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## **Women's Rights in Turkey: Interaction of State and Non-State Actors in the Implementation of Judicial Equality**

### **1. Abstract**

*The women's movement in Turkey secured a remarkable achievement by convincing the parliament to adopt their claims in the recent reforms of the Civil Code (2002) and the new Penal Code (2004), which were passed in order to meet the Copenhagen Criteria of the European Union. Now, the crucial challenge ahead lies in implementing these laws. This article explores the process of codifying and implementing these norms with special regard to the challenges of interaction between state and non-state actors. This article will first begin by describing the role of the feminist women's movement since the 1980s and the current status of women in Turkey. Second, specific aspects of implementing norms for equality will be analyzed on the basis of recently amended norms that prohibit and prevent violence against women. Third, the interaction of state and non-state actors will be analyzed with special regard to the impact on the process of implementation. The underlying hypothesis emphasizes the fundamental role of non-governmental actors in preventing violence against women and promoting fundamental change that is sustainable and coherent.*

### **2. Women's Rights in Turkey**

In order to have a better understanding of current developments, this section focuses on the independent women's rights movement and the challenges of progress in the historical context. Furthermore, the living conditions of women and in particular the prevalence of violence against women will be presented.

#### **2.1. Historical Context and the Challenge of Implementation**

Historically, the Turkish Republic has undergone two periods in which major improvements were made with regard to the status of women. One was in the 1920s, the early years of the Republic, when Shari'a was abolished and Turkish women were first granted civil rights, and the second was in 1934 when women also gained political rights.<sup>1</sup>

Although the reforms led to full citizenship for women, the abolition of polygamy and the granting of all civic rights including political rights to women, restrictions in the family law, the Civil Code, identical with the Swiss Civil Code, and the Penal Code, consistent with

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the Italian Penal Code, gave women a status that was legally subordinate to men. The rights and duties of women in the family were defined in respect to the husband, who was the head of the household. Furthermore, the Penal Code included articles that violated women's rights, such as the concept of honour, family honour and other concepts linked to patriarchal values.

In his article "Where do rights come from?", Charles Tilly supports the argument of a pressure cycle that has historically evolved in the struggle for citizenship rights. Citizenship rights came to exist because relatively organized members of the general population bargained with the state. "This bargaining enlarged the obligations of states to their citizens, broadening the range of enforceable claims (...)" (Tilly 1999:57).

According to Tilly, rights originate from repeatedly making similar claims. The bargaining model of enforceable claims underlines the fact that governmental and non-governmental entities need the ability to reward and punish each other. This bargaining takes into account the potential consequences of punishment or reward. In this model of bargaining, third parties who have an interest in the claims being made and who will act to enforce future granting of the claims are of vital importance. A necessary condition for the enactment of rights and their sustainability is the stability of the actors and their relationship to each other. Furthermore, Tilly attempts to explain how rights can also disappear. "If any of the four founding conditions - claimant and object controlling relevant rewards and punishments, actual bargaining, interested third parties, durable identities and social relations - weakens significantly, so will rights" (Tilly 1999:72).

Tilly's model explains why the modification and implementation of legal norms had limited effect when women's rights were introduced "from the top down" immediately after the founding of the Republic, without an ongoing and growing "grass-roots" effort on the part of the women's movement. The movement needed to be asking for more, expanding their rights and gaining wider acceptance. <sup>2</sup>

Meltem Müftüler-Baç points out one limiting factor for the women's movement by describing the official rhetoric that existed in the public presentation of women's rights issues in Turkey. In 1999, she notes "the seemingly bright picture - Turkey as the most modern, democratic, secular Muslim state that also secures women's rights - is misleading in many ways. In fact, I propose that this perception is more harmful than outright oppression because it shakes the ground for women's rights movements by suggesting that they are unnecessary" (ESI 2007:6).

Until the end of the 1970s, the major hindrances to gender equality have been rooted in rural backwardness and the cultural value system. During the 1980s the focus shifted towards legal and systemic impediments to gender equality.

In this regard, Güneş-Ayata stresses the fact that up until the 1980s, women exerted very little effort to improve their status in society. Scientific research about women was limited to a few studies either on rural women who were perceived to be "oppressed women" who needed to be awakened by the rights afforded by the Republic, or concentrated on women in professional life and their achievements (Güneş-Ayata 2001:158).

Furthermore, she points to the process of “Othering” between the so-called centre and the periphery. The educated urban middle class women were focusing on the poor, provincial, traditional and uneducated rural women, arguing that the source of inequality was the lack of education as well as ignorance about the rights that women already had.

After the military intervention in 1980, Turkish feminists began to ask more radical questions about restrictions in political and civil liberties. At the beginning of the 1980s the public agenda turned to the discussion of political representation and women participating in government.

In 1986, a petition was launched urging the state to implement the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Turkey had ratified in 1985, albeit with reservations (Bodur/Franceschet 2001:114).

The deficiencies in Turkish law were brought to the attention of the public. Putting women’s issues into the international context and pressuring for the ratification and later on the implementation of international treaties such as CEDAW has raised public awareness. Since much of its Civil Code was in violation of these principles, Turkey was compelled to state many reservations to the provisions of the Convention. Based on CEDAW, the women’s movement pointed out that Turkey was unable to grant men and women equal rights and responsibilities in marriage, divorce, property ownership and employment (ESI 2007:8).

The second major phase of reform was initiated at the beginning of the 21st century. Equal rights in marriage, divorce and property ownership are granted in the Civil Code (2001). The new Penal Code (2004) treats female sexuality for the first time as a matter of individual rights, rather than a matter of family honour. Furthermore, the principle of gender equality and the obligation to take all necessary steps to promote it have been codified in the Turkish Constitution (2004). Family courts have been established (2003), employment laws amended (2003), and there are new programs that address domestic violence and improve access to education for girls. In addition, Turkey withdrew all its reservations to CEDAW and ratified the Optional Protocol. Moreover, the government established departments, agencies and commissions specifically dedicated to women’s issues and empowerment. Recently, the parliamentary commission on equal opportunities was founded.<sup>3</sup>

## 2.2. The Women’s Movement since the 1980s in Turkey

The impact of women’s NGOs on the process of formulating and codifying standards has shown how influential the Turkish women’s movement became after the military intervention in 1980. As an autonomous movement independent of political parties, the women’s movement in Turkey originated in the 1980s, formed by urban, educated middle class women, and it succeeded in consolidating itself in the 1990s. Today there are more than 450 women’s organizations in Turkey that maintain an accepted position in society. The movement received significant impetus when CEDAW was signed and ratified in 1985. Like the majority of nations Turkey stated a number of reservations that limited its effectiveness. The 1996 CEDAW report on Turkey had concluded that 29 articles in the Penal Code did not conform to the requirements of the Convention.

Although Turkey's ratification of CEDAW was probably a tactical concession, it gave more freedom to women's NGOs, which took this opportunity to organize campaigns against domestic violence and the abuse of women by their partners (Çakır/Gülbahar 2000:245). The most widely known effort is the campaign on violence against women that started in 1987 and articulated the problem of domestic violence. Activist groups focused on the topic of domestic violence demanded and achieved legal reforms and societal change. More than 2000 people participated in a demonstration in Istanbul on violence against women. As a continuation of this effort, the Mor İğne (violet needle) campaign against harassment started in 1988 and was repeated in subsequent years. Women's groups concentrated above all on the legal prohibition of discrimination against women, since CEDAW requires member nations to overcome such discrimination. The government of Turkey announced its intention to introduce legal reforms to guarantee the rights of women, as envisaged in CEDAW; however, comprehensive reforms were not immediately enacted. Nevertheless, women's groups were able to achieve two significant reforms. One was related to article 159 of the Civil Code, according to which a married woman had to ask permission from her husband before taking up paid employment. The other reform related to article 438 of the Penal Code, according to which rape was punished with great leniency if the victim was a prostitute (Wedel 2000:38). Both of these provisions were abolished in 1990, indicating the strength of the women's movement. In 1996, the constitutional court annulled article 441 of the Penal Code on the adultery of men. Later on in 1998, the court annulled article 440 on the adultery of women. As one of their fundamental achievements women's NGOs consider the Family Protection Law No. 4320 passed in 1998 that protects women from violence. Throughout the 1990s they have been campaigning for this law.

In the late 1990s, western women's NGOs started to reach out for women in the eastern part of the country (Wedel 2000:38). At the same time local women's NGOs emerged in eastern Turkey. Today, the number of women's NGOs in various cities of Turkey is growing. More important, these NGOs are locally based, (inter-)nationally connected and promote a local perspective in the formulation of demands and in their work to stop violence against women.<sup>4</sup>

During the 1990s, women's NGOs developed strong political ties, lobby activities and network structures. Their institutionalization strengthened the attention of media and public. Nevertheless, their ability to mobilize women remained weak.

The 1990s marked a phase of consolidation for the autonomous and feminist women's movements and a phase in which the issue of women's rights in Turkey gained more widespread acceptance. The number of publications dedicated to women's issues increased, and activists for women's rights began to work with universities, private foundations and other institutions. In 1990, a Research Centre for Women's Problems (Kadın Sorunları Araştırma ve Uygulama Merkezi, KASUAM) was founded at the University of Istanbul, combining academic research on women's issues with advisory functions and the coordination of around forty women's groups. In 1993, a similar centre was founded at the University of Ankara, while trade unions, lawyers' associations and political parties

also formed commissions on women's issues (Kardam/Ecevit 2002:92). Because of their expertise, the women's commissions of the lawyers' associations came to play an important role in the recent legal reforms affecting the position of women. At the same time, the women's movement, which had originally developed in urban centres in western Turkey, spread to towns and cities in the eastern part of the country (Bora/Günel 2002:7). For grassroots activists, violence against women was a central issue that galvanized many women's NGOs (Işık 2002:48); at the same time, the establishment of institutions for women's issues in universities helped to encourage academic research on this issue and to break the societal taboo that had long surrounded it.

Turkey's ratification of CEDAW led in subsequent years to the founding of entities for women's issues within the state bureaucracy, as envisaged in CEDAW (Acuner 2002:126). Although these entities distanced themselves at first from women's groups in society, this reserve has gradually given way to a more open attitude. Thus, the General Directorate on the Status and Problems of Women (Kadının Statüsü ve Sorunları Genel Müdürlüğü, KSSGM)<sup>5</sup>, which carries out this role, now actively seeks the participation of civil society groups and helps these groups to publicize legal reforms.

This establishment of institutions to deal with the question of women's rights during the decade of the 1990s also produced a number of other changes. In accordance with Turkey's obligations under CEDAW, a standing parliamentary committee on the status of women and measures to combat discrimination was formed and the state statistical office gathered and published more statistics on the status of women.

An important dimension of the institutionalization of the women's movement in the 1990s was its increasing international profile: civil society groups in Turkey were able to forge stronger links not only among themselves, but also with similar groups in other countries. It is interesting to note that this networking was greatly facilitated by Turkey's accession to CEDAW as well as to the ongoing process of preparing for EU membership negotiations. In other words, government policy in Turkey provided women's groups with an advantageous environment for political opportunities (Mahoney/Snyder 1999), which they used to considerable effect. Major UN conferences such as the International Conference on Women (Beijing 1995) and Habitat II (Istanbul 1996) offered women's groups a chance to exchange information and experiences and to learn from each other (Kardam/Ecevit 2002:91). Contacts with feminist and women's movements within the European Union formed an important part of this networking, and the process of preparing for entry negotiations has encouraged stronger links with groups such as the European Women's Lobby and the European Women Lawyers' Association. This in turn has led to an enhanced perception within Turkey itself that the women's movement is an important advocacy group. Another relevant outcome of international networking has been an increase in funding and resources for women's groups in Turkey.

The 1990s thus marked an important period of growth and consolidation for the women's movement in Turkey. Nevertheless, serious problems remained. Despite the fact that the women's movement spread from the urban centres in western Turkey to encompass less

developed regions, and despite its attempts to reach out to women from sectors other than the educated middle class, its capacity for mass mobilization remained weak. Further, their penetration into state agencies and their co-operational ties with state institutions remained negligible. The autonomous women's NGOs feared becoming co-opted and they retained their antagonistic relationship towards state institutions.

"The movement's relationship with the Turkish state has been more complex. (...) The movement has become institutionalized in recent years, but largely outside formal state structures" (Bodur/Franceshet 2001:126).

According to Hassim this is not necessarily a disadvantage. "Strategies based on engaging the state work best when women's organizations build and sustain constituencies outside of the state" (Hassim 2009:25).

Today, another challenge for the women's movement is the process of a twofold fragmentation. First, in expert interviews, representatives of women's NGOs were stressing that the institutionalization and short-term projects had a weakening effect on their limited resources and capacity, in particular shaping the acceptance of norms (Uçar 2009).<sup>6</sup>

Second, the division in the representation of women along the lines of ethnicity, religion, party politics, ideology and class has made it much more complicated to communicate among the NGOs. In this article, these challenges as well as regional differences and dynamics that influence the interaction of state and non-state actors have not been discussed. The primary focus of this article is on the role of the autonomous feminist women's movement.

### 2.3. Current Status of Women in Turkey

The actual status of women in Turkish society at the end of the 20th century is more distinct than one would expect in view of the legal framework that was in place in the 1920s. Although all the international conventions Turkey ratified contained imperatives for implementation, the process of propagating these norms in society was not guaranteed.

In 2004, the Gender Development Index<sup>7</sup> of the Human Development Report ranks Turkey in 71st place, and the Gender Empowerment Measure <sup>8</sup> ranked Turkey 90th<sup>9</sup> out of 177 countries.

The assembly of the World Economic Forum in Istanbul in 2006 also identified a large "gender gap" (inequality between men and women) in Turkey. According to the WEF, Turkey ranks 105th out of 115 countries.<sup>10</sup>

Concerning the issue of literacy, one out of five women cannot read in urban regions, while in rural areas it is one out of three (men: 4%, 9%). According to KA-DER (The Association for the Support and Training of Women Candidates), the current employment rate of women is 20.5%. From the 1990s onwards, the women's labour force has decreased even further. The employment of women decreased from 34% in 1990 to 20% in 2007 (Berber/Eser 2008; KA-DER 2009). This affects also women working in public administration. Their number has dropped to 23.6% in 2007.<sup>11</sup> At the same time, the percentage of women in the informal labour market increased. Women's unemployment rate lies at 10.7%, but since 13 million women define themselves as housewives, they are not included in the unemployment

statistics. The difference in salary between genders is 22%. The percentage of women in various job sectors is as follows: school teaching staff 53%, university teaching staff 40%, professors 27%, lawyers 34%, public sector staff 24%, private sector 26%, agriculture 45%, banking sector 48%, architecture 31% and health sector (doctors) 34%.

With regard to political representation, the percentage of women in parliament is very low at 9.1%. Currently, 50 out of 550 parliamentarians are women. Since 1934, there have been only 236 female representatives among 9,134 parliamentarians in Turkey, and out of 3,225 mayors only 18 are women.<sup>12</sup>

These numbers are significant in two ways. First, in contradiction to the goal of modernization and equality that was articulated after the founding of the Turkish Republic, women remained in a marginal and subordinate position. Second, the increased representation of women in more qualified employment sectors did not catalyze change in the political representation of women.

The development of women's rights shows that "top down" implementation of these norms requires a complementary mobilization and organization in society that promotes these rights at the local level (Tilly 1998; Risse/Sikkink 1999).

This article stresses that political representation of women and their presence in state bureaucracy is as crucial as the pressure from below for the proliferation of norms for gender equality.

#### 2.4. Violence Against Women

In the late 1990s, academic studies and NGOs started to collect data on violence against women. Therefore, numbers vary and researchers estimate that there are a high number of unknown cases.

According to İktisadi Kalkınma Vakfı, 59% of all married women have experienced violence at the hand of their husbands at least once. 41% have tried to commit suicide, and 50 percent of women have experienced violence during childhood (İktisadi Kalkınma Vakfı 2003:22).

In the first three years of marriage, 73% of women with an academic background experience physical violence and nearly 90% of women who live in the suburban area experience violence (Arın 1998:201).

There were approximately 200 court cases in 2005 related to honour crimes, and according to the Turkish Human Rights Association it is estimated that there is a high number of unreported honour crime cases, which are often disguised as suicide.

Police figures for honour killings total 1,091 between 2000 and 2005. This number only reflects killings that have taken place in urban settings and under the jurisdiction of the police (ESI 2007:22).

In 2009, the Minister of Justice pointed to the immense increase in murders of women. In the first seven months of 2009 the number of women killed swelled to 953, an increase of 1400% over the year 2002. From 2002 until 2009, there have been 12,678 court cases dealing with violence against women or femicide.<sup>13</sup>

More recently, Altınay and Arat published results of a research on violence against women<sup>14</sup>. According to this research, every third woman has experienced violence at least once. While 43% of these women are illiterate, 12% are academics. Almost half of the women in Turkey are not aware of their property rights afforded by the Civil Code, and have never heard before of Law No. 4320, enacted in 1998, which protects women from their violent husbands. Another interesting discovery of this research is that the assumption that women are exposed to more oppression in the eastern parts of Turkey could not be confirmed. It was one of the most comprehensive studies on violence against women in Turkey since 1993, and was conducted in 27 provinces with 150 women and 56 provinces with 1800 married women in face to face interviews (Altınay/Arat 2007). In January 2009, an even more extensive study was published by the General Directorate on the Status of Women (KSGM) – a prevalence study on domestic violence.<sup>15</sup> According to this study, 39% of married women experienced physical violence at least once in their lives. Four out of ten women experienced violence inflicted by their partner and 15% of women were victims of sexual violence once in their lives. In contrast to the study done by Altınay and Arat, this study emphasizes that the percentage of physical and sexual violence increases in the eastern rural parts of Turkey.

The study also revealed that 92% of women who experienced domestic violence did not seek help. Only 4% contacted the police, 4% the judiciary, 4% hospitals and 1% went to the municipality, the Social Services and Child Protection Agency (SHÇEK) and/or a NGO (T.C. KSGM 2009).

The results of this study reveal that existing barriers in the use of institutional support have to be researched.

In order to combat domestic violence against women, the Directorate General on the Status of Women has prepared a National Action Plan (2007-2010) that is in compliance with the measures of the Prime Ministry Circular No: 2006/17. Relevant public institutions, non-governmental organizations and women's issues research centres at universities have participated and contributed to its formulation.

With the National Action Plan against Domestic Violence, improvements are targeted in 6 main fields: legal arrangements, social awareness, advancement of women's socio-economic status, protective services, curative and rehabilitation services and cooperation between different sectors.<sup>16</sup>

A gap in implementation, as happened earlier with women's rights, is the major challenge women face today. In this context, the role of women's NGOs and their interaction with state institutions is of vital importance. Today, the opportunity for implementation is much bigger than 80 years ago. Unlike the reforms of the 1920s, legal amendments today have been achieved through intense dialogue and the engagement of civil society and the media in the parliamentary process.

Still, in order for these laws to be implemented, a series of related problems have to be tackled, like access to education, to health care, to public services, rise in political participation and participation in workforce.



### 3. Interaction of State and Non-State Actors

The following section will discuss the legal reforms and the role of women's NGOs during the process of codifying norms. In addition, this section will present recent developments in implementation as well as interaction between women's NGOs and state agencies with the goal of preventing and combating violence against women.

#### 3.1. The Legal Reform Process

During the past few years, Turkey's efforts to fulfil the Copenhagen Criteria have initiated an impressive process of legal change. Concerning women's rights in Turkey, there have been significant improvements in all legal areas.

In the following section, I am going to examine recent changes to the Civil and Penal Code in Turkey and how they affect women's rights. In particular, rights related to violence against women will be taken into consideration.

In May 2004, a clause on gender equality was introduced into Article 10 of the Constitution: it states that women and men have equal rights and that the state is responsible for taking all necessary measures to realize equality between women and men.

Law No .4320 on Protection of the Family, enacted in 1998 and amended in 2008, aims to protect family members who are subjected to violence. The law enables prosecutors to seek protection orders for women from abusive or violent husbands, including the provision of shelter for those who cannot remain in their homes. The law provides for a range of protective and preventive measures to contain the risk of domestic violence. A judge can order the "abusive spouse" to a set of restrictions, from abstinence from alcohol to leaving the home altogether for a period of time. Failure to comply with the court order can result in charges being brought against the perpetrator of violence in a Criminal Court, where he can face a prison sentence ranging from three to six months. Its recent amendment has extended the law to all family members and has abolished fees for applications and administrative transactions related to court proceedings.<sup>17</sup> Concerning the implementation of Law No.4320, progress has been slow in the application of the law. Whereas the law gets used more commonly in urban areas, few women in rural areas make use of this law. The ESI report from 2007 states that according to prosecutors, one important reason for this is that transportation and communication are limited. Further, the report points out, prosecutors are often reluctant to use their power to intervene, fearing that they may trigger an escalation of violence. The informal power of tribes is seen here as an important factor that impedes the use and application of law. There are also doubts as to whether Family Protection Law No. 4320 applies to couples who have only been married in a religious ceremony (imam nikahı) (estimates go up to 20%), which are not recognized by the courts. According to the ESI report, poor coordination between state institutions and the absence of suitable shelters are additional problems (ESI 2007:24). In addition to these impediments in implementation, women's NGOs constantly stress the poor support structure of the state institutions and the prevailing traditional perspective that focuses

on the unity and well-being of the family rather than protecting the women who have experienced violence.

In 2004, the new Turkish Penal Code was enacted. It constitutes a major step towards gender equality and protection of women's human rights in terms of physical and sexual autonomy. It was achieved by a unique civic campaign designed by women's organizations called the Platform for the Turkish Penal Code<sup>18</sup>, which succeeded in creating a holistic reform to transform the philosophy and principles of the Penal Code in order to safeguard women's rights. Sexual crimes are regulated as crimes against individuals or crimes against the inviolability of sexual integrity, instead of as crimes against society, family or public morality. Marital rape and sexual harassment at the workplace as well as human trafficking are covered by the law. All references to vague patriarchal constructs such as chastity, morality, shame, public customs, or decency have been eliminated and definitions of such crimes against women were brought in line with global human rights norms (Sancar/Bulut 2006:22).

The new Turkish Civil Code came into effect in 2002. It abolishes the supremacy of men in marriage and thus establishes the full equality of men and women in the family. The old legal approach, which assigned women a legislatively subordinate position in the family with rights and duties defined in respect to the husband, has been abandoned in favour of one that defines the family as a union based on equal partnership (Sancar/Bulut 2006:22).

Municipal Law No: 5393 amended in 2005 requires municipalities with larger than 50,000 population to establish shelters for women and children (Sancar/Bulut 2006:25). This law is of vital importance when it comes to the establishment of shelters for battered women. Currently, the Social Services and Child Protection Agency (SHÇEK) runs a total of 28 shelters. Additionally, 19 shelters are run by municipalities, 3 by the governorates and 3 are private.<sup>19</sup>

Furthermore, the directive issued by the Prime Minister in 2006 on "Precautions to be taken against violence towards children and women, and customs and honour killings" creates a profound basis for cooperation between state and non-state actors, since it proposes specific areas in which the relevant actors should cooperate. This directive calls for a broad national strategy to enhance the status of women in Turkey and combat violence. It includes a reference to the need for positive discrimination measures until equality between men and women is achieved (ESI 2007:24). The General Directorate on the Status of Women is the coordinating body that promotes cooperation between governmental and non-governmental actors.

### 3.2. Women's NGOs in the Reform Process

Women's groups have campaigned actively since the early 1990s for changes in the Civil Code. The campaign for legal amendments continued throughout the 1990s. In total, 128 women's NGOs participated in a wide range of events intended to inform and persuade public opinion and the political elite of the need for reform. These activities culminated

in the new Civil Code being passed in Parliament in November 2001. Activists attribute this success to their advocacy campaign rather than simply to the requirements of the Copenhagen Criteria: "The rise of a new strong feminist movement after the 1980s and its success in the revision or annulment of certain articles of the Civil Code, as well as its advocacy and lobbying on several issues of women's human rights, played a key role in the final enactment of the reform and its acceptance by society" (WWHR 2002:4).

Reform of the Penal Code occupied the Turkish Parliament in 2003 and 2004. The draft initially presented to Parliament in 2003 included no specific provisions to protect the rights of women and was criticized for failing to fulfil Turkey's commitments under the European Convention on Human Rights and the Convention on the Elimination of all forms of Discrimination against Women as well as for failing to meet the Copenhagen Criteria. Again, activists were able to point to a failure to comply with voluntarily assumed obligations of the Turkish state as much as to the requirements of the EU negotiations. A primary demand of women's NGOs was the abolition of the legally enshrined lenience towards so-called "honour killings". Under the existing law, a murder perpetrated in the name of tradition or honour (the latter including revenge for adulterous behaviour) was subject to a milder sentence in cases where the court found that the offence to honour constituted serious provocation. The restitution of honour as a motive for crime was also regarded as a mitigating factor in cases of infanticide and abortion. A concerted campaign to abolish honour as a mitigating factor in such crimes led to the formation of new ad hoc organizations linking women's groups, human rights organizations and representatives of the legal profession. This resulted, in the view of the actors, actors in closer cooperation among distinct representatives of civil society and a more professional approach. The campaign included the mobilization of public opinion via the media, public meetings and lobbying of members of parliament. Even before the Penal Code had been amended, the campaign bore fruit in influencing the interpretation of the existing law. This view reflects an important dimension of the reform process that was underestimated by those observers who interpret these recent legislative changes as simply "tactical concessions": both the passage of the legislation and its future effectiveness depend on active civil society coalitions within Turkey that play a vital role in influencing public opinion.

The new Penal Code includes a number of very significant provisions that, if put into effect, will represent a major improvement in the status of women. Leniency in the case of honour killings was abolished and the revised Penal Code regards such killings as serious crimes that can be punished with life imprisonment; polygamy is more harshly punished than previously; rape within marriage is now a criminal offence (a provision that some existing EU member states have yet to enact); and rape followed by marriage to the rape victim is no longer regarded with leniency. A last-minute attempt was made by the Turkish government to introduce a clause making adultery a criminal offence, on the ground that this measure would contribute towards the state's obligation to protect the family, but it was not successful. In a classic example of external and domestic pressure, local

civil society organizations mobilized public opinion against this proposal and succeeded (Stanley/Uçar 2006).

These significant reforms in the field of human rights have been introduced as a result of both of international pressure, including pressure from the EU, and as a result of the activities and expertise of local civil society groups that have lobbied political elites and parliamentarians and that have campaigned to bring certain issues to the attention of the public in order to change public opinion.<sup>20</sup>

On basis of the legal amendments, the European Commission, in a report published on October 6th 2004, judged that Turkey now meets the political criteria set by the EU and is ready to open negotiations for membership. On the 3rd of October 2005, the accession process started for Turkey.

Opponents of Turkey's accession to the European Union question these far reaching reforms and suggest that they merely represent tactical concessions on the part of the Turkish government, which is not actually willing to enforce the new legislation. The Turkish government, the argument goes, is thus following a purely instrumental logic and will not initiate substantial changes. Thus, the problem of implementation arises again and this time the process of implementing gender equality norms is linked to the process of Turkey's EU accession.

### 3.3. Current Interaction in the Field of Domestic Violence

Prime Ministry Circular No: 2006/17 published in 2006 and Ministry of Interior Circular No: 2007/6 published in 2007 strengthened the position of women's NGOs and state agencies in Turkey. Both circulars prescribe in detail which ministries, state agencies, local governments and governorates have to take measures to prevent and fight violence against women. Furthermore, it prescribes the structure of coordination and cooperation between all relevant actors, including the establishment of coordination committees at the local level.

Representatives of agencies admit that the circulars have broadened their scope of action and helped to diminish hindrances inside and outside the institution. On the national and the local level, the circulars established structures for communication and coordination, especially with NGOs. For women's organizations, the circulars are well-formulated tools to accomplish tasks and apply pressure (Uçar 2009).

In November 2006, the Directorate General on the Status of Women launched a two-year project titled "Combating Domestic Violence against Women", with the purpose of promoting gender equality and protecting women's human rights. The project was funded by the European Union (EU) and received technical support from the United Nations Population Fund (UNFPA). Here, KSGM has coordinated different entities with the aim of increasing the capacity of public agencies that provide services to women and improving communication and cooperation between stakeholders.

In order to prepare a Women's Shelter Guide, a series of meetings were held at the KSGM office in Ankara. These meetings were attended by managers of shelters affiliated

to SHÇEK, Municipalities and NGOs. Public institutions, media organizations, NGOs, universities, and professional organizations participated in a stakeholder meeting that initiated the Communication Strategy on Combating Domestic Violence against Women. Regional Conferences, Gender and Media Workshops and other activities were carried out during this period, producing the “Combating Domestic Violence Manual” that spells out the legal rights and available services for women who have experienced violence. In order to improve collaboration and coordination between service providers to women, meetings were organized with representatives of the Ministry of Health, the Ministry of Interior and the Ministry of Justice. Further, trainer education and field training sessions have been carried out with 2,663 participants, representing provincial institutions, municipalities, universities, professional organizations, NGOs and media organizations. Additionally, “The Protocol on the Role of Healthcare Professionals in Combating Domestic Violence against Women and Applicable Procedures” signed between the State Ministry in Charge of Women and Family Affairs and the Ministry of Health provided training for healthcare professionals and managers of 81 provincial directorates. Altogether, 424 healthcare employees have been trained in the cities of Ankara, Izmir, Trabzon and Gaziantep.<sup>21</sup>

Training for police officers on the procedures concerning violence against women were initiated in 2006 through the protocol signed by the Ministry of Interior and the General Directorate on the Status of Women. 40,000 police officers have been trained through 2008.<sup>22</sup> In April 2009, the training of judiciary staff members (prosecutors, judges and social service employees) was prescribed by a protocol signed by the Ministry of Justice and the General Directorate on the Status of Women. By now, 364 staff members, including judges, prosecutors and other experts working at family courts, have been trained.<sup>23</sup> The training sessions for the Police and Judiciary rely on the technical and financial support of the UNFPA. The General Directorate has assumed in this process a coordinating role, even though it has no local offices and very limited resources. Since representatives of women’s NGOs and research institutes educate trainers, these training of trainer workshops enable the participants to network with each other to facilitate communication and support in the future. In interviews the decrease in mutual prejudices and growth of trust between state and non-state actors, has been mentioned as one important outcome of these training sessions (Uçar 2009). Here, the UNFPA and the General Directorate on the Status of Women were able to create opportunities for the various Ministries. Another project of the Ministry of Interior aims to establish eight shelters for battered women by the end of 2009, with technical support from the UNFPA and financial support from the EU. Training of staff in the Presidency of Religious Affairs on violence against women and gender equality started in 2008. This type of interaction between relevant stakeholders is quite recent, and its impact on the implementation process has not yet been determined.

In view of the fact that law is a powerful, albeit insufficient, tool for social change, it is important to examine the interaction of state and non-state actors in order to understand the current process of (institutional) norm internalization, i.e. implementation of rights related to violence against women. In practice, women’s NGOs request action

from the state to protect women and prevent violence against women. They demand the establishment of new institutions, public facilities, cooperation agreements and programmes that will protect women and inform them about their rights. In particular, strict prosecution of violence against women is demanded, instead of being lenient towards insufficient implementation and towards the offenders. Further, feminist women's organizations complain that they are often overlooked by state institutions, that they cannot overcome the hierarchical communication structures, and also that in some cases demanding and critical NGOs may be excluded from arrangements for communication and funding (Uçar 2009).

Although the interaction between women's NGOs and state institutions has remained antagonistic, some women's NGOs have established arrangements for communication and even in some cases coordination with state agencies on the local and national level.<sup>24</sup> However, this continuous and gradual development in communication and coordination is characterized by slow progress and has experienced several setbacks.

This analysis of the status of women in Turkey and history of the propagation of norms shows that in recent years, awareness has been raised of the need for both institutional (top-down) and societal (bottom-up) internalization of norms that prohibit and prevent violence against women. Both processes are crucial for raising awareness and empowering of women, who first of all must know their rights.

#### **4. Conclusion**

The overall aim of this article was to give an overview of the recent developments of women's rights in Turkey. In particular, the role of women's NGOs in the phases of codifying and implementing norms, with special emphasis on norms for domestic violence has been analyzed.

The brief review of history shows that top-down norm codification remains deficient as long as there is no women's movement continuously fighting from bottom-up for the modification and implementation of norms on the institutional and societal level. In this regard, the potential of contention should not be underestimated. If we return to the fundamental question that Charles Tilly raised in his article ("Where do rights come from?"), the answer is that rather than being a gift, rights have to be gained through constant struggle, which consists of bargaining (reward and punishment) and debate. In the case of gender equality norms, the emergence of an autonomous women's movement at the beginning of the 1980s has initiated legal, institutional and societal changes. In particular, public attention has been drawn to a very intense discourse on women's human rights in the field of domestic violence. The legal reforms that culminated in the reform of the Civil Code, the Penal Code and the Constitution have been shaped to a large extent by the women's movement. The amendments and the reforms were achieved through the participation of women's NGOs in several platforms, their presence in the media and in the parliamentary process by means of lobbying and expertise. Although the issue of EU candidature has been a window of opportunity for the women's movement, the reform process has been more

complex than a mere pro forma acquiescence by the Turkish government and parliament to EU demands. The role of the women's movement in influencing public opinion and shaping political debate on these contentious issues has been complemented by the Turkish government's and oppositions' willingness to embrace reform. The process of preparing for EU accession was conducive to a dialogue between civil society and state institutions. According to Tarrow, the struggle over meaning "becomes part of the political culture - which is to say, part of the reservoir of symbols from which future movements can choose" (Tarrow 1992:197).

Although the EU plays an important role as a catalyst for this judicial reform process, the practical aspects of implementation primarily depend on domestic and even more precisely on regional and local conditions. In this regard, the presence of women's organizations pressuring for institutional support and raising awareness at the local level is of vital importance. In this process, however, international support, be it from the UN or the EU in terms of funding, technical support or as an institutional door opener, fulfils the catalytic function mentioned above. These state agency staff training sessions on gender equality, gender sensitivity and on the issue of domestic violence have achieved the significant outcome of decreased prejudices on both sides and increased trust between women's NGOs and state agencies.

Since 1980, women's NGOs in Turkey have struggled for their rights and have gone through an encouraging phase where legal amendments were passed from 2001 until 2004. They now fight for the implementation of these rights. Whether they are going to be actually applied in practice or remain ineffectual depends mainly on endogenous factors. This article stresses the fundamental role of non-governmental organizations in actualizing women's human rights and promoting sustainable and coherent institutional change. Future research on norm implementation processes should focus on the question of why certain norms – in this case norms prohibiting and preventing violence against women – have such difficulty in getting translated into institutional and societal practice. Such research must also identify endogenous causes that limit the scope of these norms.

An important conclusion one can draw from the developments and approaches presented earlier is that norm compliance relies as much on the antagonistic interaction of state and non-state actors as on the creation of sustainable arrangements for communication, coordination and cooperation.

1 In the founding phase of the Republic, gender equality became a symbol of modernity in Turkey. The women's rights movement, which had achieved partial access to education and professions during the 19th century, also had an impact on progress after 1923.

For further information on the women's movement from the 19th century onwards please see the chronology prepared by Çakır, Serpil/ Gülbahar, Hülya 1999: Türkiye'de Kadın Hareketinin Yüz Yılı Kronolojisi, in: Kadın Eserleri Kütüphanesi ve Bilgi Merkezi Vakfı: Kadın Hareketinin Yüzyılı. 2000 Ajandası, 226-277.

This article will not be able to deal extensively with the history of the women's movement and the status of women in Turkey, but it will highlight some campaigns and developments, particularly since the 1980s. Therefore, for further study please see: Bora/Günel 2002: 90'larda Türkiye'de Feminizm and Türkiye Ekonomik ve Toplumsal Tarih Vakfı (Hrsg.) 1998: 75 yılda kadınlar ve erkekler; Tekeli, Şirin 1985 and 1998.

2 To give one example, according to one quarter of married women in eastern Turkey, divorce is regulated in the traditional social codex. According to another quarter of women it is regulated in religious laws. Only half of the legally married women acknowledge the rights in the Civil Code and the court as the legitimate authority (Ilkkaracan 1998:184). Ten years later, these numbers have been confirmed to a certain extent by the research carried out by Altınay /Arat in 2007. According to Altınay /Arat, half of the women in Turkey are not aware of the legal changes in the Civil Code and 43% have never heard of Family Protection Law No. 4320 enacted in 1998 (cf. page 11). For further reading on the subject of early marriages and polygamy see Ilkkaracan 1998, pp. 173.

3 For more details on the legal basis of the parliamentary commission on equal opportunities that was founded on the 24th of March 2009 see: <http://www.turkhukuksitesi.com/showthread.php?t=37047>

4 KAMER (Women's Centers) for example, founded in 1997 in Diyarbakir is a well-known organization that succeeded to establish 23 Women's Centers in eastern cities of Turkey. But also newly established local organizations like VAKAD (Women's Association of VAN) have a growing impact on the local level. In order to get a better overview on all women's NGOs this article strongly recommends the new Directory of Women's Organizations in Turkey provided by Uçar Süpürge (flying broom): <http://www.ucansupurge.org/veritabani/veritabanien.php>

5 This entity was later renamed and changed its status. Today the Directorate General on the Status of Women is affiliated with the Prime Ministry.

6 During field research for her doctoral thesis at the Berlin Graduate School of Social Sciences, the author conducted more than 60 expert interviews with representatives of governmental and non-governmental institutions in various cities of Turkey from March to July 2009. The thesis explores political, institutional and social dynamics in the implementation of norms prohibiting and preventing violence against women and aims to explain the dynamics in the translation of legally binding norms and policies into social reality. Preliminary results are referred to as (Uçar 2009) in this article.

7 GDI is taking life expectancy, education (literacy) and estimated earned income into account.

8 GEM measures political participation and decision making, economic participation and decision making, and power over economic resources.

9 For more information see, [http://hdrstats.undp.org/countries/data\\_sheets/cty\\_ds\\_TUR.html](http://hdrstats.undp.org/countries/data_sheets/cty_ds_TUR.html)

10 World Economic Forum, The Global Gender Gap Report 2006

11 For further readings please see: Berber/Eser 2008 and TÜSIAD, KAGIDER 2008

12 For further information and statistics see: KA-DER <http://www.ka-der.org.tr/?p=istatistik>

13 Milliyet: Kadın cinayetleri yüzde 1400 arttı, 08.11.2009, p.14.

14 For further study of this research please see: <http://www.kadinayoneliksidet.org/English.html>

15 "Between August and October 2008, 24,048 households were visited throughout the country. Structured face to face interviews were carried out with 17,168 households and 12,795 women. Further, between February and October, 9 focus group discussions were conducted with men (6) and professionals (3), and 64 in-depth interviews were conducted with women, mothers/mothers-in-law, men, representatives of NGOs and professionals." (KSGM 2009-12-01, in: <http://www.ksgm.gov.tr/tdvaw/default.htm>)

16 For more details see: [http://www.ksgm.gov.tr/en/nap\\_dvaw.php](http://www.ksgm.gov.tr/en/nap_dvaw.php)

17 With regard to implementation problems inherent to the law and demands for amendment, please see the studies of the women's legal support centre (Kadınlara Hukuki Destek Merkezi – KAHDEM), in: <http://www.kahdem.org.tr/>

18 For further reading on the successful campaigns and the activities of the Platform, see WWHR 2006: Turkish Civil and Penal Code Reforms from a Gender Perspective: The Success of Two Nationwide Campaigns, in: [http://www.wwhr.org/yayin\\_3.php?detay=35](http://www.wwhr.org/yayin_3.php?detay=35) and Pinar Ilkkaracan 2007: Reforming the Penal Code in Turkey: The Campaign for the Reform of the Turkish Penal Code from a Gender Perspective, in: [http://www.wwhr.org/yayin\\_2.php?detay=47](http://www.wwhr.org/yayin_2.php?detay=47)



19 These numbers were provided by the Social Services and Child Protection Agency in May 2009.

20 On the emergence, diffusion and adoption of norms, i.e. the analysis of norm dynamics, see Risse/Sikkink 1999; Finnemore/Sikkink 1998, Wiener 2007; 2009.

21 For further details see: [http://www.ksgm.gov.tr//en/Project\\_vio\\_r5.php](http://www.ksgm.gov.tr//en/Project_vio_r5.php)

22 For further details see: <http://www.unfpa.org.tr/turkeytr/haberler.htm>

23 Milliyet: Kadın cinayetleri yüzde 1400 arttı, 08.11.2009, p.14.

24 The women's human rights training program provided by WWHR and SHCEK since 1998 is one rare example for a synergistic partnership between a state agency and a women's NGO. For further reading on the program see: <http://www.wwhr.org/hrep.php>

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