

United Nations  Nations Unies

United Nations Division for the Advancement of Women
United Nations Economic Commission for Africa 11.2899(sfGLMT)5.3g289c

Tackling Honour in the Aftermath with a Good Practice

Crimes of honour are violations of women's and girl's human rights. These crimes are subjected on individuals, overwhelmingly women and girls, who believe or are perceived to believe in values and standards which are at odds with the social mores of the society in which they may live¹. Defining these crimes and risk factors are not an exact science but a matter of judgment. The crucial point here, however, is to note about notions of what is acceptable and unacceptable in terms of behaviour, and what constitutes harm. These notions are culturally, politically, socially, economically, and geographically influenced and constantly under review as values and social norms evolve. Since honour is a culture and language specific and historically contingent issue, it changes in time and space. Nonetheless, what remains constant is controlling and regulating women's sexualities, lives, choices, and autonomies within the hegemonic masculine order we all live in. Disappointingly, serious and severe lack of clarity on the concept of honour and risk factors leading to these crimes continues to be a major problem among different communities all throughout the world as well as people in Turkey². This is probably the most important angle of our work. Until we all understand and know about what we are really dealing with, we will continue to make gravely mistakes. More lives will be lost, and the situation will become more severe.

The evolvement of this highly complex issue within the last 15 years in Turkey is breathtaking. This horrendous violation of women's and girls' human rights went from zero discussion in the public eye to Turkish Ministry of Foreign Affairs, along with the United Kingdom in 2004, main sponsoring a resolution at the United Nations General Assembly³,

The old laws

The old laws enacted during the establishment of the Republic in 20s, reflected the views of founding fathers on women. Ay e Parla, in her award winning article, argued that virginity examinations must be viewed as particularly modern form of institutionalized violence used to secure the sign of the modern but chaste woman, fashioned by the modernization project of Turkish nationalist elite. Parla further states that interrelation of legal and cultural in the enforcement of gendered social norms shows us how the state's regular intrusion into women's bodies comprises a fundamental facet of its sovereign claim over social relations in the name of nation⁵. Parla sees all of this as 'emblematic of the incorporation of the preoccupation with women's modesty, previously enforced primarily through kinship networks, into the mechanisms of surveillance deployed by the modern state'.

On 22nd of November, 2001, the Turkish Grand National Assembly, by adopting a new Civil Code, established full equality of men and women in the family, such as by eliminating the usage of ‘husband’ and ‘wife’ from its terminology and introducing the term ‘spouses’ in its new language⁹. The new Code, prepared in the midst of serious resistance from religious and nationalist conservatives in the country, is another groundbreaking achievement of the women’s movement. For the campaigning of the new Code, more than 120 women’s nongovernmental organizations came together, an unprecedented event at that time¹⁰. The new Code introduced the equal rights over the family household, equal rights over property acquired during marriage, equal representative powers, and abolished the concept of illegitimate children¹¹.

In Turkey, marriage is a registered official event/ceremony. The importance of marriage and what it means in the establishment of the Republic, and the continuance of nation-state is some of the major topics among feminist political scientists. For instance, the Article 174 of the Turkish Constitution cites the principal of civil marriage as one of the Fundamental Reform Laws in establishing the Republic in 1923, and makes direct referencing to the Article 110 of the old Civil Code. In the new Civil Code, conditions for marriage in its framework are clearly and explicitly defined. Article 124 states that men and women are not allowed to marry before the age of 18, correcting the previous discriminatory provision where different minimum ages existed for men and women. In the old Civil Code, the marriage age was 17 for men, and 15 for women¹². The full and free consent, both for minors and adults, of the couple getting married is a basic condition for marriage. In cases of forced marriages, women can apply to the Court of Law for annulment of their marriage within the first five years. Two basic criteria for marriage, age and ability to discern, are clearly spelled out in the new Civil Code. The minimum age limit can be lowered to 16 under extraordinary circumstances at the Court of Law by the Judge. All of these reforms in the earlier part of the decade brought Turkey one step closer to the realization of women’s human rights, however, the actual implementation of these reforms are no where near to the desired levels of attainment¹³.

The reform of the Penal Code came in the midst of sea of changes in the country¹⁴. After the 2002 landslide elections of the AKP (identified as conservative centre right by the Prime Minister Erdo an) government, there were unprecedented reforms in the country to join

⁹It became effective on the 1st of January 2002.

¹⁰ Please see expert paper prepared by Pınar Ikkaracan and Liz Erçevik Amado titled Good Practices in legislation on Violence against women in Turkey and Problems of Implementation, United Nations EGM/GPLVAW/2008/EP.13, 23 May 2008

¹¹ In the Civil Code, women are entitled an equal share of assets accumulated throughout the marriage, and this clause is valid for the property acquired after January 1st of 2002. The relevant information can be found in Article 10 of Law No: 4722, Governing the Enforcement and the Implementation of Civil Code.

¹² Furthermore, the Article 41 of Turkish Constitution was amended to redefine the family as “based on equality between the spouses” (Amended on 3rd of October, 2001, No: 4709: 17).

¹³ For instance, as I was writing this article, an execution of 45 people in rural Mardin, a Southeastern city occurred. Although the real reasons and healthy factual information are yet to unravel in such mass killings, there are apparent violations of women’s human rights in the entire story. Unfortunately, no one in the mainstream media is even addressing women’s right to choose her partner for marriage or/even using gender sensitive language. Please see Radikal Daily Newspaper on May 7th 2009.

¹⁴ It was adopted on 26th of September 2004, and became effective on the 1st of June 2005. The Law Number 5237, and published in the Official Gazette on October 12th, 2004 No: 25611.

ENGLISH only

the European Union¹⁵. The Penal Code Draft Law Sub-Justice Commission (herein after the Penal Code Commission) of the Parliament began to review the draft law and at the same time Women's Working Group on the Penal Code launched the Campaign for the Reform of the Turkish Penal Code from a Gender Perspective¹⁶. The Penal Code Commission at the Parliament, all male group, was uninterested in communicating with women's groups and learning about gender based perspective. However, organized and strategic lobbying lasting for almost three years, led to the new Penal Code with significant changes in gender equality and women's human rights.

Article 462- If the acts mentioned in the two sections above are committed, against a husband or a wife or a sister or one of the children or the common perpetrator or both who were eye witnessed on the act of adultery or at the moment he/she was having illegitimate sexual intercourse or if it appears without doubt that he/she committed adultery or had illegitimate sex, by a wife or a husband or one of the parents or a brother or a sister, the determined punishment for the act is reduced by one eighth and transformed into heavy imprisonment²⁰.

This article was widely accused of discriminating and violating women's human rights was later abolished. The initiation to abolish the Article 462 made by Judge Ali Güzel of Second Criminal Court of Bakırköy District, Istanbul stated the following summary in the statement of reasons:

“The right to life, and to preserve and develop one's material and mental existence are basic rights which are not touchable, resolvable, or renouncable. This article arising from the claim of an individual to possession and domination over another individual who is leading her life based on her own free will and own choices, especially if she has reached the age of discretion and can distinguish between right and wrong, his egoism of not allowing her to love someone else, and the idea of cleansing the honour, have nothing in conformity with the general principles of law”.

As you can see from the Judge Güzel's statement to the Constitution Court in his appeal to abolish this law, it explicitly referred to women although the Article 462 does not make such distinction. In implementation, this Article was rarely used against men when he committed adultery²¹. Furthermore, what I found in my research regarding this specific article was quite interesting. Due to its difficulty to sustain all of the relevant conditions cited in this law, it was extremely difficult to justify the cases at the Court²². For instance, according to the Judicial Statistics of 1995, out of 22.323 crimes of homicide, only one was considered within the scope of this specific article in the old Code²³. Thus, the Court applied the Article 51, common mitigating clause that can be found in every Code around the world when it issued lenient sentences to the perpetrators. What happened during the trials was that mentality of the judiciary played a great role in “assessing women's honour” and making the victim's behaviour as the ‘great cause of concern for family²⁴.’

²⁰ This article was amended in the above mentioned form on June 11th 1936 by the Law (No: 3038/1) and on June 29th 1938 by the Law (No: 3531/1) and on July 9th 1953 by the Law No: 6123/1). Later it was abolished on July 15th 2003 (No: 4928/19).

²¹ Second Criminal Court of Bakırköy, Istanbul, Case File No: 1995/524.

²² For a detailed analysis of this in the Ottoman Empire Please see Fatmagül Berktaş “Osmanlı'dan Cumhuriyet'e Feminizm”, Cumhuriyet'e Devreden Dü ünce Mirası. Tanzimat ve Me

Another horrendous issue, infanticide, is also closely related to crimes of honour in Turkey's context. Execution of the infants, who are allegedly "products of this dishonourable female behaviour" at the hands of parents and relatives, has a long history in Turkey. The Article 453 on infanticide read as:

"If the criminal act of deliberate murder is committed, with the motive of saving the honour of the perpetrator or his wife or his mother or his daughter or his granddaughter or his foster daughter or his sister, against an illegitimate child before it is registered in the Public Registration Office and within the five days following its birth, the perpetrator receives a sentence of five years to ten years imprisonment."

The law was amended several times. The term 'illegitimate child' was replaced by 'newborn baby', which meant while giving birth or as soon as the baby was born. The final version of article in the old Code took into consideration psychological disorder experienced by women pre or post-partum, and read as follows: "*Article 453 If the act of murder is committed by the mother against the new-born child with the motive of saving her honour, the perpetrator is sentenced to 4 to 8 years imprisonment*". In the New Penal Code, the relevant language relating to the murder of the infants buried in the 82 (e) clauses dealing with the murder. Law in its current form does not addr

must remember that these major legal reforms brought Turkey closer to the international standards and norms for gender equality and women's human rights.

A Good Practice: Doing it with Religious Leaders in Secular Turkey

Such a complicated and sensitive issue, like crimes of honour and forced marriages, needs to be addressed in a comprehensive, holistic, and urgent manner. Tackling the role of religious leaders in preventing violence and promoting women's and girls' human rights is extremely crucial. Considering the fact that ninety percent of Turkish population is Muslim, and majority of the male population goes to mosques to receive religious services, such as listening to Friday sermons. In order to meet the demands, the Presidency of Religious Affairs, a state body, assigned almost 63,000 "imams", in addition to other religious officials including women. The religious leaders have a strong influence over the society, and capable of reaching to the large number of people from different social segments²⁹. Thus, we concluded that if such an important and influential group is trained on "national and international human rights standards and instruments for the elimination of violence and discrimination against women", these notions would be transmitted directly to the public in general by imams.

To this end, we, Education Group at the Amnesty International Turkey, have been conducting Women's Human Rights Education Project titled *Raising Awareness and Increasing Capacity of Religious Leaders* for last three years at the Presidency of Religious Affairs. The Presidency established at the time of founding the Republic 85 years ago, provide necessary religious services to the Muslim population. In the context of Turkish secularism, the religious leaders working at the Presidency are first and foremost civil servants abiding by the rules of democracy, republic, and law in providing their services. The Presidency directly connected to the office of Prime Minister. Hence, using the international human rights documents signed by Turkey as their standard, such as CEDAW, is part of their duties and responsibilities. Moreover, attending our training is part of their on-the-job-training process where they get certain credits and certificates. In our trainings, we address preventing violence and discrimination, raising awareness of women's human rights, including abuses and improvements of cultural, social and economic rights as they relate to women, and strengthening the quality and inclusiveness of national dialogue on controversial topics that impact on fundamental rights and the process of democratization. We use participatory education techniques including group work, drama, role plays, case studies, brainstorming, art work, and discussion.

The most important factor in doing such a project is the political will of the leadership

EGM/GPLHP/2009/EP.02

11 May 2009