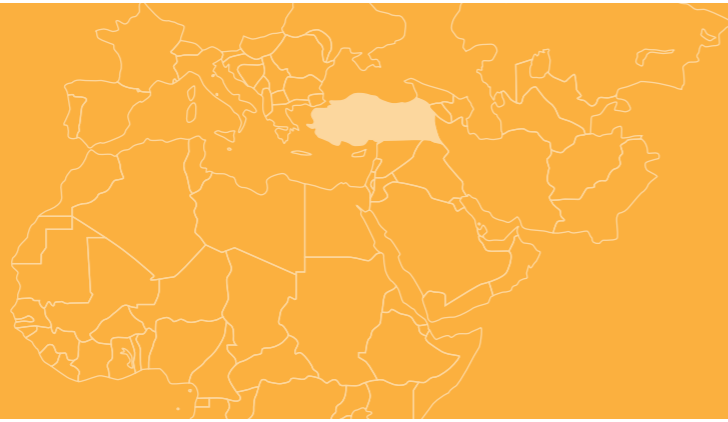


TURKEY



Equality in the Family is Necessary

- ▶ Many women's lives are shaped by customary practices and patriarchal traditions rather than official laws. Those patriarchal practices do not take into consideration the needs and the expectations of women, including sexual and reproductive rights, and usually consider women as second class citizens whose bodily autonomy, relations and sexuality should be controlled by society. The constitutional principle of equality between men and women and the Civil Code guarantee of equality of spouses in a marriage do not apply to women's everyday lives.
- ▶ Although primary education has been mandatory since 1924, 20 per cent of women living in Turkey are still illiterate. The percentage of paid women workers is only 24 per cent, and women make up only 10 per cent of Parliament.
- ▶ Research by Women for Women's Human Rights - NEW WAYS revealed that in southeastern Turkey, 51 per cent of women were married against their will and 52 per cent had been subject to marital rape.
- ▶ Implementation of law reform on the ground has been limited, largely because a majority of women (and men) do not have knowledge regarding the existence of these legal mechanisms and lack the skills to enforce their implementation.
- ▶ The existing laws also need to be reformed further to fully comply with international standards.
- ▶ In October 2007, it was revealed that the clause affirming gender equality between men and women, which was added to the Constitution in 2004, would be removed from the draft Constitution under an initiative by the religious right Justice and Development Party to rewrite the Constitution. The women's movement immediately declared this action unacceptable and insisted on a new, more comprehensive gender equality article. This prompt response made the Government stop the process, shelve the draft law and abolish the working group.
- ▶ Despite the overall success of the campaign for reform of the Penal Code, four demands of the women's groups were not accepted, including the definition of honour crimes (and not just the so-called 'customary crimes') as aggravated homicide; the penalisation of discrimination based on sexual orientation; the criminalisation of virginity testing under all circumstances; and the extension of the legal abortion period from 10 to 12 weeks. Moreover, two new regressive articles were added to the Penal Code: criminalisation of consensual sexual relations of youth aged 15-18 upon complaint and publication of 'obscene' material.

Following the founding of the Turkish Republic in 1923, revolutionary reforms were introduced. However, those relating to gender equality were restricted to reforming the Islamic way of life, rather than actually liberating women. The Turkish Civil Code, modelled upon the Swiss code, banned polygamy and granted women equal rights in matters of divorce. However, it still reduced women to a subordinate position in the family by defining the husband as the head of the union with final say over the domicile and children. The Penal Code, adopted from the Italian code in 1926, included several articles that aimed to protect men's honour and so-called moral values.

Since 2000, major legal reforms towards gender equality have taken place as a result of successful campaigns led by the women's movement. These include reform of the Civil Code in 2001, reform of the Penal Code in 2004, and the addition of the clauses 'Men and women have equal rights. The State is responsible for ensuring this equality' to the Constitution in 2004.

Equality in the Family is Possible

- ▶ The campaign for the 2001 reform of the Civil Code brought together more than 120 women's groups. The new Code defines marriage as a union based on equal partnership instead of as a subordinate wife and authoritative husband. The terms 'the wife' and 'the husband' are replaced by 'the spouses'. The legal language has been simplified and modernised so the law is more accessible. Specific changes include:
 - The husband is no longer the head of the family; spouses are equal partners, jointly running the family with equal decision-making powers;
 - Spouses have equal rights over the family abode;
 - Spouses have equal rights over property acquired during marriage;
 - Spouses have equal representative powers;
 - The concept of 'illegitimate children' has been abolished; the custody of children born outside marriage belongs to their mothers.
- ▶ In October 2001, Article 41 of the Constitution was amended, redefining the family as an entity that is 'based on equality between spouses'.
- ▶ The new Penal Code, reformed in 2004 after a three year campaign, contains more than thirty amendments towards gender equality and protection of women's human rights. These include:
 - Sexual crimes regulated as crimes against individuals and the inviolability of sexual integrity, rather than crimes against society, family or public morality;
 - Elimination of references to chastity, morality, shame, public customs and decency, and definitions of such crimes against women brought in line with human rights norms;
 - Progressive definitions and higher sentences for sexual crimes;
 - Criminalisation of marital rape;
 - Prevention of sentence reductions for perpetrators of honour killings;
 - Elimination of discrimination against non-virgin and unmarried women;
 - Criminalisation of sexual harassment at work;
 - Classification of sexual assaults by security forces as aggravated offences;
 - Explicit definitions of sexual abuse of children and removal of the notion of 'consent of the child';
 - Abolition of provisions legitimising rape and abduction when the perpetrator marries the victim;
 - Removal of sentence reduction for mothers who kill newborn children born out of wedlock;
 - Change in 'indecent behaviour' to include only exhibitionism and sexual intercourse in public.
- ▶ The law reform campaigns led to the development of sustainable networks and cooperation among women's groups. The network that coordinated the Penal Code campaign is continuing work on implementation of the new law and other legal reforms.

Sources: Report submitted to Musawah in English by Women for Women's Human Rights - NEW WAYS, an NGO that played a leading role in the Civil Code and Penal Code reform processes; WWHR - NEW WAYS, 'Turkish Civil and Penal Code Reforms from a Gender Perspective: The Success of Two Nationwide Campaigns' (2005), available at <http://www.wwhr.org/files/CivilandPenalCodeReforms.pdf>; Pinar Ilkcaracan, 'Re/Forming the Penal Code in Turkey from a Gender Perspective: The Case of a Successful Campaign', Web Version (2007), available at <http://www.ids.ac.uk/ids/Part/proj/pnp.html>.