

## **The Women's Movement in Turkey: From Tanzimat towards European Union Membership <sup>1</sup>**

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### **Introduction**

The Turkish women's movement has worked hard for the improvement of the situation and status of women. Especially since 1980, a lively women's movement, under very difficult circumstances has succeeded in questioning the authoritarian regime, bringing "private" topics like violence against women to the political agenda, and finding solutions for women's problems. Particularly on a legal basis, much has been done. The European Union's impact on this cannot be denied - as for example all of the Regular Reports deal with women's issues and problems point out deficiencies and ask for the improvement of women's status in Turkey. Still, there is a lot of work the Turkish state and women's groups have to do - for women and thereby for democracy and a better future for Turkey.

### **A Short History of the Turkish Women's Movement**

The Turkish women's movement can be divided into three different phases. The first phase began in 1839 with the wide-spectrum of laws in the Tanzimat period. The Ottoman Empire started a reform policy, which also influenced women. Considering that the European women's movement started with the French Revolution in 1789, this was a delay of about half a century. The second phase began with the Republican era, with Mustafa Kemal Atatürk granting women certain rights. The third phase dates from the end of the military intervention in 1980 and was initiated by Turkish women themselves.

With Tanzimat (1839-1876), the Ottoman Empire initiated a reform policy, which was influenced by Europe and addressed women's issues, which were viewed as a part of "modernisation". The oppression of women was seen as an obstacle for the modernisation of the Empire. With the education of women, a "civilised" and "western" population would emerge. In this more liberal atmosphere the very well organised Ottoman women's movement questioned the patriarchal system and demanded women's rights. The women published women's journals, discussing "women's questions" and built women's groups, helping each other

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materially and ideally. The women's movement quickly widened and grew.<sup>1</sup>

With the capitulation of power by the Turkish-nationalists in 1908, the Second Constitutional Period began. Several controversies arose during this period.<sup>2</sup> On the one hand, in 1915 women were allowed to remove their ferece while performing office work. On the other hand, they were sent home by the police, if the length of their skirts appeared to be shorter than officially allowed. The clothes and the mobility of women were under national regulations because of the quite weak intermediate institutions between the state and the individual. This central control can still be seen in today's attempts to regulate women's clothes. As in the past, contemporary global and social problems are discussed in reference to women's clothes.<sup>3</sup>

After the capitulation of the Ottoman Empire in World War I, Mustafa Kemal's resistance movement grew into the War of Independence. Following the declaration of the Turkish Republic on 29 October 1923, Mustafa Kemal Atatürk affirmed two objectives: the building of an independent Turkish state and the modernisation of this state. Accordingly, he abolished the Sultanate and the Caliphate, ended sharia law in 1926, and adopted the Swiss Civil Code. The new laws forbade polygamy, instituted civil marriage, allowed the initiation of divorce proceedings by either partner, and guaranteed equality of women before the law. On 5 December 1934 women gained the right to vote. These reforms had one aim only - to contribute to the process of Turkey's modernisation and westernisation. Besides this, they opened up new opportunities for women in education and the work place.

Atatürk's sensitivity towards western images of the new Turkish regime led him to accelerate the process of "democratisation".<sup>4</sup> With voting rights for women, Turkey could set herself apart as a democratic nation during a time which triggered fascism and militarism in countries such as Germany and Italy. Therefore the granting of this right had a symbolic meaning and was part of a democratic image, which was meant to differentiate the Turkish system from other systems at the time. The right to vote however did not lead to the further politicisation of women.

The Republican regime resulted in "state-supported feminism";<sup>5</sup> but at the same time, within this framework, limited and defined its parameters. The

<sup>1</sup> Sibel Erol, "Feminism in Turkey", *New Perspectives on Turkey*, Vol. 8 (1992), p.110.

<sup>2</sup> Bernard Caporal, *Kemalizmde ve Kemalizm Sonrasında Türk Kadını (1919-1970)*, Türkiye İş Bankası Kültür Yayınları: 233, Atatürk'ün Doğumunun 100. Yılı Dizisi: 9, Ankara 1982, p.147.

<sup>3</sup> Meltem Müftüleri-Baç, "Turkish Women's Predicament", *Women's Studies International Forum*, Vol. 3 (1999), p.310.

<sup>4</sup> Yeşim Arat, "1980'ler Türkiye'sinde Kadın Hareketi: Liberal Kemalizmin Radikal Uzantısı", *Toplum ve Bilim*, Vol. 53 (1991), p.9 and Şirin Tekeli, *Kadınlar İçin*, Alan Yayıncılık, İstanbul 1988, pp.289-294.

<sup>5</sup> Fatmagül Bertay, "Türkiye'de 'Kadınlık Durumu'", *Cumhuriyet Dönemi Ansiklopedisi*, Band 8, İstanbul p.760 and Erol, "Feminism in Turkey", pp.111-112.

subordination of the women's question to the larger topic of modernisation and nationalisation gave it merely a symbolic meaning, instead of making it a broader question of the liberation of women. It was treated as an integral part of the opposition between "westernisation" and Islam.

Consequently, the belief that reforms and the granting of equal rights could solve the "women's problem" prevented the emergence of a "real" women's movement led by women.<sup>6</sup> Therefore women (and of course men) failed to question patriarchal gender roles within Turkish society and the Republic remained essentially patriarchal. In order to question the patriarchy, an independent and critical consciousness was necessary, but this would at the same time require a split with the existing ideology. Conditions for this break would emerge with the national and international developments within the new feminist movement of the 1980s.

### **Democracy and Democratisation**

The military intervention of 12 September 1980, which ended the political polarisation and terrorism of the seventies, resulted in the de-politicisation of the society. The price for the silence brought by the military was high-the loss of democracy.<sup>7</sup>

Interestingly, it was under these very difficult circumstances that the Turkish women's movement emerged as the first democratic opposition movement. Şirin Tekeli argues that the Turkish women's movement arose only after the 1980s because Kemalism and leftist ideology were ideological barriers to the women's movement.<sup>8</sup> The military intervention in 1980 forbade all political activities on the left and thereby enabled the emergence of a democratic and pluralistic women's movement.

Turkish state officials clearly misunderstood and underestimated the anti-statist political attitude of the new feminists, as it thought women were fighting for something the founders of the Republic had already legitimised by adopting the civil code and granting women's rights. While feminist groups were able to survive in the political framework of the 1980s,<sup>9</sup> they challenged the state

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<sup>6</sup> Fatmagül Berktaş, "Türkiye'de 'Kadınlık Durumu'", p.760.

<sup>7</sup> Şirin Tekeli, "Women in Turkey in the 1980s", in Tekeli, Şirin (ed.): *Women in Modern Turkish Society*, Zed Books

<sup>8</sup> *ibid.* p.13.

<sup>9</sup> Yeşim Arat, "Toward a Democratic Society: The Women's Movement in Turkey in the 1980s", *Women's Studies International Forum*, 17 (1994) 2-3, p.244.

tradition, as they supported women's rights by ignoring the nationally protected patriarchal system. Besides the feminist movement had developed as a reaction to certain state policies and thus was a rebellion of civil society against the state.

The new women's movement represented the inevitable extension of Kemalist tradition, as it was part of the process of westernisation, since it arose through the possibilities created by Kemalist reforms. At the same time, the movement transcended the Kemalist tradition dialectically, as it questioned remaining within this framework for its advancement and endorsed a radical change. To a large extent women remained faithful to Kemalist principles.<sup>10</sup>

Women understood that they had problems, just because they were women, regardless of their place in society, their level of education or origin. They developed a consciousness of women's solidarity. A group of well educated, urban women questioned the status of women, built up discussion groups and met in women's associations and raised issues in women's magazines. Their aims were to build and widen feminist consciousness and protest against any kind of oppression against women.<sup>11</sup>

The women's movement was very important in the re-democratisation process of Turkey, as it challenged the Republican concepts with its individualism and its autonomy. Not only did it offer women the possibility of taking part in politics within small groups, but it also enabled the expansion of civil society. Organised independently and in opposition to the state, women created power by and for civil society by building feminist institutions.<sup>12</sup> So a civil society of interest groups with diverse interests and ideologies emerged.<sup>13</sup>

For an analysis of the role of women within the democratisation process, a glance at the concept of democratic society will be sufficient. Although women in nearly all modern states are poorly represented in parliaments or parties, they participate in politics in order to create a (more) democratic society with equality and better opportunities for women, preferring small organisations instead of parties. Similarly, women in Turkey rarely looked for power through parties and elections, but rather organised small, democratically led groups and met for collective campaigns to work for a more democratic society.<sup>14</sup> Thus through their

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<sup>10</sup> Arat, "1980'ler Türkiye'sinde Kadın Hareketi: Liberal Kemalizmin Radikal Uzantısı", p.7.

<sup>11</sup> *ibid.* p.10.

<sup>12</sup> Arat, "Toward A Democratic Society. The Women's Movement in Turkey in the 1980s", p.241.

<sup>13</sup> Tekeli, "Women in Turkey in the 1980s", p.7.

<sup>14</sup> Arat, "Toward A Democratic Society. The Women's Movement in Turkey in the 1980s", p.242. London, New Jersey 1995, p.7.

search for their rights and interests, they helped create the political environment necessary for the establishment of a democratic civil society and political democracy.

In their search for a democratic society, women can also contribute to the establishment of a political democracy. While a democratic society recognises liberal rights, like the right to free expression of opinion, assembly or freedom of religion, a political democracy guarantees these rights. Therefore liberalisation and democratisation are closely connected. A political democracy, which does not recognise liberal rights, loses its purpose and becomes pure formalism. During the transition from authoritarian rule to political democracy, the liberalisation of the system is very important, as it helps to strengthen civil society after a period of suppression and de-politicisation of the society. Groups, criticising and promoting their interests, support the growth of civil society and democratic citizenry. An open civil society helps to promote a political culture for the building of a political democracy.<sup>15</sup>

Numerous meetings, public demonstrations and political activities of the women's movement were reactions against state policies. An important example is The First Women's Congress in 1989, with 800 participants discussing their problems and publishing their "Manifesto for the Rescue of Women", in which they explained that they criticised the state because it maintained the division of labour in society – the main reason for their problems.<sup>16</sup>

The first large scale action of women after the military intervention was the signature action: On 8 March 1988 (World Women's Day), a group of women gave the Turkish Parliament a women's petition with 7000 signatures, demanding the implementation of the UN Convention for the Elimination of any Discrimination Against Women (CEDAW)<sup>17</sup> and the realisation of all necessary measures. Turkey had signed this resolution officially, but had raised some objections.<sup>18</sup>

One of the most important steps against domestic violence and one of the high points of Turkish feminism was the protest of 3000 women in Istanbul on 17 May 1987. This was the first demonstration allowed nationally, since the military intervention in 1980. The reason for this mass protest was the court case of a pregnant woman - and mother of two children, who petitioned for divorce because of

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<sup>15</sup> *ibid.* p.242.

<sup>16</sup> *ibid.* p.245.

<sup>17</sup> CEDAW was accepted at the General Assembly of the United Nations in 1979 and entered into force in 1981.

<sup>18</sup> Nühket Sirman, "Feminism in Turkey. A Short History", *New Perspectives on Turkey*, 3 (1989) 1, pp.16-17.

the violence of her husband. The women protested against the decision of the judge - who justified violence against women with an old (senseless) proverb<sup>19</sup> - who denied the divorce petition. Several women laid charges against the judge for his decision and brought him to court.

Although this was not the first time that Turkish women protested in the streets for or against an issue important to them, it was the first time that they had raised their voices, in order to call attention to something for themselves as women. This represented a new form of articulation of the situation of women in political discussion.<sup>20</sup> The protest of 1987 can also be seen as a revolt against the main position of the women as "mothers in the service for others" in Turkish society. This revolt became even clearer through the protest of a feminist group against mother's day, as women in Ankara shouted: "Under my feet I want the world, not heaven!"<sup>21</sup> The women turned against the concept of admiration of women as mothers during simultaneous abuse as wives.<sup>22</sup> This march was also a protest against the absence of legal protection for women and children against violence.

The continuous physical and psychological abuse of the wife could be cited as a cause of divorce, but it could not result in a charge being made against a violent husband, since such an act was not considered a criminal offence. Domestic violence<sup>23</sup> or abuse was seen as a private affair; the state did not interfere, not even for protection. "A culture of violence can place women in double jeopardy, both as victims of violence and because they are denied effective access to justice" underlines Amnesty International in a report on violence against women in Turkey.<sup>24</sup> Campaigns against violence towards women were the most important issues for women's groups from the start. For example The Lilac Roof Foundation, published in 1988 the book "Bağır Herkes Duysun" - "Let Them Hear You Scream", based on witness testimonies of women suffering violence. The identities of these women showed that the physical abuse of women by their husbands, fathers or brothers was not limited to a particular part of the population and could occur in all classes, education and occupational groups. The goal of this book was to underline the legitimacy behind violence against women in society openly, as it stressed that the use of domestic violence is supported by the state and is a part of male dominance. The increasing media interest showed that the campaign was a

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<sup>19</sup>"Kadının sırtını sopasız, karnını sipasız bırakmamak gerek." - "The back of a woman should not remain without a stick, the stomach not without a child." (!)

<sup>20</sup>Sirman, "Feminism in Turkey. A Short History", p.1.

<sup>21</sup>"Ayaklarımın Altında Cenneti Değil, Dünyayı İstiyorum".

<sup>22</sup>Erol, "Feminism in Turkey", p.113.

<sup>23</sup>On this: Pınar İlkaracan & Leyla Gülçür & Canan Arın: Sıcak Yuva Masalı, Metis Yayınları, İstanbul 1996.

<sup>24</sup>BBC News from 2004/06/02: <http://news.bbc.co.uk/go/fr/-2/hi/europe/3768847.stm>

success. It aroused public interest in a topic that was not spoken about before.<sup>25</sup>

In the light of these events, it can be said that Turkish society underwent a large change during the 1980s and 1990s. The state no longer dominates civil society, which has won autonomy and grown considerably. Today's civil society shows a cultural and ideological diversity as never before. It is far from the cultural one-dimensionality based on religion in the Ottoman Empire or from the nationalistic one-dimensionality from the early days of the Republic. Today the cultural variety of Turkish society is reflected in a singular mixture of the elements of Mediterranean, Islamic, western and regional cultures.<sup>26</sup>

There were several important characteristics of the third period of the women's movement. First, the movement spread through parties and classes. Every woman, who felt suppressed, could find her place in the autonomous, decentralised movement interacting with a lot of different groups. Secondly, ideological pluralism and participating democracy were important. With these characteristics the new women's movement was the first example of a truly democratic movement in Turkey. Although the number of its activists was not very high, participants were able to mobilise other women and to bring women's issues to the political agenda. A new paradigm for a better democracy emerged from this feminist movement characterised by pluralism and individualism. This success can only be explained by the fact that the feminists were able to correctly analyse existing objective conditions: All women in Turkey were being suppressed – regardless of social class, origin, education or occupation - by patriarchal relations, which were not only rooted in the traditional institutions, but also constantly being reproduced by so-called "modern" institutions.<sup>27</sup>

### **The Politicisation of the Private**

Until the 1980s, women engaged themselves in movements explicitly for "general" goals. The new women's movement for the first time however, took the release and rescue of women to the centre of their discussions and actions and began to discuss "personal" topics such as the use of violence against women. Similarly to their Western counterparts, Turkish feminists explained that the personal was political and that the state had to respect the private sphere. At the same time the state must respect the decisions of women and protect them from abuse and violence. Going beyond formal (Kemalist) equality with men, women demanded that their concerns be acknowledged as legitimate.

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<sup>25</sup>Sirman, "Feminism in Turkey. A Short History", p.19. Tekeli, "Women in Turkey in the 1980s", p.8.

<sup>26</sup>Tekeli, "Women in Turkey in the 1980s", p.8.

<sup>27</sup>ibid. pp.15-16.

The new movement, in particular, attempted to question social gender stereotypes. It challenged the culturally determined identities and roles of women and men and began a struggle against patriarchal values. The effect of the movement, far greater than its numerical size, played a significant role in expanding the living space of women and increasing their alternatives. It made possible the building of women's identities and public discussion of these topics. Women fought not only for equal rights, but also questioned the entire patriarchal system and began to re-define themselves.<sup>28</sup>

Feminists encouraged women to take their own decisions, implement their will, and select their fate. They demanded respect for women as individuals, not only as mothers, wives or sisters. Numerous activities underlined women's problems. Personal topics, which were not spoken of before, were made public and thereby politicised.<sup>29</sup> Feminists insisted on speaking for themselves, rejecting having others speak about them. They wrote their own novels, told their own stories and defined their own problems. This individualistic attitude was a radical and liberating change in the Turkish context, since policy so far had been dictated from above and the elite had spoken in the name of others in the best interests of society.<sup>30</sup>

According to the Kemalist reformers, equality between men and women had been given with the new legal framework; differences within the private sector were simply ignored. In the 1980s, the concept of Kemalist equality was questioned from different perspectives. Only the Kemalist feminists kept on believing that the existing problems of women could be solved within the legal framework handed down by the Kemalist elite. To improve the legal situation, they led an initiative for a revision of the Civil Code, taking gender equality into account.<sup>31</sup> The younger generation of feminists, who organised independently from the Kemalist feminists, stressed that the Kemalist emphasis on formal equality was insufficient. They sought real equality and brought domestic violence to the forefront of discussion. They organised protest marches, opened women's shelters and petitioned the state to introduce special measures. They made public the necessity of treating the special vulnerability of women to domestic violence as a fundamental critical, rather than "equal" concern.

Numerous articles of the Civil Code, which violated the equality principle,

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<sup>28</sup>Berktaş, "Türkiye'de 'Kadınlık Durumu'", p.760.

<sup>29</sup>Arat, "1980'ler Türkiye'sinde Kadın Hareketi: Liberal Kemalizmin Radikal Uzantısı", p.10.

<sup>30</sup>Yeşim Arat, "From Emancipation To Liberation: The Changing Role of Women in Turkey's Public Realm", *Journal of International Affairs*, Vol. 54 (2000) 1, p.112.

<sup>31</sup>ibid. pp.113-114.

were revised in the 1990s. For example Article 159, which bound the working of a woman to the permission of her husband, was abolished in July 1992. Also, on 22 May 1997 Article 153, which entailed the use of the surname of the husband, was changed, so that women could keep their own surnames if they wished. On 17 January 1998 the Law for the Protection of the Family entered into force, allowing the necessary legal measures for protection from domestic violence. The Turkish Parliament completed in January 2002, an extensive revision of the Civil Code expanding gender equality. One of the more important of the 1.030 additions, was the abolition of the article, which accepts the man as the head of the family. The legal minimum age for marriage was raised to 18 (earlier 17 for men and 15 for women). Children, born outside a marriage, were given the same inheritance rights as others; single parents were allowed to adopt children.<sup>32</sup>

Pınar İlkaracan from Women for Women's Human Rights, asserts that the new Civil Code's passage was not a result of Turkey's candidacy for EU membership, as the reform "has come as a result of decades of advocacy of the women's movement ... The fact that [it] did not meet any resistance from the public proves the public had long accepted the demands of the women's movement, but parliament was extremely late in responding to this social change." Ayşe Gürocak, an MP from the Democratic Left Party, which supported the reforms, said that the Civil Code was a "step towards implementing full democracy in Turkey. ... If there is no equality in the family, there is no democracy in society."<sup>33</sup>

Undoubtedly, the revision of the Civil Code and Constitution was an important step for the improvement of women's rights. Nevertheless, important topics were ignored. For example, the regulations about equal distribution of objects of value purchased during the marriage are problematical, since they do not consider the millions of housewives, who do not work outside the home and do not have an income of their own. Furthermore, the demands of women's groups to abolish the penal codes, which give judges the right to consider local customs and traditions by the decision for the punishment, were not taken into consideration. Although the murder of a family member in Turkey can lead to life imprisonment, judges frequently reduce the punishment of "honour killings" because of "provocation", to a minimum. If the person accused of honour killing is a minor, the punishment could be reduced for up to two years. The United Nations estimates that in the year 2000, world-wide, more than 5000 women and

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<sup>32</sup>Turkish Women Rejoice", *Herizons*, 15 (2002) 3, pp.8-10.

<sup>33</sup>Serpil Karacan, "Will new women's rights correct Turkish wrongs?", *Contemporary Review*, July 2002.

girls were killed by family members for their "honour". Investigations assume that at least 200 of these murders take place in Turkey each year!<sup>34</sup>

In Turkey the symbolisation of women continues. Women are treated as a mechanism for the protection of the cultural borders of the community. Therefore they are the guards and the social and biological carriers of tradition, society and collective identity.<sup>35</sup> The struggle between Islam and modernisation is still taking place through the bodies of women. All this inevitably leads to the suppression of women.<sup>36</sup> Women's chastity is the most important mechanism of control of female liberty. Social institutions such as families, courts and cultural traditions are the backbone of these mechanisms of control. The corporate control of female sexuality can be seen in the high number of different individuals, who all claim to be responsible for securing the appropriate sexual behaviour of women. Therefore, sexuality is not something that belongs to women or something they can decide about freely.<sup>37</sup> Virginity is definitely not a personal choice; it certainly involves society. A non-virgin has to face social alienation and marginalisation. As women are the carriers and givers of group identity, their sexual purity is essential for the survival of the standards and values of society. In contrast to European societies, sexual activities in Turkish society are not personal, but involve state authority. With its laws, the state is involved in the reflection of social values regarding the sexual purity of women and in the control of their sexuality. For example, until March 1999, it was possible to imprison women who committed adultery, or to submit girls who were under state control in public schools or orphanages to virginity tests,<sup>38</sup> Ayşe Parla is of the opinion that virginity tests are neither the shaming leftovers of tradition, nor simple conservative attempts of their retention. According to her, these tests symbolise the incorporation of the morality and chastity of women into the mechanisms of control developed by the "modern state". These mechanisms of control used to be forced upon women by family networks. Therefore the virginity tests are modern forms of institutional violence against women, for the preservation of the image of the modern and moral woman, brought in by the Kemalist elite and continued in the Turkish Republic.<sup>39</sup>

In summary it can be said, that Turkish women, despite their *de jure*

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<sup>34</sup>Turkey: Honor Killings Exposed As More Families Move To Cities", Women's International Network News, Vol. 4 (2001), p.46.

<sup>35</sup>Müftüler-Baç, Meltem, "Turkish Women's Predicament", p.310.

<sup>36</sup>Carol Delaney, "Untangling the meanings of hair in Turkish society", *Anthropological Quarterly*, 67 (1994), p.164.

<sup>37</sup>Müftüler-Baç, "Turkish Women's Predicament", p.309.

<sup>38</sup>*ibid.* p.309.

<sup>39</sup>Ayşe Parla, "The 'Honour' Of The State: Virginity Examinations In Turkey", *Feminist Studies*, 27 (2001) 1, p.79.

equal rights in everyday, working and economic life and in politics, were unable to enjoy these rights, de facto. Apart from economic, political, cultural and social reasons, the retention and passing on of the patriarchal system that disadvantages women, plays a role in this. Indeed, as the British Foreign and Commonwealth Office underlines, "disproportionate numbers [of women] are unemployed or on low wages, and face social exclusion. In the south-east of the country, although illegal under Turkish law, forced marriages and honour killings still take place."<sup>40</sup>

### **European Influences on Women's Rights**

The European Community (EC) contributed significantly, during the years of Association to improving democratisation in Turkey. For example, after the military intervention of 12 September 1980, the EC used diplomatic as well as economic measures and pressure to restore democracy in Turkey. These steps influenced Turkish politics and accelerated the process of democratisation, as Turkey aspired to EC membership.<sup>41</sup> This pressure for more democracy was also important for the Turkish women's movement after 1980.

However, in the newly formed EEC, women's rights were not on the priority list. Yet, as some national governments aimed to protect their businesses from unwarranted competition by wage disproportion, they declared in Article 119 (later Article 141) of the Treaty of Rome, that women and men would be given equal pay for equal work. The intention was to charge national governments with responsibilities and prevent distortion and inconsistencies in competition. Later, this specification granted a positive right to individuals in all EEC countries and became a judicially enforceable and obligatory right. It became the most important part of the growing and widening European gender equality rights.<sup>42</sup>

Most importantly, EU Primary Law concerning gender equality<sup>43</sup> aims at total equality between men and women. It considers equality a task of the Union (Article 2); gives the obligation to mainstream gender equality (Article 3); bans discrimination based on nationality (Article 12), sex, race or ethnic origin, religion or belief, disability or sexual orientation (Article 13); promotes equality in the labour market, opportunities and treatment at work (Article 137); and finally enforces the principle of equal pay for the work of women and men of equal value and supports the adoption of positive action for the underrepresented sex in vocational activity and requires compensation for disadvantages in professional

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<sup>40</sup>Meltem Müftüleri-Baç, *Türkiye ve AB. Soğuk Savaş Sonrası İlişkiler*, Alfa Basım Yayın Dağıtım, İstanbul 2001, p.135.

<sup>41</sup>Rachel A. Cichowsky, "Women's Rights, the European Court, and Supranational Constitutionalism", *Law & Society Review*, Vol. 38 (September 2004), p.492.

<sup>42</sup><http://www.womenlobby.org/Document.asp?DocID=298&tod=104954> Adopting EU law - a prerequisite for membership.

careers linked to gender. This article concerns all fields, especially economic, social, social, cultural and family life. The encouragement of the equality principle is one of the EU tasks as laid down in Article 2 (Article 141).

In June 2000 the European Commission adopted the Communication "Towards a Community Framework Strategy on Gender Equality (2001-2005)", which aims to launch an outline for EU activities for reaching the objective of eradicating inequalities between women and men.<sup>44</sup>

The Charter of Fundamental Rights of the European Union, adopted in December 2000, included a chapter on "Equality" laying down the principles of non-discrimination. It stated: "Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited."<sup>45</sup> The Charter continued: "Equality between men and women must be ensured in all areas, including employment, work and pay."

Starting from 1975, important directives in the field of equal opportunities have enlarged this principle to access employment, training and career development with the aim of removing all forms of discrimination at work.<sup>46</sup> Later on, the principle was broadened to social security and statutory and occupational schemes. In the 1980s, the EC started multi-annual programs for the promotion of equal opportunities.

The principle of human rights is also included in all agreements between the European Union and non-EU countries. Women's rights and equality are explicitly mentioned in these:<sup>47</sup>

Council Resolution on Integrating Gender in Development (1995), demand-

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<sup>44</sup><http://www.womenlobby.org/Document.asp?DocID=298&tod=104954> Adopting EU law – a prerequisite for membership.

<sup>45</sup><http://europa.eu.int/scadplus/leg/en/cig/g4000c.htm#c41> Glossary

<sup>46</sup><http://europa.eu.int/scadplus/leg/en/cig/g4000c.htm#c41> Glossary

<sup>47</sup><http://www.womenlobby.org/Document.asp?DocID=298&tod=104954> Adopting EU law – a prerequisite for membership: The acquis in the field of equal opportunities comprises ten directives in the area of: 1) Equal pay (75/117/EEC); 2) Equal treatment at the workplace (76/207/EEC) - in the process of being revised; 3) Equal treatment with regard to statutory social security schemes (79/7/EEC); 4) Equal treatment with regard to occupational social security schemes (86/378/EEC); 5) Equal treatment for self-employed and their assisting spouses (86/613/EEC); 6) Maternity leave (92/85/EEC); 7) Organisation of working time (93/104/EC); 8) Parental leave (96/34/EC); 9) Burden of proof in sex discrimination cases (97/80/EC); 10) Framework Agreement on part-time work (97/81/EC).  
<http://www.womenlobby.org/Document.asp?DocID=97&tod=5622>

ing particular awareness for gender issues in the field of human rights.<sup>48</sup>

Barcelona Declaration on Euro-Mediterranean Partnership (1995), adopted by the EU-states and the Mediterranean states specifies women's rights to contribute on equal conditions in economic, social, cultural and political development.

Legal literacy rights education, with the EU financing projects and programs for the promotion of legal literacy and increasing consciousness among women. The European Parliament is one of the most important EU organs pressing for and influencing human rights policies, holding hearings on women's human rights.

The mainstreaming strategy necessitates the taking into account of the gender perspective in all EU policies. For this, more consultations of the Committee of Women's Rights were needed. This Committee also helped in some resolutions from the European Parliament, like The EP's Resolution on Human rights in the world 1995/96 (A4-0400/96, Human rights in the EU 1996 (A4-0034/98).

The European Parliament is one of the main EU institutions dealing with women's issues. The drafts person of the opinion of the Committee on Women's Rights and Equal Opportunities, Mrs. Karamanou stated in the plenary session on 24 October 2001 that "very little progress has been made with women's rights in Turkey, rights which we, the Committee, consider to be a sine qua non to the integration of Turkey into the European Union, because women's rights are human rights." Mrs. Karamanou further urged Turkey to "abolish all forms of discrimination against women and I should, of course, like to call on Europe to provide the economic and technical assistance needed to put this into practice."<sup>49</sup>

The EU law and the directives on equality between men and women are an element of the "package" all candidate countries have to accept before becoming members of the EU. Some of the fields in which candidates' legislation has to conform with the Union's standards include legislation and norms in the areas of employment and social policy, dealing with different sectors, like health and safety at work, consultation and partaking of workers, protection of workers and vocational training and education. This means that the pre-accession process gives policy instruments for enhancing gender equality. The EU and Turkey should use the given economic and legal equipment to strengthen women's rights and gender equality.<sup>50</sup>

Turkey ratified the UN Convention for the Elimination of any

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<sup>48</sup>Debates of the European Parliament, Plenary Session of Wednesday 24 October 2001

<sup>49</sup>ibid.

<sup>50</sup><http://www.womenlobby.org/Document.asp?DocID=219&tod=104954> Gender Equality and Enlargement of the European Union

Discrimination Against Women (CEDAW) in December 1985 as one of the last states (as 83rd state). This convention demands the realisation of the same rights for men and women in all fields of life with changes and revisions of law in areas that discriminate against women and the taking of necessary measures for the modification of daily activities and practices that perpetuate discrimination. With the ratification of CEDAW, Turkey responded to the intensified international and national debates about women's rights, which were energised by the UN Decade of Women. The signing was mainly due to international pressure and concern about the international reputation of the country. With the ratification of CEDAW and the demonstrations of efforts to improve women's status, Turkey tried to present a positive picture, in order to justify the request for membership in the European Community from 14 April 1987.<sup>51</sup> But Turkey had objections during the signing of CEDAW against articles 15 and 16, claiming these were in contradiction with the articles on marriage and families in Turkish civil law.

In its "Opinion of the European Economic and Social Committee on EU-Turkey relations with a view to the European Council of December 2004"<sup>52</sup> from 1 July 2004, the Committee (EESC) underlined the importance of the political criteria (point 3.4), especially the respect for human rights, democracy and freedom of expression and free media. Concerning women's rights (point 4.1.9), the EESC "notes several serious defects despite Turkey's ratification of the fundamental ILO Conventions on Equal Remuneration (N° 100) and on Discrimination (Employment and Occupation) (N° 111). The Conventions are implemented in law with some exceptions (e.g. legal barriers exist to women's access to certain jobs). Implementation in practice, however, shows many weaknesses, e.g. with respect to equal remuneration for the same job with equal qualifications and access to certain types of quality employment. Similar problems exist in many EU Member States."

Most women activists hope for expedited negotiations for Turkey's accession into the EU "to be present here, to force our people to change their practices."<sup>53</sup> Although the European Union Delegate in Ankara, Hansjörg Kretschmer, underlined the "importance of gender equality for political and economic development" and the EU watches the reform process in Turkey and provides huge amounts of funding for projects in the field of human rights and civil society, women's issues do not stand "at the top of the agenda" and are of no "priority", as Sally Goggin, former assistant director of the Ankara office of the

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<sup>51</sup> Günseli Berik, "State Policy in the 1980s and the Future of Women's Rights in Turkey", *New Perspectives on Turkey*, Vol. 4 (1990), pp.82-83.

<sup>52</sup> [http://www.esc.eu.int/sections/enlargement/documents/ces965-2004\\_ac\\_en.pdf](http://www.esc.eu.int/sections/enlargement/documents/ces965-2004_ac_en.pdf)

<sup>53</sup> Denis MacShane, "Why Turkey is good for Europe", *Die Welt*, 26 February 2006

British Council, points out.<sup>54</sup>

Müjde Bilgütay from the Foundation of Women's Human Rights and New Solutions (Kadının İnsan Hakları ve Yeni Çözümler Vakfı) recognises the importance of the EU accession process for equality between women and men in Turkey. Nevertheless she underlines the main importance of the women's movement after 1980, which worked hard for the improvement of status of women. The EU accession process indeed made up a conjuncture in favour of women, which the women's groups were able to use. Although these legal provisions alone are insufficient, they will provide a foundation in the future for civil society groups. In all legal arrangements problems have arisen. For example, in order to reform Article 10 of the Turkish Constitution, it was necessary to include the principle of affirmative action, which in May 2004 was rejected by the Turkish Parliament. Virginity tests are still not totally banned, "honour killings" are still protected. These deficiencies have to be set right as soon as possible.<sup>55</sup>

Prof. Dr. Selma Acuner from the Women's Studies at Ankara University states that in the amendments and changes to the Penal Code, the Labour Law and the Civil Code, the intense efforts of women's groups have been crucial. Nevertheless, had the EU train not been seen to be coming closer and closer, the process would have been delayed. In the words of Acuner, "We should not sanctify the EU, but we have to see its impact." The Commission's yearly reports on Enlargement state that EU membership is not possible without equality between men and women. This is also one of the Copenhagen Criteria, which accession countries have to take into account. In order to start the negotiation process, Turkey must fulfil these criteria – including women's rights and gender equality; realising the promises made in the National Programme from 2001/2003. Women's groups have been working to improve the Turkish Civil Code for years, but the Turkish Parliament did not adequately respond. But following the EU harmonisation packets after 2002, changes in the Civil Code have been realised. The EU acquis also includes provisions for equality between men and women and all candidate countries must make their laws compatible with EU law.<sup>56</sup>

<sup>54</sup>Yigal Schleifer, "Turkey Doing Little to Protect Women's Lives", Women's E-News, September 16, 2004.

<sup>55</sup>[http://www.e-kolay.net/kadin/ana\\_detay.asp?MainID=358&PID=1197&HaberID=211083](http://www.e-kolay.net/kadin/ana_detay.asp?MainID=358&PID=1197&HaberID=211083) İstiyoruz: AB'yle ya da AB'siz, 01.08.2004.

<sup>56</sup>ibid

## **The EU Commission's Regular Reports**

In order to monitor the progress of candidate countries towards fulfilment of the Copenhagen Criteria for EU membership, the European Commission publishes Annual Progress Reports. The EU legislation on gender equality is included in Chapter 13 of the *Acquis Communautaire* – all EU law and legislation. No other policy area covering the other chapters of the *acquis* has any binding regulations about gender equality at all. This means that the topic of gender is not being referred to outside the field of employment and social policy.<sup>57</sup>

The first Regular Report by the EU Commission on the Development of Turkey<sup>58</sup> was published in 1998. This Report underlines the two bills to amend the Civil and Penal codes, which were approved by the Turkish Government in 1998 and transmitted to Parliament, in order to eliminate gender discrimination. The Report states "The status of women in Turkey is increasingly in line with that prevailing in most EU countries." It recognises that Turkey ratified CEDAW in 1985 and that the Civil Code must harmonise with this Convention and still has some "discriminatory provisions concerning marital rights and obligations." Another point of concern is domestic violence. The Report states that Parliament passed legislation in January 1998 against domestic violence, making spousal abuse illegal. However it criticises the fact that there still are no explicit provisions for dealing with violence towards women in marriage in the Criminal Code. Furthermore the Report notes that in 1995, 28 % of women and 8 % of men were illiterate.

The 1999 Regular Report regards the lifting of Turkey's reservations against the UN Convention for the Elimination of All Forms of Discrimination Against Women in July 1999 as "a positive development". These reservations were made in 1985 on the grounds that it was against the provisions of the Turkish Civil Code that govern family relations and marriage.

The Commission's Regular Report for 2000 laments that "gender disparity is still high". It underlines the need for more action to develop women's educational position, as 25 % of women and 6 % of men are still illiterate. Concerning the Civil Code, the Report notes the persistence of certain legal discrimination, as it sees the husband as the head of the family. The Report points to the contributions made by women groups in the amendments to the Civil Code and criticises domestic violence and "honour killings". It acknowledges that the

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<sup>57</sup>Silke Steinhilber, "Women's Rights and Gender Equality in the EU Enlargement – An Opportunity for Progress", From Women in Development Europe (WIDE), <http://www.svu2000.org/women/wide.htm>

<sup>58</sup>The Reports can be seen on <http://www.avrupa.info.tr> or <http://www.abgs.gov.tr>.

Turkish Constitution guarantees gender equality and sets the principle of non-discrimination. However, it states that for the implementation and enforcement of equality, more efforts are needed, especially action for the reduction of female illiteracy and the promotion of urban employment for women via education and training.

The 2001 Report affirms the amendment of Article 41 of the Constitution to establish the principle of equality between spouses as a basis for the family. The new Civil Code, waiting before Parliament, "would remove remaining discrimination and strengthen gender equality". Domestic violence and "honour killings" continue to be issues of concern. The Report criticises the fact that the legislation, which allows the application of reduced sentences to the perpetrators of those crimes, is still applicable. The Report disparages the low literacy rates. In 1999, 94 % of men but only 77 % of women were literate. It also affirms efforts for improvements and the increasing, in the 1997-1998 school year, of the compulsory period of schooling from 5 to 8 years. It emphasises the preparatory work undertaken on maternity leave and on the elimination of discrimination within the framework of the new Civil Code and stresses the aim of abolishing the concept "head of the family". Nevertheless, "further steps in transposing the relevant acquis should follow."

The Commission's Report from 2002 notes Turkey's ratification of the Optional Protocol to CEDAW. It recognises the abolition of the concept of "the head of the family" in Article 41 of the Constitution in October 2001 and the introduction of equal opportunities for women and men in family life, especially the amendments, which guarantee equal rights and obligation of the spouses. However, the Report is critical that the Article specifying that goods acquired during marriage shall be shared equally between the partners is only relevant to marriages entered into after the adoption of the new Civil Code. Furthermore it criticises the legislative obstacles thwarting women from taking certain types of jobs and the fact that women and men do not enjoy equal pay in practice. It also disparages the low active participation of women in politics, as only twenty-three out of 550 Members of the current Parliament were female.

The Report criticises the fact that those convicted of "honour killings" qualify for reduced sentences, which can be further reduced if the accused is a minor. The Report points to the "essential improvements" brought in by the amended Civil Code that entered into force in January 2002. This eradicated the concept of "the head of family" and gave women the right to make decisions on topics such as children or the family home. Husbands no longer have the unilateral

right to decide where a couple will live or give permission for their wives to take a job. The Report states the entitlement of women to divorce their husbands if the husband commits adultery and the improvement of the financial situation of women in the case of divorce by ensuring all assets accrued during the marriage are equally shared. The Report affirms that according to the new Civil Code, men will be able to request alimony if their former wives are in a financially stronger position. Furthermore the Code increases the legal age for marriage to 18 for men and women, decreases the legal age for adopting children from 35 to 30, permits single parents to adopt children, and grants out-of-wedlock offspring equal inheritance rights. Concerning equal treatment, the Report states that the new Civil Code "represents an important landmark in establishing women's rights." But the effective enforcement of the provisions is considered necessary. Turkey still has to "lift the existing gender-based restrictions in accessing certain jobs." The Report affirms the ratification of the optional protocol to CEDAW in August 2002. It also deals with the Law on Job Security, which now includes a provision on the "burden of proof in cases of discrimination based on sex" and states that further progress is necessary in the field of gender equality.

The EU Commission's 2003 Report criticises violence against women. It underlines as part of the sixth reform package the amendment of the Penal Code. Article 462 of the Penal Code, which allowed reduced sentences for "honour killings", was cancelled. But the general provisions of Article 51 on crimes committed under "extreme provocation" linger and are applicable for offences considered to be against "virtue". The Report further criticises the fact that domestic violence is widespread in Turkey. Also the implementation of the new provisions of the Civil Code permitting the equal sharing of assets gained during marriage is criticised as it remained very limited. The representation of women in elected bodies and in government was still low. Only twenty-four of 550 Parliament members are female. In the field of equal treatment of women and men the Report states that the new Labour Law brings in some provisions that are partially in compliance with the Directives on equal pay, equal treatment in employment and the burden of proof, accepting the principle of equal treatment of people and includes provisions for maternity leave. The Report further notes low employment rates, particularly of women, as a main challenge.

The 2004 Report issued by the Commission affirms that the principle of equality has been strengthened. With the new Penal Code, people committing "honour killings", will be punished with life imprisonment, virginity tests will be banned if not formally authorised by a judge or a prosecutor and sexual assault in marriage will be considered as a criminal crime. Nevertheless the Report states that

violence against women "remains a serious problem". The Commission says that Turkey adopted a new Penal Code in September 2004, "which will have positive effects on a number of areas related to human rights, particularly women's rights, discrimination and torture." The Report says that some reforms "have strengthened the principle of equality between men and women." The amendment to Article 10 of the Constitution provides that men and women shall have the same rights and that it is the state's responsibility to ensure that this equality is realised and put into practice. The Report calls the new Penal Code "generally progressive in terms of women's rights" as it turns to crimes as "honour killings", sexual assault and virginity tests. Despite the demands of women's groups, it is still not necessary to have the consent of the woman concerned when carrying out a virginity test. Violence against women still continues to be a serious problem. The Report goes on: "Sustained efforts will be required to ensure that women take an equal place in society." Raising consciousness on domestic violence can also be seen. In March 2004 a judge sentenced the perpetrator of an "honour crime" to life imprisonment. The Report states that the amendments to the Turkish Constitution adopted in May 2004 brought in this provision: "Men and women shall have equal rights. The State has the duty to ensure that this equality is put into practice."

The Report points to the further implementation of regulations in July and August 2004 on the working conditions of pregnant and breastfeeding women and those of women in night shifts. In July 2004 a new decree was adopted, granting civil servants salaried maternity leave of 16 weeks. The EU Commission's Report considers the new Labour Law, the constitutional amendments and the adoption of implementing regulations to be "progress" for equal treatment between women and men. However, further arrangements will be necessary in fields like parental leave, equal pay, access to employment, burden of proof and legal and professional social security. Gender equality in economic and social life still needs to be improved, the Report says. The Report states that the equality principle was strengthened and that the provision, which permitted reduced sentences for "honour killings" has been removed. The new Penal Code is said to bring further progress in women's rights, non-discrimination and the fight against torture.

### **Conclusion**

Women's rights undeniably are human rights. Therefore in all Treaties of the European Union gender is one of the grounds upon which the member states may not discriminate. But unfortunately there exists a breach between the existing rights and their efficient enjoyment, as the governments - of EU member states as well as of candidate states - show a deficiency of dedication to guard these rights. It is about high time that the states implement and enforce the rights totally. In this

respect it is important to have significant further improvement in the legal system, implement these new reformed laws and most important of all, change the culture in society to adapt more egalitarian attitudes. Especially in Turkey, gender issues are very carefully watched and are important milestones on her road to membership in the EU.