her three brothers and another man were reported to have killed her on the orders of a family council, a grouping of family elders that traditionally decides the punishment for women deemed to have dishonoured the family. The four men were detained pending charges.⁶⁴

Antalya Women's Support and Solidarity Centre buried Telya Zaman. She was said to have committed suicide with a shotgun on 16 March 2004, shortly after separating from her husband. Her body lay in the morgue for 20 days. The family told the Centre they would not bury her for reasons of honour. The Centre renewed its call for shelters for women like Telya.⁶⁵

The freedom of women is often curtailed with the purpose of controlling their sexuality.

According to traditional codes of so-called "honour", which function with many variants in different parts of the world, the conduct of women has the greatest potential to bring "dishonour" on the family. The threat of death or violence may be used to enforce these codes within the community.

Attempts to measure the number of "honour crimes" in Turkey fail to represent their true scale. For example, the annual report of the Human Rights Association estimates that, of 77 women who died at the hands of family members in 2003, 40 of the deaths were so-called "honour crimes". Yet in many cases deaths are not reported; murders are made to look like suicides and covered up by families; and women are forced or induced to kill themselves. The authorities' frequent failure to thoroughly

⁶³ M. Faraç, *Töre Kıskaçında Kadın* ('Women under the yoke of tradition'), İstanbul : Çağdaş Yayınları, 1998.

⁶⁴ *Radikal* newspaper, 26 January 2004

⁶⁵ *Bianet News Centre*, İstanbul, 6 April 2004.

investigate the violent deaths of women renders futile any attempt to monitor and record such crimes.

There are many words for "honour" in Turkish. The most commonly used are *namus* and *şeref*. *Namus*, supposedly an attribute of both men and women, is regarded as "clean" or "stained" according to behaviour – most importantly, that of women. Murderers of female relatives talk of "cleansing their honour". A woman's *namus* is primarily defined through her sexuality, her physical appearance and her behaviour. Men are said to achieve *namus* through the sexual "purity" of their mothers, wives, daughters and sisters. *Şeref*, perceived as social standing and visibility in the public sphere, is generally attributed to men. A man's "honour" is largely determined by his own behaviour and by the behaviour of his relatives.



'We want shelters not graves!' © private

According to one report on women's sexuality in Turkey:

"In a culture – where family relations are very strong and the extended family dominates the individual – women's purity before marriage is not only an individual choice, but a family matter. Therefore, women's bodies are controlled by the

*family. The virginity of the women is not a personal matter, but a social phenomenon.*⁶⁶

Women in communities with this belief system face enormous difficulties in speaking out against sexual violence. If they disclose sexual assaults, they are perceived as “shameful” for bringing up “private” matters and may even be regarded as “guilty”. Whatever the evidence of an assault, blame still tends to be attached to the woman. Even those who do not agree with this attribution of blame may come under public pressure to “punish” the woman. The livelihood of entire families may be affected: a shopkeeper who does not “cleanse his family honour” may lose all his customers, for example.

In practice the concept of “honour” has been degraded to such a degree that it is used as a justification for a wide spectrum of violent crimes against women. Women are locked in their homes, ostracized and murdered for being victims of rape.

Mehmet Hanifi Halitoğulları is currently charged with strangling his 14-year-old daughter in April 2004 because she had been allegedly raped by a man who had abducted her on her way to the supermarket and kept her imprisoned for four days in his house. The police released the girl and arrested the man. Nuran’s father told the police that he did not want the girl back, but despite this, she was delivered into her family’s “protection”. Mehmet Hanifi Halitoğulları told police that he went to the courthouse planning to murder the alleged perpetrator, but due to police protection he was unable to do so. However, he then allegedly strangled his daughter with an electric cable and hid her body in the forest. She pleaded with him not to kill her, as did her brother, who was present. Mehmet Hanifi Halitoğulları reportedly told police, “later, in order not to distress the children, I agreed to go

⁶⁶ D. Cindoğlu, “Virginity tests and artificial virginity in modern Turkish medicine,” pp 215-228, in *Women and sexuality in Muslim societies*, P. İlkaracan (Ed.), Women for Women’s Human Rights, Istanbul, 2000.

and bury her body near my brother’s house. So five of us went and buried her there, then we went to the police and reported her missing.”⁶⁷ A relative told journalists ‘her father wanted her to marry the man who raped her. But she didn’t accept this.’”

Women are also treated in this manner for choosing their own husband; for speaking to men; if they are suspected of extramarital affairs; for going to the cinema, or for having songs played about them on the radio. “Honour crimes” are anything but honourable. They are simply acts of violence that compound injustices already perpetrated against women.

Death by stoning

In November 2002, Şemse Allak was fatally injured when she was stoned as a ‘punishment’ for a relationship. Her neighbour Hilal, a married father, died after he too was stoned, in front of his son. Şemse was in a coma for eight months until she died on 7 June 2003. Her unborn baby survived for only six weeks after the stoning. The women’s organization KAMER cared and provided for Şemse in hospital. Her family did not collect her body from the morgue. Instead, women’s groups from Diyarbakır conducted the burial. In 2003 the prosecutor opened a case against five suspects, one of them *in absentia*. Two suspects were released on bail. No member of the family council that allegedly ordered the killings is known to have been the subject of any investigation.

Redress, not excuses

At every level of the criminal justice system, the authorities fail to respond promptly or rigorously to women’s complaints of rape, sexual assault or other violence within the family. The police are reluctant to prevent and investigate family

⁶⁷ *Hürriyet* newspaper, 29 April 2004.

violence, including the violent deaths of women. Their own record of human rights violations makes victims of domestic violence afraid to seek their help. Prosecutors refuse to open investigations into cases involving domestic violence or to order protective measures for women at risk from their family or community. The police and the courts do not ensure that men who are served with court orders, including protection orders, comply with them. If accord them undue leniency in sentencing on grounds of “provocation” by their victim and on the flimsiest of evidence.

Failure to protect and prosecute

“Sometimes the police do things like throw the man into custody for a night, say things like, “don’t do it again” and so on, but it’s not formalized. It’s just to let things pass. Police don’t even record those type of events, certainly they don’t ring us.”

Member of a Women’s Commission of a bar association⁶⁸

“Isn’t it a shame for your husband? Why are you doing this?”

A police officer questioning a woman who applied for a protection order⁶⁹

“If it was a traffic accident [the police] would need to go and do a very detailed assessment, but for family violence it is not like that...It is difficult to get a report. If you are on duty in emergency, you need to go and find a prosecutor. Most doctors are busy enough; they are not going to go looking for a prosecutor. If no claim comes from a woman, they will not do anything...The police prefer to make peace – the wife must have committed suicide.”

Physician working in a university hospital clinic⁷⁰

When Hüseyin Opuz finally killed his mother-in-law, Mintiha, on 11 March 2002, it was only after the police had ignored repeated warnings of the tragedy to come. His wife, Nahide, has petitioned the European Court of Human Rights claiming that Turkey had violated its obligations under Articles 3 (prohibition of torture and ill-

treatment), 5 (right to liberty and security of person) and 6 (right to a fair trial and public hearing) of the European Convention on Human Rights and Fundamental Freedoms. In 1995 Hüseyin Opuz had been prosecuted on charges of threatening to kill Nahide, but was not convicted for lack of evidence. A complaint that he had abducted her and her mother was not pursued for the same reason. In 1995 Mintiha withdrew a complaint that he had beaten her. After he severely assaulted and injured Nahide in April 1996, he was arrested and charged, but she withdrew her complaint after the court released him on bail. He was again released to await trial in March 1998 after Nahide fled with their three children to her mother’s house and he knocked her down with his car, seriously injuring her. Again, the courts ignored medical evidence of the gravity of the injuries he had inflicted. Again, Nahide withdrew her complaint after his release from custody. In October 2001 he stabbed her seven times. This time, he was convicted. His sentence was a fine equivalent to about US\$40, which he was allowed to pay in instalments. In December 2001 Nahide initiated divorce proceedings, citing threats to her life. In early 2002 the police took no action when she and her mother reported that Hüseyin had been coming to the house and threatening them.

The Human Rights Association reported 25 suspicious suicides of young women, mainly in the east and southeast, in the first half of 2003. Although many of these suicides are suspected to be murders, or forced or induced suicides, prosecutors and the police often fail to carry out effective investigations in such cases.

If a suspect denies a woman’s complaint of rape or other abuse, prosecutors or the police often drop the case without further investigation. Women who are at risk of being killed by their partners or other relatives are rarely offered shelter or assisted in seeking a protection order from the courts.

There are many barriers facing women who need access to justice and protection from

⁶⁸ Amnesty International interview, 25 July 2003.

⁶⁹ Amnesty International interview with lawyer, 25 July 2003

⁷⁰ Amnesty International interview, 17 June 2003.

violence. Police officers often believe that their duty is to encourage women to return home and “make peace” and fail to investigate the women’s complaints. Many women, particularly in rural areas, are unable to make formal complaints, because leaving their neighbourhoods subjects them to intense scrutiny, criticism and, in some cases, violence. Women in Kurdish and Arabic speaking areas of the country may not be able to communicate well in Turkish, and may fear further violence at the hands of the police or security forces.

Whenever Perihan went to the police station, the police laughed: “Are you here again?” She had a long history of domestic violence and told her lawyer that she had often been beaten as she slept and forced to run into the street in her nightgown. Then her husband stabbed her five times. The prosecutor considered this assault sufficiently serious and opened an investigation. The same day, the judge ordered her husband to be removed from the family home. She waited for three days. Finally her lawyer came with her to the police station and told them, “Here is a decision from the judge which requires that this man stay distant from the family home for six months. I want a registration number from you to assure me that you are aware of and will apply this decision. If anything happens to this woman you are responsible.” The police acted: they reportedly beat up the husband on his way home one day.⁷¹

Discrimination against women and violence against women are linked. When officials express discriminatory attitudes, they fail to uphold women’s rights and increase the risks they face by making violence against women seem less significant than it is. Research in Turkey found that the police were more likely to have misconceptions about rape than other

⁷¹ Amnesty International interview with Perihan’s lawyer, Istanbul, 25 July 2003.

professionals working with survivors of rape. Generally, police officers believed that women’s appearance and behaviour predispose them to being raped; that not every woman can be raped; that it is less serious if a woman is raped by someone that she has previously had a sexual relationship with; and that allegations of rape by sex workers should be treated with suspicion.⁷²

‘You killed her, now we will bury her’

Kadriye Demirel was 18 and six months pregnant when her 19-year-old brother killed her with a meat cleaver in November 2003. After she had told her family that her cousin had raped her, her family sought to have him indicted. However, on the basis of her statement and her cousin’s denial of rape, the prosecutor declined to open an investigation. He also failed to refer her to a state authority or NGO for shelter. A family council allegedly ordered that she should die. After the killing, her brother was arrested. Her family insist that he took the decision to kill her on his own. Hundreds of women attended her funeral, refusing to let the men bury her and praying at the cemetery in defiance of custom.

Such attitudes have contributed to women having little faith that effective action will be taken against perpetrators of domestic violence. Furthermore, widespread public distrust in the security forces, because of their human rights record, discourages women from seeking support and protection from the state or its agents, and contributes to making violence against women an invisible crime. In one study in Turkey, 57 per cent of the women questioned had experienced physical violence, but of this group only 1.2 per cent had notified the police and 0.2 per cent filed

⁷² Z. Gölge, M. Yavuz & Y. Günay, *Professional attitudes and beliefs concerning rape*, Archives of Neuropsychiatry (Turkey), 1999, 36(3), 146-153. Other groups surveyed were judges, lawyers, trainee lawyers, psychologists, psychiatrists and forensic medical specialists.

a complaint.⁷³ The record of police abuses may also raise fears for the safety of husbands and families reported to them for violence.



Lawyers who work on family violence, Mersin © AI

“Another shelter was set up by an NGO. They were open for seven months, and they closed down, due to suicides in the shelter. The government did not want to take responsibility for women dying in the shelter. Is it better that they die in the street?”

Worker at the Purple Roof Foundation⁷⁴

Research from Australia, Canada and the USA demonstrates that a significant number of women are killed at or around the time of separation from a violent partner. Women leaving a violent situation must take into consideration a number of factors not the least of which are economic. They must consider whether they can provide for themselves and their children, and whether or not violence away from the perpetrator will be worse than violence at the hands of the perpetrator. Women can be very skilled at making these judgments, despite the lack of support from state and society. For this and other reasons, leaving a violent partner is usually a process, not a one-off act.

‘I was prepared for everything, but not for what he’s done to my child.’

“Reyhan”’s husband beat her and forced her

⁷³ *Women and sexuality in Muslim societies*, P. İlkkaracan (Ed.), Women for Women’s Human Rights, Istanbul, 2000, p. 241.

⁷⁴ Amnesty International interview, Istanbul, 1 July 2003.

to have sex throughout her 13-year marriage. “I have been working for a while as my husband is unemployed. One day earlier this year I came home and saw him molesting my [nine-year-old] daughter. I couldn’t speak, I was so frightened. Three days later I took my daughter and left home. I had to leave the boys with him as I knew his family would look after them. We are staying with my father, but I don’t know what to do, he is very ill and can’t look after my daughter, so I can’t work. When the day for the first hearing came, I was so frightened my legs were shaking. But the judge behaved well – it was a secret hearing and he sent for a doctor’s report.

“Why would I put my own honour out for inspection? The Turkish community, they look very critically at these things. Whatever happens, a woman will suffer. But I thought to myself, somebody who could do this [molest a child] could do anything, so from that I got courage.”⁷⁵

Women in Turkey want shelters. According to one study, in which 26 per cent of the women questioned had been beaten by their fathers and 33 per cent by their husbands, 91 per cent said that they would have liked to find shelter with a social foundation. They also believed that this function was the responsibility of local or national government.⁷⁶

Women’s organizations in Turkey want shelters. They argue that, with the exception of financial audits, such centres should be run independently of government. The Purple Roof Foundation, an independent women’s organization that provides support to women’s groups, a news bulletin, and telephone advocacy and consulting services, told Amnesty International of some of the difficulties that women’s activists are facing in Turkey. “We

⁷⁵ Amnesty International interview, Turkey, 3 June 2003.

⁷⁶ Research conducted by the Social and Criminological Research Working Group of Bilgi University’s Faculty of Law, presented at a seminar in Istanbul on 26 March 2003.

have reports that government-run women's shelters are turning away women who do not have their identity cards with them," said a representative. "When you are running away from a violent home, do you think to take your identity card?"⁷⁷ Government-run shelters have been criticized for their failures to accept women who fall into particular categories – for example, prostitutes, women with health problems and women who are pregnant.



Purple Roof Foundation/Mor Çatı © AI

Beyond protecting victims from further attacks, opening shelters can serve to reveal the extent of hidden violence against women. What goes on in the family is private. When shelters exist, they have the potential to be threatening because they make the problem public. If a woman dies in the street, this may appear to relieve the government of a number of key obligations. Her death is not recorded or included in government statistics, and she no longer needs the help of the authorities to find shelter, nor protection from the perpetrator.

However, states have obligations under international law to prevent violence against women and to protect women. NGOs point to the severe shortage of government-run shelters and support services currently available: approximately 14 "guesthouses" and 19 community-based services to support women living with violence at home. Two independently

run shelters performing invaluable services to women escaping violence and to community education, including an effective police education campaign, were closed in 1997 and 1999 because of lack of funding. At present, the role of women's rights activists is crucial to ensure that at least a small proportion of women obtain protection. A worker at an NGO told Amnesty International, "Everyone sends women who have experienced violence to us. Everyone. The government, the police, everyone. We don't have the facilities to meet the demand."

Leniency for 'crimes of honour'

Reports from around the world show that women are more likely to be at risk of violence in communities where the sanctions against violence are weak and the imposition of existing sanctions is ineffective.⁷⁸

First life sentences for 'honour' killing

The courts have begun to hand down sentences that reflect the seriousness of "honour killings" and the responsibility of family elders in ordering the killings. Elife Atlıhan was only 15 when her family forced her to kill herself. When she could no longer hide her advanced pregnancy, she reportedly told them her cousin had raped her. After he denied the accusation before a family gathering, she was handed a rope by her mother and told to "cleanse her honour". Her brother was told to make sure she did it properly. He found her crying – she said the chair was not high enough and she could not do it. He helped her set the chair at the right height. When he came back later she was dead. On 1 March 2003 he and his mother were convicted of murder and sentenced to life imprisonment. The next day his mother committed suicide in prison. She had reportedly spent the day crying and denying

⁷⁷ Amnesty International interview, İstanbul, 8 July 2003.

⁷⁸ See World Health Organization at www.who.int/violence_injury_prevention/violence/global_campaign/en/ipvfacts.pdf.

that she had forced her daughter to kill herself.

Getting married did not save Emine Kızılkurt. After she was accused of “going around with boys”, she was forced into marriage. Her relatives decided she should die anyway. Her brother strangled her on 12 June 2002. In March 2004 the First Aggravated Felony Court in Şanlıurfa convicted him of murder and sentenced him to life imprisonment. Her father, uncle and six other male relatives were each sentenced to 16 years and eight months in jail for aiding the murderer and partnership in a crime. They were prohibited from holding public office for life. The defence did not plead a defence of provocation. The case has gone to appeal.

These life sentences were the first to be imposed for “crimes of honour” in Turkey. If the sentences for the murderers of Emine Kızılkurt are upheld by the Court of Appeals, it will be a landmark case in Turkish law. These cases have shown the positive steps that have been taken and the efforts being made within the Turkish judicial system to treat “honour killings” as seriously as other murders. They have also demonstrated the complexities of tackling this type of crime, and the need for families and communities to seek alternative options so as to avoid such needless tragedies.

However, although some courts appear to have begun implementing the reforms, the discretion accorded to the courts continues to permit the perpetrators of domestic violence unwarranted leniency. Sentences in such cases are still frequently reduced at the discretion of the judges, who continue to take into account the “severe provocation” of the offence to custom, tradition or honour and the often young age of the perpetrators. Families often use young men to commit such crimes for this reason.

An unacceptable degree of tolerance

In January 2004 a man was sentenced to 24 years’ imprisonment for stabbing his partner to death. They had been married in an unofficial religious ceremony (imam nikahı) and had three children. His prison sentence was reduced to two years and six months after he submitted to the court photographs of his partner with another man and they were admitted as evidence of “severe provocation”, and on the grounds of his “good behaviour” in court.⁷⁹

In most cases the authorities fail to ensure that the perpetrators of violence in the home are brought to justice in accordance with international standards for fair trial. Amnesty International is further concerned that the authorities are failing to ensure that women who have experienced violence have access to the full range of rights for reparation, including compensation for the criminal injuries they receive, rehabilitation and redress.

Emine Yaman, 34, has been paralyzed from the waist down since her husband shot her in August 1999. He was convicted of negligence resulting in threat to life and the possession of an unlicensed pistol and was detained pre-trial for a few months. His sole punishment, reduced due to his “good behaviour in court”, was the payment of approximately 1200 US dollars. Emine Yaman gave Amnesty International the following account. When her husband had asked her for a divorce so that he could marry another woman, Emine Yaman agreed. One month before the court was to decide on her alimony, her husband shot her in the street. She was unable to testify at his trial because she was in hospital. Although ordered by a court to pay her compensation, no attempt has been made by the authorities to enforce the order. She has yet to receive a comprehensive medical report on her condition. “If you had someone to follow all of this, everything would come out, but in this country,

⁷⁹ *Milliyet* daily newspaper, 31 January 2004

what is justice? ...I want to open a lawsuit against my husband. Look at what he has done to me. Torture upon torture.”⁸⁰ One of their three children, who were then living with the father’s family, died while Emine Yaman was in hospital. “I try everything to distract myself from that pain,” she said.



Emine Yaman © AI

Challenging the violence

Numerous women’s rights groups and other rights organizations across Turkey, both governmental and non-governmental, have in recent years successfully lobbied central government to reform outdated laws. They have established women’s centres that work with women to access all their rights. As advocates, they campaign to end and prevent “honour killings”, and take up the cases of women who need the protection of the law. They also provide shelters for women who are at risk of family violence.

Breaking new ground

KA-MER, the women’s organization based in Diyarbakır, began work in 1997 with the aim of helping women to get an education, to increase their economic independence and to be free from violence. Their work to prevent “honour killings”

⁸⁰ Amnesty International interview, Turkey, 16 July 2003.

has been built up over this period as awareness of the dimensions of the problem and their expertise have grown.

‘There’s no such thing as the right to beat’

In 1997 eight women lawyers complained about a judge who refused to grant a divorce on the grounds that the woman was pregnant and therefore could not have experienced violence at the hands of her husband. In addition, he cited in court the proverb, “Let neither a woman’s back be free from blows, nor her womb empty”. Following the complaint, 2000 women took to the streets of Istanbul with the messages “Violence originates in the family” and “There’s no such thing as the right to beat”.

After the tragic death by stoning of Şemse Allak (see page 20), KA-MER has campaigned to prevent a similar tragedy. Highlighting the need for every part of society to give urgent priority to ending the violence against women is a particular feature of its work.

‘We couldn’t save Şemse Allak – we are here to try to save ‘Zozan’”

“Zozan”’s life has been at risk since a relative made threatening and sexually suggestive phone calls to her. Her husband told her that he could no longer hold his head up in the village. Her family decided to have her killed, as her “name was out”. Aged 25, with 10 children, she was married when she was 14. Although her husband believes that she was innocent and wanted to stand by her, the family were ostracized because her husband had not “cleansed his honour”. People averted their eyes in the street. Their children were taunted and harassed at school. The pressure on “Zozan”’s husband was intense. His brother’s wife was killed two years ago “for reasons of honour”; a relative was convicted of “aggravated assault” and was released after two years in jail. “The whole village wants her

to die. If he says the word, she will die”, a KA-MER representative told Amnesty International.

In an unprecedented step, KA-MER organized a meeting to discuss “Zozan”’s situation. It was attended by representatives from the provincial governor’s office and health department, the university of Diyarbakir and women’s groups, and by lawyers, psychologists, psychiatrists and researchers. KA-MER told the meeting, “We can’t do this alone, we need everyone’s involvement.” With the cooperation of disparate elements of the community and government, “Zozan” and her family were relocated to another village. She remains under threat, but the risk to her life has been reduced.⁸¹

KA-MER’s successful advocacy can be measured by the numbers of people who come to them for advice. Men, too, often want to be rescued from the unrelenting pressure of their families. Two men, ordered from one side of Turkey to the other to take the life of a young relative, visited KA-MER to ask for help in avoiding having to kill her.⁸²



Women from KA-MER, Diyarbakir © AI

⁸¹ Amnesty International interviews with “Zozan” and KA-MER representatives, Diyarbakir, June and July 2003.

⁸² Amnesty International interview, Turkey, 11 June 2003.

Advocates under attack

“A lot of our male colleagues don’t show support for us in these cases... Many lawyers here told us that we wouldn’t last long in this place as female lawyers. There are many educated women in this town, but they are at home.”

Woman lawyer, Turkey⁸³

The campaign for women’s rights in Turkey has grown in confidence as more and more women have gained access to the law, both as advocates and as complainants.

One lawyer told Amnesty International, “We had a young female lawyer ring up the Women’s Rights Centre from a small town in Turkey. She was terribly nervous because she needed to go to court to obtain a family intervention order for the first time. She rang to ask for advice. We told her, ‘Just act with confidence. Tell them you know everything there is to know about this law [the 1998 Law for the Protection of the Family], and that you will expect them to act immediately to grant a protection order and to ensure that it is carried out’. She rang us later to tell us that everything had gone perfectly.”⁸⁴

However, violence in the family can extend to the activists who work to protect women’s rights and women’s choices.

One of the greatest difficulties facing KA-MER and other women’s groups attempting to work against “honour crimes” are responses within the community. KA-MER members have been threatened, as have women lawyers who act on behalf of women subjected to violence. The women’s relatives have warned them to stay away from their families.

Many of the women lawyers who spoke to Amnesty International have been directly or indirectly discouraged from continuing their work by their families and communities.

⁸³ Amnesty International interview, Diyarbakir, 9 June 2003

⁸⁴ Amnesty International interview, Istanbul, 25 July 2003.

A lawyer who works for a women's rights organization told Amnesty International of telephone threats she had received from a man who was being prosecuted for torturing his wife. In February 2002, "Aytun"'s husband started to believe that she was having an affair. Each night he would allegedly tie up her hands behind her head, stub cigarettes out on her, force objects into her vagina, and leave her, sometimes for hours, until she "confessed". He took her out to buy her a gun, taught her how to use it, and one day drove her around in the car to find her alleged lover. "Thank God the gun was unlicensed and her husband got nervous when he saw the police," her lawyer said. "Otherwise she might be in prison for murder." The lawyer had photographs of the burns to "Aytun"'s legs caused when her husband threw scalding water at her. In April 2002 neighbours heard her cries for help and notified the police. She obtained a protection order restraining her husband from coming near her or the house. He was charged with "ill-treatment of a family member" and "assault and battery", but the prosecutor did not request his detention while awaiting trial. He rang his wife's lawyer when their divorce was granted to tell her: "This job is not finished yet. You will be punished for being a feminist lawyer. It is your fault that we are divorced."⁸⁵

Building confidence

Women's rights organizations provide information to women about their rights and organize training programs for women in building confidence and positive beliefs about themselves.

The Women for Women's Human Rights organization runs a training program for the convenors of women's human rights courses across Turkey. Course convenors told Amnesty International that neighbours and partners sometimes tried to stop women attending their course. "We do get some reactions. One man said to me, 'Leave my wife alone, don't try to

influence her, she needs to stay at home and work there and look after the children.' We also have husbands who do care and say so, who show interest in their wives, in their children's education, in education and books, and they are interested in women showing this interest."



Women who participated in a women's rights training course
© AI

Walking towards one another

In July 2002 women from Adana, Antakya, Ankara, Batman, Bursa, Istanbul and Mersin walked towards each other across Turkey to meet in Konya. On their journey they visited villages, cities, and towns. They met women who were unable to leave their home, neighbourhood, or village alone. They travelled to meet women who were difficult to reach. They talked to women who had no one to talk to about their experiences of violence. Each woman they spoke to gave them something, whether it was a scarf, a letter, a piece of woven material or handiwork, to represent themselves. On reaching Konya, all of these gifts were made into a quilt. "Thousands of women poured their secrets into letters entrusted to us. We cannot fail but respond to this strong hope and trust." Themes from the letters were published in a booklet in anonymous form. The letters express ways in which women conform in order not to experience violence.

⁸⁵ Amnesty International interview, 6 June 2003.

“We are subjected to strong pressure, sometimes exerted in a rough way, to act according to community value. We are forced to conform to societal expectations. From the time we are born our sexual roles are internalized, we undergo ‘role examination’ constantly whilst living in our communities. We are forced to keep our feelings secret. To laugh out loud and to shout ‘No, I don’t want to’ is forbidden. We are not allowed to trouble anyone else with our requests and concerns, to talk about family problems outside the family. In order not to hear someone say, ‘Listen to her nag’, we must constantly act as though we are pleased with our situation. In order not to seem frivolous, we must keep our enthusiasms hidden.”⁸⁶

A duty of protection and redress

International human rights standards

International human rights treaties and standards define the obligations of states to secure human rights for individuals subject to their jurisdiction. They provide guarantees of freedoms and entitlements that individuals may claim at national, regional and/or international, levels. States that ratify a treaty agree to promote the rights provided in it; secure those rights for all and translate them into laws, strategies and policies; prevent violations of the rights under the treaty; and provide remedies to victims whose rights are violated.

Recent decades have seen significant advances in the commitment of the international community to scrutinize and combat violations of women’s rights in general, and the right to freedom from violence in particular. The **Universal Declaration of Human Rights**, proclaimed in 1948 by the General Assembly of

the UN,⁸⁷ stated that everyone should enjoy human rights without discrimination (Article 2), that “Everyone has the right to life, liberty and security of person” (Article 3) and that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (Article 5). The **International Covenant on Civil and Political Rights**, adopted in 1966⁸⁸ - a binding treaty to which Turkey is a state party - provides that “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant” (Article 3). These rights include the right to life (Article 6) and an absolute prohibition on torture and other ill-treatment (Article 7). “This prohibition has been interpreted by the Human Rights Committee, which monitors States’ compliance with the ICCPR, as including an obligation on states to exercise due diligence [see box] to prevent and punish violence against women in the home and the community.”⁸⁹

Freedom from torture is guaranteed further in the **UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment**, adopted in 1984,⁹⁰ to which Turkey is a state party. This Convention, significantly, does not limit the definition of torture to acts by state officials, but also includes acts performed “with the consent or acquiescence of a public official or other person acting in an official capacity” (Article 1(1)). All the elements of torture, as defined by that article, can therefore be present in domestic violence: it may cause “severe pain or suffering, whether physical or mental”, and may be “intentionally inflicted” for a purpose such as “punishment” or “for any

⁸⁷ Universal Declaration of Human Rights, UNGA res. 217 A(III), adopted 10 December 1948.

⁸⁸ International Covenant on Civil and Political Rights, UNGA res. 2200 A (XXI) adopted 16 December 1966, entered into force 23 March 1976, Article 3.

⁸⁹ Human Rights Committee General Comment 28 on Article 3, and Human Rights Committee Draft General Comment on Article 2

⁹⁰ Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, UNGA res. 39/46 adopted 10 December 1984, entered into force 26 June 1987.

⁸⁶ *Women walking towards one another*, Istanbul, 2003

reason based on discrimination of any kind". An example of a situation where a state may be in violation of the prohibition on torture that is inflicted by individuals is marital rape where it is not criminalized by law.⁹¹



Women from KADAV overseeing the construction of a new women's centre © AI

The UN Convention on the Elimination of All Forms of Discrimination against Women (the Women's Convention), adopted in 1979,⁹² to which Turkey is a state party, sets out in detail the obligations of states parties to secure equality between women and men and to prohibit discrimination against women. It expressly requires states parties to "take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise" (Article 2). If the state fails to offer protection against discriminatory practices and abuses, or to bring to justice those who commit

⁹¹ Report of the Special Rapporteur on Violence against Women, February 1996 (E/Cn.4/1996/53, at 45)

⁹² Convention on the Elimination of All Forms of Discrimination against Women, adopted by General Assembly resolution 34/180 of 18 December 1979, entry into force 3 September 1981.

such abuses and to ensure reparation for the survivors, it is in breach of its legal obligations.

General Recommendation 19 (paragraph 7) of the Committee on the Elimination of Discrimination against Women⁹³ states that:

"Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention."

Many of the states that have ratified the Women's Convention have entered reservations to some of its provisions,⁹⁴ often reducing their obligation to change their domestic laws. In 1999, Turkey withdrew its reservations, entered at the time of its accession to the Women's Convention in 1986, to clauses that guarantee women equality in civil law, freedom of movement and domicile, and freedom from discrimination in matters relating to marriage and family relations.⁹⁵ However, it maintained reservations to granting women and men equal nationality rights and allowing international adjudication in the event of a dispute over Turkey's interpretation or application of the Women's Convention. Amnesty International urges Turkey to withdraw those reservations as well.

The UN Convention on the Rights of the Child, adopted in 1989,⁹⁶ to which Turkey is a state party, defines all those under the age of 18 as children. It requires states to take all effective and appropriate measures with a view to "protect

⁹³ General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 84 (1994).

⁹⁴ Legal statements proclaiming that the state will not abide by a provision, or abide by it only to a limited extent or subject to its own interpretation of it.

⁹⁵ The Women's Convention Articles 15(2), 15(4), (16(1) (c), (d), (f) and (g).

⁹⁶ UN Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 of 20 November 1989, entered into force 2 September 1990.

the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” while in the care of parent(s), legal guardian(s) or any other person who has the care of the child, (Article 19(1)) and to abolish traditional practices prejudicial to the health of children (Article 24). It further obliges states parties to protect children from all acts of sexual exploitation and abuse (Article 34) and from torture and other ill-treatment (Article 37(1)).

The Committee on the Rights of the Child has determined that child and forced marriage is both a harmful traditional practice and a form of gender discrimination.⁹⁷

In 1993, participants of the UN-sponsored World Conference on Human Rights in Vienna declared violence against women to be a human rights violation requiring urgent and immediate attention.⁹⁸ Later that year, the **UN Declaration on the Elimination of Violence against Women**⁹⁹ was adopted by the General Assembly.

The **Beijing Declaration and Platform for Action**,¹⁰⁰ agreed at the Fourth World Conference on Women in 1995, and its five-year review in 2000, underlined these concerns, which have been further augmented by agreements from other UN world conferences.

⁹⁷ See for instance the Committee’s concluding observations regarding Burkina Faso, UN Doc. CRC/C/15/Add.19 (1994), para. 8; Central African Republic, U.N. Doc. CRC/C/15/Add.138 (2000), para. 46; and Bangladesh, UN. Doc. CRC/C/15/Add.221(2003), para. 61.

⁹⁸ Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna, 25 June 1993, para. 18. See [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.48.104.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.48.104.En?Opendocument).

⁹⁹ UN Declaration on the Elimination of Violence against Women, UN Doc. A/RES/48/104, adopted by the General Assembly on 20 December 1993.

¹⁰⁰ Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995, A/CONF.177/20/Rev.1, annexes I and II, endorsed by G.A. res. 50/42, 50 U.N. GAOR Supp. (No. 49) at 33, U.N. Doc. A/RES/50/49 (1995). For text see <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N96/273/01/PDF/N9627301.pdf?OpenElement>.

The **Rome Statute of the International Criminal Court**, adopted in 1998,¹⁰¹ defines several forms of violence against women, including rape and other forms of grave sexual violence as war crimes and crimes against humanity.¹⁰² In addition, gender-based persecution was included as a crime against humanity.¹⁰³ The Rome Statute contains progressive provisions relating to the participation and protection of victims and witnesses in proceedings before the court, and ultimately for reparation to victims.

The work of the **UN Special Rapporteur on violence against women** has deepened the international community’s understanding of the causes and manifestations of violence against women throughout the world. In addition, the mandates of other UN Special Rapporteurs have increasingly included an explicit commitment to addressing the gender dimensions of the area being covered.

Turkey ratified the **Optional Protocol to the Women’s Convention** in October 2002. It offers women a direct means for seeking redress at the international level for violations of their rights under the Women’s Convention. In particular, Turkey, by joining this Protocol, has authorized the Committee on the Elimination of Discrimination against Women (CEDAW) to consider complaints by individuals and groups alleging that their rights under the Convention have been violated. The Protocol also allows the Committee to investigate reports of systematic abuses.

This ratification was a result of intensive lobbying: in 2000 a number of women’s groups and human rights organizations collected 6,000 signatures as part of a campaign in Turkey for ratification of the Optional Protocol. In January 2003 the Optional Protocol was ratified and Amnesty International members in the country

¹⁰¹ Rome Statute of the International Criminal Court, adopted on 17 July 1998 (A/CONF.183/9), entered into force 1 July 2002.

¹⁰² See Articles 7(1)(g), 8(2)(b) (xxii), 8(2)(c)(vi).

¹⁰³ Article 7(1)(h).

ran a series of seminars to spread information about the state's new obligations.

There are also regional treaties, binding on countries that have ratified them, and other regional, sub-regional and bilateral agreements aimed at eradicating violence against women or particular forms of violence. Turkey is a state party to the **European Convention for the Protection of Human Rights and Fundamental Freedoms**, which includes provisions for gender equality (Article 14) and prohibition of torture and ill-treatment (Article 3).

The Council of Europe has recommended that *“member states should introduce, develop and/or improve where necessary, national policies against violence based on: a) maximum safety and protection of victims; b) empowerment of victimised women by optimal support and assistance structure which avoid secondary victimization; c) adjustment of the criminal and civil law including the judicial procedure; d) raising of public awareness and education of children and young persons; e) ensuring special training for professionals confronted with violence against women; and f) prevention in all respective fields”*.¹⁰⁴

The Turkish legal system recognizes these obligations. In 1991, Turkey's Council of State, its highest administrative court, ruled that international agreements are hierarchically superior to Turkish legal codes and that individuals are the subjects of international law.¹⁰⁵

¹⁰⁴ Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, adopted by the Committee of Ministers on 30 April 2002 at the 794th meeting of the Ministers' Deputies, para. 3.

¹⁰⁵ Danıştay 5. Chamber, No. 1991/933.

Domestic legislation

“The family is not more sacred than an individual's life. The purpose of this law is not to protect the family, it is to protect those in the family who have experienced violence”

Conference proceedings: Law for the Protection of the Family, Istanbul, 2002

“Don't even think about sending a case to us unless you've got a medical report citing seven days off work.”

Prosecutor returning a 'no case to answer' verdict to a lawyer working on behalf of a woman beaten by her husband¹⁰⁶

A study on the impact of CEDAW found clear examples of its influence on legislative reforms to strengthen equal opportunities, prohibit discrimination and address violence against women in countries across the world. In Turkey, long-term efforts by the women's movement, at many levels of society, to obtain legislation against domestic violence were boosted by dialogue between CEDAW and Turkish officials.¹⁰⁷

The **Law for the Protection of the Family in Turkey**, which came into force in 1998, is progressive legislation against domestic violence.¹⁰⁸ However, there are still some small amendments required to cover gaps in the legislation, and Amnesty International's main concern is that it is not being properly implemented. Under the law, the woman or a family member or a family friend or the prosecutor can ask the justice of the peace to take measures to protect her from violence. The judge must immediately grant a protection order on receipt of the application; it is not a request to prosecute the offender but a request for the protection of the spouse. It requires the alleged perpetrator of violence to leave the home and to comply with other requirements of the order,

¹⁰⁶ Amnesty International interview, Izmir, June 2002

¹⁰⁷ M. McPhedran, S. Bazilli, M. Erickson, A. Byrnes, *The First CEDAW Impact Study, Final Report*, International Women's Rights Project and Centre for Feminist Research, York University, 2000.

¹⁰⁸ See the full text of the law at the website of Women for Women's Human Rights, www.wwhr.org.

such as not approaching the victim, or face imprisonment. It gives the police the right to confiscate the alleged perpetrator's weapons.

At present, Amnesty International is concerned that the Law provides protection only to women married in a civil ceremony and living under the same roof as their husband. Canan Arın, a women's rights activist and lawyer, has called for it to be amended to allow for protection in other forms of relationship, such as women who have separated from their husbands, people in gay or lesbian partnerships, or second wives who were married, illegally, in unofficial religious ceremonies. She argues that the law should not use the word "spouse", but, in the relevant context, "the one experiencing violence" and "the perpetrator of violence".

*"The concept of 'family' must be broad. The formulation 'those who live under the same roof' is very important but insufficient. Those who live together, those who once lived together, former spouses, those spouses who do not live under the same roof but are bringing up children together, should all be brought into the definition of this law."*¹⁰⁹

For the Law to be implemented effectively, perpetrators of domestic violence need to know that it will be used against them promptly and that protection measures for the victims of violence will be long-term. The Purple Roof Foundation has reported that, even in Istanbul, lawyers have to attach copies of the Law to applications for protection orders, as prosecutors are generally unaware of and are not implementing its provisions. In Eskişehir province, for example, out of 808 applications made under the Law between 1998 and 2002, 90 per cent failed.¹¹⁰

Women's organizations, lawyers, and workers

¹⁰⁹ Canan Arın (2003) in "Problems in the application of the Law for the Protection of the Family and the new civil code", Istanbul Bar Association Publications: Istanbul

¹¹⁰ "How can it be that the application of a five-year-old law makes news?", Purple Roof Foundation Bulletin, 2003.

in the field of family violence have told Amnesty International that the failure to implement the law by the judicial system makes the situation more dangerous for women. One of the most dangerous and difficult times for women is when they are working up the courage to leave their partners. This is the time when they are likely to experience an increase in the violence perpetrated against them.



Women in the SELIS workshop © AI

The Law on the Establishment, Tasks and Procedures of Family Courts was enacted in January 2003. These courts, which are currently in the process of being established, are intended to strengthen the access of women and children to justice. These courts are competent to decide matters relating to family law. Their task is to take protective, educational and social measures for children and adults (especially, in practice, women) including financial protection of the family. These courts are to be established in all towns with a population of more than 100,000 inhabitants.

Free legal aid is available to all in Turkey by law. However, in practice only some bar associations are able to provide this type of support to women. The Istanbul Women's Rights Centre provides free legal aid to women and a compulsory training course for all lawyers who work there. Several other legal aid centres have women's rights centres.

Under the new **Civil Code** that came into effect in 2001, women who suffer violence in the

home have the right to compensation for material loss, pain and injury, as do all victims of violent crime.¹¹¹ The revised Civil Code defines the family as a partnership based on equality between men and women. The equal rights of spouses were secured in the Constitution in 2001 with the addition of the phrase “[the family is]...based on equality of the spouses” in Article 41. The terms “wife” and “husband” were replaced with “spouse”.

Other legal reforms in recent years have established that spouses head the family union as equal partners, with equal decision-making powers; that they have equal rights to the family home, and to property acquired in the course of the marriage. The concept of “illegitimate” children has been abolished and mothers have custody of children born outside marriage.¹¹²

2003 saw a number of important reforms to the Turkish **Penal Code** being drafted. A draft of a new Penal Code was substantially revised by a working group of the Penal Code Sub-Commission.¹¹³ As of April 2004, the article on “undue provocation” stated that “the perpetrator of an honour crime cannot benefit from jurisprudence relating to ‘unjust deeds’”. Amnesty International is seeking assurances that the language of the amendment provides the strongest possible indication that the reduction of sentences by the courts on grounds of honour, custom or “undue provocation” – where undue provocation is defined as any choice or action on the part of a woman that was used to justify her murder – would not be tolerated.

The Turkish Penal Code Women’s Working Group prepared an alternative draft Penal Code, stating that “women’s human rights have not been sufficiently defended”. At a press conference in May 2003, a spokesperson for the

¹¹¹ Turkish Civil Code, Article 174.

¹¹² For a history of the women’s movement’s struggle to change women’s legal status in Turkey, visit Women for Women’s Human Rights, www.wwhr.org.

¹¹³ In addition to the shadow report and lobbying by women’s groups, the changes were also supported by independent experts appointed to the Commission.

Working Group said, “If the draft stays as it is, the hand of the law will be encouraging human rights violations against millions of women.”¹¹⁴

The following revisions, prepared by the Turkish Justice Ministry Penal Code sub-Commission, were supported by the Women’s Minister, Güldal Akşit, and promised by the Justice Minister, Cemil Çicek, but have yet to be approved by Parliament:

- The reduction, postponement or eradication of sentences for rapists who marry their victims is to be abolished;
- Marital rape is to be explicitly recognized as a crime;
- The section on “crimes against sexual integrity and polite custom” is to be changed to “crimes against sexual freedom”;
- From “violation of chastity”, the wording is to be changed to “violation of bodily integrity to satisfy sexual desire”;
- Sexual crimes are to be moved to the section on “crimes against the individual”;
- The definition of “rape” would now include assault with a truncheon or other object;¹¹⁵

¹¹⁴ Groups that worked on the alternative draft Penal Code included the Women’s Rights Application Centres and Women’s Commissions of the Izmir Bar and the Diyarbakir Bar, Purple Roof Foundation, Women for Women’s Human Rights – New Ways, Republican Women’s Society, the Human Rights Desk and Women’s Status Association of the Istanbul Governorate.

¹¹⁵ In a letter to the Turkish government dated 15 October 2003, Amnesty International recommended that the sub-Commission consider the definition of sexual violence outlined in the Rome Statute of the International Criminal Court: “Elements of Crimes” ICC-ASP/1/3, Article 7(1)(g) -1: “(1) The perpetrator invaded the body of a person by conduct resulting in penetration however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. (2) The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent. (It is understood that a person may be incapable of giving genuine consent if affected by natural, induced, or age-related incapacity).” Article 7(1)(g) – 6: “The perpetrators committed an act of a sexual

- The rape of a child can no longer be defended on the grounds that the child consented; there can be no sentence reduction for this crime;
- Newly defined as crimes would be: child pornography; sexual assault within marriage; sexual assault of an employee by an employer; and sexual assault or rape of an individual in a hospital, prison or somewhere else under special observation;
- The definitions of “woman” and “girl” are to be removed as discriminatory;
- A clause which allowed the judge to define “shameless behaviours” would be reworded to provide a more concrete definition.

If these amendments are approved, officials will no longer have reason to conduct virginity examinations, as rape will no longer be defined as an “assault on chastity”. Any individual who reports sexual assault will undergo a thorough sexual assault examination, in line with the revised definition of sexual assault in the penal code. Proposals to criminalize involuntary virginity testing in Turkey were being discussed at the time of writing.¹¹⁶

State obligations

The obligations of states under international law are not limited to ensuring that their agents do not commit violations – in this case acts of violence against women; states must also take effective steps to prevent and punish such acts by private individuals or groups. States have a duty under international law to take positive measures to prevent, prohibit and punish violence against

nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give consent.”

¹¹⁶ See Amnesty International's report, *Turkey: End sexual violence against women in custody!* AI Index: EUR 44/006/2003

women, regardless of where it takes place and who the perpetrator is.

In addition, if a right is violated, the state must restore the right violated as far as is possible and provide appropriate compensation. This does not absolve the actual perpetrators from being prosecuted and punished, nor from being liable to civil legal procedures.

Due diligence

A state must act properly and effectively to prevent violence against women, and to investigate and punish such violence after it occurs, otherwise the state can itself be held responsible for the violation. This is known as the standard of “due diligence,” which determines the efforts that a state must undertake to fulfil its responsibility to protect individuals from abuses of their rights by non-state actors. According to the UN Declaration on the Elimination of Violence against Women, states should “*exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons*”.¹¹⁷ General Recommendation 19 of the Committee on the Elimination of All Forms of Discrimination against Women states:

*“Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”*¹¹⁸

¹¹⁷ *supra*. Footnote 80 Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993, G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993) (http://www.unesco.org/shs/human_rights/wac.htm).

¹¹⁸ Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 84 (1994), para. 9.

According to the Special Rapporteur on violence against women, its causes and consequences:

“States must promote and protect the human rights of women and exercise due diligence:

(a) To prevent, investigate and punish acts of all forms of VAW [violence against women] whether in the home, the workplace, the community or society, in custody or in situations of armed conflict;

(b) To take all measures to empower women and strengthen their economic

independence and to protect and promote the full enjoyment of all rights and fundamental freedoms;

(c) To condemn VAW and not invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence;

(d) To intensify efforts to develop and/or utilize legislative, educational, social and other measures aimed at the prevention of violence, including the dissemination of information, legal literacy campaigns and the training of legal, judicial and health personnel;”¹¹⁹

As these quotations illustrate, ‘due diligence’ obligations are not merely limited to legislating against and criminalizing violence, but require that the state adopt a whole range of measures including the training of state personnel, the adoption of practical policies and mechanisms to protect women’s rights, and ensuring that the law is accessible to women who have experienced any form of violence and can best serve their needs.

Rape as torture

Acts of violence against women in the home or community constitute torture for which the state is accountable when they are of the nature and severity of torture and the state has failed to fulfil its obligation to provide effective protection. International human

¹¹⁹ Radhika Coomaraswamy, Special Rapporteur on violence against women, Report to the Commission on Human Rights, UN Doc. E/CN.4/2003/75, 6 January 2003, para. 85.

rights courts and international criminal tribunals have affirmed that the pain and suffering caused by rape are consistent with the definition of torture.

The state is accountable under international human rights law for rape by its agents and for rape by private individuals when it has failed to act with due diligence to prohibit, prevent, punish or redress it.

Preventing violence against women

Recommendations to the international community

Amnesty International’s Stop Violence against Women campaign calls on world leaders, states, organizations, including the UN, the European Union, the Council of Europe and other international and regional organizations and individuals to:

- Publicly pledge to make the Universal Declaration of Human Rights – which promised equal rights and equal protection for all – a reality for all women;
- Develop action plans to end violence against women, and set up mechanisms to monitor their implementation;
- Fully and speedily implement all international and regional treaties, declarations, resolutions and recommendations aimed at condemning, prohibiting and preventing all acts of violence against women, investigating all cases of violence and bringing perpetrators to justice in accordance with international standards of fair trial, as well as providing reparations for victims;
- Support and encourage initiatives to provide training and exchange of information for judicial personnel and lawyers who act on behalf of women who have experienced violence;

- Support and encourage initiatives for the prevention of violence and the protection of women at both the governmental and the NGO level.

Recommendations to the Turkish government

The Stop Violence against Women campaign urges the Turkish government publicly and at every opportunity to declare its commitment to eradicating violence against women in Turkey and to exercise due diligence in preventing, investigating and punishing acts of all forms of violence against women. In particular, The Stop Violence against Women campaign urges the government to:

- Ensure the passage of the draft Penal Code through Parliament, which, at the time of writing, had eliminated a number of articles discriminatory towards women, specified explicitly crimes such as marital rape and sexual harassment in the workplace, and had defined rape in line with elements of the crime as outlined in the Rome Statute;
- Abolish all laws and practices that facilitate impunity for violence against women, including the eradication of sentence reductions for individuals accused of “crimes of so-called ‘honour’” on the grounds of “custom”, “honour”, “tradition” or “severe or undue provocation”, or “unjust actions”;
- Acknowledge and support independent groups of activists working to prevent violence against women by not restricting their work and enabling them to be funded;
- Collect comprehensive data across all regions of Turkey which systematically measures the nature and extent of violence against women;
- Take steps to prevent violence against women by funding a sufficient number of appropriate shelters in collaboration with NGOs experienced in working to protect women from violence;

- Enforce laws that protect women, such as the Family Protection Law and the soon-to-be amended Penal Code, to ensure that violence in the family is treated as seriously as assaults in other contexts, that rape and other violence against women is criminalized in all contexts;
- Ensure that members of the judiciary and other government officials receive mandatory training to ensure that women are protected from violence in the community, and that government officials who fail to carry out their legal duty to protect women and prevent violence when clearly required to do so, are brought to justice;
- Ensure that police and gendarmerie officials receive mandatory training in responding to reports of family violence immediately and effectively, and that those members of the security forces who fail to respond effectively to family violence are disciplined;
- Fund and support measures to enable all women to live free from violence, such as programs of civic education, training and systems to support and protect victims of violence and women’s human rights defenders;
- Take all steps necessary to ensure that complaints by women of violence in all forms, whether by private individuals or by officials acting in a private or public capacity, be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. When there is sufficient admissible evidence, suspects should be prosecuted. Complainants, witnesses and others at risk during such investigations and prosecutions should always be protected from intimidation and reprisals;
- Rigorously investigate all murders, attempted murders and apparent suicides to ensure that **all** perpetrators are brought to justice, including members of family councils who order the killing of women;

- Ensure that all perpetrators are given sentences commensurate with the gravity of the crime;
 - Ensure that all women who have been subjected to violence are provided with access to redress and reparation, including compensation;
 - Ensure that sufficient information and points of access for women to report violence, including hotlines covering all regions of Turkey staffed by sufficiently trained personnel, brochures and posters disseminated at hospitals, primary health care centres and courts, and websites, exist;
 - Ensure that all casualty departments are linked to appropriate welfare and judicial services;
 - Ensure that all primary healthcare practitioners and lawyers are given training in responding to family violence, including incest, and that appropriate emergency mechanisms exist;
 - Take measures to promote the equality of women and counter women's impoverishment by ensuring equal access to economic and social rights, including education, freedom of movement, property, employment and social entitlements and by political participation;
 - Ratify the Rome Statute of the International Criminal Court and adopt implementing national legislation to end impunity for violence against women in all circumstances;
 - Join international efforts to stop the proliferation of weapons used to commit violence against women and men.
- community structures and processes to protect women, providing assistance to survivors of violence, and ensuring that women human rights defenders are free to carry out their work;
 - Demands that women be treated as equal members of the community, including having equal participation in decision-making in local government and community structures;
 - Calls on religious bodies, traditional and informal authorities to respect women's human rights, and to denounce and desist from any action that encourages or tolerates violence against women;
 - Urges every individual to challenge negative images of women and work to combat mass media, advertisements and school curricula that reinforce discriminatory attitudes and foster violence against women and girls;
 - Calls on communities to work with those most affected by violence to develop and implement local strategies to confront violence against women.

Recommendations to community and religious authorities

The Stop Violence against Women campaign:

- Urges communities to work to create an environment which supports women and addresses violence, by raising awareness about violence against women, building