



TÜRK HUKUKÇU KADINLAR DERNEĐİ

ASSOCIATION TURQUE DES FEMMES DES CARRIÈRES JURIDIQUES

WOMEN'S REPRODUCTIVE HEALTH AND FUNDAMENTAL RIGHTS

TURKISH WOMEN'S LEGAL ASSOCIATION
President
Lawyer Alev Toker

Societies that do not read the events carefully are destined to be a viewer than an intervener of them

The fundamental human rights vested to women with the 1926 Turkish Civil Law continued with women having equal rights in the domestic law and marriage rules in addition to women having the same rights as men with many positive amendments made on the Law up to now. Based on secular law, our Civil Code constitutes the fundamental law of women rights that provided our contemporary modern life.

The laws in Turkey are in compliance with the laws of the European Union. Even though the Turkish Republic Constitution specifies that women and men are equal before the law, it had been observed that this equality was breached in the "enforcement" of the provisions of the Law related to Family Law and some clauses of the Turkish Criminal Law. One of these was our former Civil Code and the other was the Turkish Criminal Law numbered 765 that had remained in force from 1/07/1926 until 2005. In accordance with this law, for example, offences of sexual assault against women were not considered as a crime against the women's body, women's body integrity and sexual immunity but as against the public morality and family order. In addition, the penalties imposed against men that performed the sexual assault were mitigated or aggravated depending on whether the women is married or not, whether she works as a sex worker or not.

Women movements and especially the non-governmental organizations ("NGOs") working for the protection of women rights made a tremendous effort and prepared the part of the new Turkish Criminal Law related to sexual offences by insistently underlining those inequalities. The same is also relevant for the Turkish Civil Code. As a result of these efforts of the non-governmental organizations working for the protection of women rights, all the laws that have come into force since 2002 are in compliance with the European Union acquis and all the related universally accepted human rights and international conventions for the protection of fundamental liberties. Nevertheless, the enforcement of the related legislation unfortunately does not coincide with the tangible regulations and the victimization of many women cannot be relieved especially in protecting women against the violence of men. Besides, it is observed that the women who have been provided protection by the government under the current legislation are also murdered despite all the precautions and the lives of many women cannot be protected. As expressed above in detail, although the Turkish

legislation is in compliance with the internationally accepted positive norms, the "perception" of the society needs to be changed virtually. Therefore, for the purpose of preventing these social problems including violence against women, the fact that entire society needs to be educated from a young age is a definite reality. Starting from the first term of primary education, it is necessary to provide a systematical and continuous education starting from age 8-14 when they can comprehend gender differences in relation to the issues such as the equality of men and women, right to live is the most fundamental human right, nobody has any right for attacking the body integrity of one another etc.; in addition, a legislative change should also be made anticipating providing a necessary compulsory education.

One of our fundamental rights is also living in a way suitable for human dignity and not to be persecuted. This right is also violated with domestic violence.

Recently, Constitutional Court has cancelled the punishment provision in the Turkish Criminal Law inflicted on the people who make a religious ceremony "before civil marriage". This decision is very dangerous for women and children and the family structure in Turkey and the way for polygamy which features marriage through religious ceremony instead of civil registered marriage has been cleared. This decision has been reprimanded by our Foundation the day after it was made through a text published in a newspaper with the widest circulation in Turkey and interviews to several broadcasting organizations and the fact that this decision will inevitably cause many problems mainly in Family Law and Inheritance Law and create legal, social and cultural problems has been specified. It has been reminded that, according to our Constitution, protection of the family and especially mothers and children is a governmental duty and thus the attention of the public is aroused.

Right of Marriage and Education

On the condition that men illegally marry girls under the age of 18 (eighteen) without civil marriage, these young children are also not able to use their education right which is one of their fundamental rights. At the same time, these children cannot complete their personal development and the Turkish society lacks the necessary young and educated workforce. While a ten-year continuous and compulsory education was being applied in Turkey, compulsory education was raised to 12 years and it was divided to three equal parts as 4+4+4; compulsory attendance has been removed after the second four years, that is

after eight years, and this will lead the way for removing girls from education and marrying at an early age, which is an undesired situation.

CEDAW and Abortion Right

Fertility of women are inspected by the ethnical, religious and regional groups that they live in. Generally, societies that desire to increase their population want to be effective in the marriage age of the women, who they will marry and when and how many children they will have. The right of women for having self-determination on their own body is the keystone of the strengthening and development of women as a social group and citizen.

We would like to mention that we are proud of the selection of Prof. Dr. Feride ACAR who is known by her works on the issue for years as the member of Experts Committee (GREVIO) responsible for the supervision of Istanbul Convention and as the 2015-2018 period Convention member of "CEDAW" (Convention for the Elimination of all Forms of Discrimination against Women) of which Turkey has been an unreserved party since the beginning of 2000.

As the "Violence against Women" terminology does not appear in CEDAW text, as is known, it appeared in Istanbul convention with the general recommendations numbered 19 in United Nations Declaration. Clause 16, Paragraph 1/e of CEDAW convention regulates the free and responsible decision of freedom of marriage, number of children and when the children will be born. In accordance with Family Planning Law dated 24.05.1983, discretionary abortion up until the 10th week of pregnancy is legal in Turkey. However, despite having no legal grounds, it is observed that some hospitals and doctors cause difficulties for people who would like to have an abortion during the mentioned period.

Another issue that should be stated at this point is that the information about the women's body is easily accessible by the Turkish Republic Ministry of Health and this condition arises many problems. For this reason, the expression of reproduction and women health system of Turkey should be the priority.

In Turkey, each individual has a "family practitioner" appointed by the Ministry of Health of the Turkish Republic. Family practitioners have an easy access to all the related "confidential information" about the people via the Ministry of Health of the Turkish Republic. For example, in the case when a woman gets pregnant and the pregnancy is corporally determined by a blood test made in any hospital

unrelated to the family practitioner, this "confidential information" is immediately notified to the Ministry of Health of the Turkish Republic. The Ministry of Health of the Turkish Republic forwards this information to the family practitioner and the family practitioner contacts the pregnant woman via telephone promptly. This situation may cause many problems. That is to say, in our society, if the pregnant woman is "single", in some situations, instead of the pregnant woman, her parents are directly contacted and the pregnancy of the person is notified to her parents and only this situation may give rise to many irreparable damages including domestic violence. Similarly, if the pregnant woman is "married", this situation is sometimes notified directly to her husband and causes many problems. The fact that no concrete steps are taken in Turkey in relation to personal information safety also gives rise to this situation and this loophole in the law causes the indirect occurrence of violence against women.

However, giving birth to a child is a natural result of the body and a superior feature given by nature. Although women have a say in the process that leads to the natural result of getting pregnant and giving birth, their right in this is limited.

Moreover, in accordance with Clause 2 of "Human Rights and Biomedicine Convention" approved by Turkey on 03.12.2003 and opened for signature within the frame of the European Council, "The benefits and welfare of humans are above the benefits of science and the society". Following these developments in Turkey, a campaign called "My Body, My Decision" has been initiated countrywide by women from all walks of life and to some extent; some acquisitions have been gained in the current illegal application.

The Target of Gang Rapes is insulting the Society;

For the reason that the women body is seen as a property, in wars, women body is considered as another frontline of the war. Within the fact that women (and even men and children) were and have been raped in masses as spoils of wars, the rapist groups are in fact insulting the groups that they see as enemies on the persons who are being raped and continue to cause permanent mental and physical damages.

With this deed, the rapist takes the persons under control, and tries to overpower and use them by affecting their ways of behavior and thoughts and making them weak.

As followed from printed and visual media, women have suffered mass rapes in Syria/Iraq ISIS, Nazi/Poland, Korea/Algeria/Vietnam wars, Bangladesh/Pakistan, Indonesia/East Timor, Kuwait-Iraq occupations, Peru Civil War, Sierra Leone etc. History has also written that such rapes have happened in Congo and Bosnian war. In the article named "Bosnia War Crimes: "The rapes went on day and night"¹ published in "The Independent" newspaper dated 8th February 1993, the barbarity against the Bosnian and Croatian women in Kalinovik camp by the Serbians was written. All the women and their families and the society in general were sentenced to a lifelong shame.

The rape statement of the Albanian soldiers against the Serbian and Gypsy women during the Kosovo war shall be so terrible that, in 1998, Roman Criminal Courts defined the deeds of rape, forcing into prostitution, impregnation and forceful sterilization as "crime against humanity".

As a result, during land and power wars and war and anarchy periods, it is observed that the way of "power gain through women body" is used.

Fighting against criminal enterprises that disregards human dignity and human rights and fairly enslave them by abusing humans in many ways for their own benefits is a human duty.

US, WOMEN, DO NOT WANT TO HEAR;

- Gendered discourses,
- Questioning the effect of business life of women on their productivity at home,
- Law propositions that aim to seclude women at home instead of social life and business life,
- Statements making woman a political material,
- Interventions to the decision of the couples in relation to fertility,
- News related to "Another women, a child being the victim of rape or murder" today!

¹ Fisk, R. (1993) Bosnia war crimes: 'The rapes went on day and night'. 08.02.1993. The independent. <http://www.independent.co.uk/news/world/europe/bosnia-war-crimes-the-rapes-went-on-day-and-night-robert-fisk-in-mostar-gathers-detailed-evidence-of-the-systematic-sexual-assaults-on-muslim-women-by-serbian-white-eagle-gunmen-1471656.html>