

NGO SHADOW REPORT

FOR THE REVIEW OF THE TURKISH GOVERNMENT
UNDER THE UN INTERNATIONAL CONVENTION ON
THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN (CEDAW)

Submitted by Kurdish Human Rights Project

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COMMERCIAL FLAG

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KURDISH HUMAN RIGHTS PROJECT

The Kurdish Human Rights Project (KHRP) is an independent, non-political, non-governmental human rights organisation and registered charity founded in 1992 and based in London, England. KHRP is committed to the promotion and protection of the human rights of all persons living within the Kurdish regions of Turkey, Iran, Iraq, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion.

These states, which encompass the regions traditionally and currently inhabited by the Kurdish people and form the crossroads between East and West, are bound by numerous international laws regarding the respect of human rights. Yet, they have been the scenes of some of the worst human rights violations in the twentieth century and onwards; often combined with the failure of the international community to bring governments in the regions to account for their human rights abuses.

KHRP was born out of a desire to utilise the international mechanisms available to victims of human rights violations, to make the perpetrators accountable and prevent further abuses in the future.

Today, KHRP has earned international recognition for its tireless work to promote and protect human rights in these regions. Its victories have established weighty judicial precedents, secured justice and redress for past abuses and prevented further abuses from recurring. KHRP also produces publications and research that members of the mainstream media have come to rely on as a reliable source of accurate information about the situation for the Kurdish people in these regions.

KHRP employs ten permanent members of staff in England, and Kurdistan, Iraq. Its UK office is located in central London, where it is not subject to the intimidation and censorship faced by Non-Governmental Organisations (NGOs) in the Kurdish regions. It has formed partnerships with such NGOs as The Corner House and Human Rights Watch to send fact-finding missions to the aforementioned regions, and works with the Bar Human Rights Committee of England and Wales to conduct trial observation missions to these regions. KHRP is both a registered charity and limited company, and is funded through charitable trusts and donation.

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INTRODUCTION

1. This submission to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) concerns Turkey's observance of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.
2. Kurds constitute the largest minority in Turkey, although exact figures are non-existent since the Turkish Government does not recognize Kurds as a minority group and thus collects no data on the Kurdish population. Since no formal mechanisms for data collection on the Kurds exist, this report will use Kurd-specific data when available and generalise from data on the Southeast and Eastern regions of Turkey as representative of data on the Kurds, since the majority of residents in these respective regions are Kurdish.
3. Turkey cites an extensive amount of administrative and legal reforms it has undertaken for the benefit of women in Turkey which may ultimately lift Turkish women from their marginalised position in society. Kurdish women in Turkey, however, face a double bind and experience discrimination on two levels; firstly, due to their Kurdish identity, and secondly, due to their status as a woman. Since the Turkish government does not recognise Kurds as a minority and does not allow Kurdish to be spoken or taught in public spaces, Kurdish women experience even more discrimination than non-Kurdish women in Turkey. Since many cannot speak Turkish, Kurdish women face 'not only a "symbolic barrier" as in the case of a less than perfect mastery of the official language, but also a very "actual" barrier,' which reduces Kurdish women's access to spoken and written resources, access to services their ability to obtain and maintain employment and their independence, since they must depend on others for important information.¹
4. Despite requests by the Committee in its concluding comments on Turkey's Combined Fourth and Fifth periodic report, this Sixth periodic report by Turkey again fails to offer 'sex-disaggregated statistics and data relating to...Kurdish women and other groups of women subject to multiple forms of discrimination and their access to health, employment and education, as well as various forms of violence committed against

¹ Jeroen Smits and Aye Gündüz-Hoşgör, 'Linguistic Capital: Language as a socio-economic resource among Kurdish and Arabic women in Turkey,' 26(5) *Ethnic and Racial Studies* (September 2003), 829–853, at 831.

them.’² Rather, Turkey merely lists the legal and administrative reforms it has undertaken and does not provide much data on how or whether these reforms have truly improved women’s status in society, specifically that of Kurdish women.

5. This report will illustrate that Turkey continues to fail to comply with its obligations under CEDAW with respect to a significant minority of its population, particularly by ignoring and thus failing to address the problems faced by Kurdish women. Without recognising the Kurds as an ethnic minority and failing to address the social and economic problems that Kurds and Kurdish women, in particular, face, the Turkish government will never be able to comply fully with its CEDAW obligations.
6. KHRP urges the Turkish government to consider incorporating the *Charter for the Rights and Freedoms of Women in the Kurdish Regions and Diaspora* which provides practical guidance for incorporating both the essence and text of CEDAW.³ The Charter for the Rights and Freedoms of Women in the Kurdish Regions and Diaspora was the product of collaboration between KHRP and the Kurdish Women’s Project (KWP) which was launched in June 2004 at the House of Lords in London, and in July 2004 at the Kurdish National Assembly in Erbil, Iraqi Kurdistan. Although not a binding document of international law, KWP and KHRP extrapolated the demands of Kurdish women for substantive equality from the foundations of CEDAW; as such, the Turkish Government is urged to consider compliance with this Charter both in spirit and letter.
7. KHRP gives full permission for this submission to be placed on the website of the Office of the High Commissioner for Human Rights and for it to be referred to by Committee members as a source of information in discussions with the Turkish Government.

² UN Committee on the Elimination of Discrimination against Women, “Concluding Comments: Turkey” (CEDAW/C/TUR/4-5), 15 February 2005, at 7–8.

³ Kurdish Women’s Project and Kurdish Human Rights Project, *Charter for the Rights and Freedoms of Women in the Kurdish Regions and Diaspora*, KHRP, London: 2004.

ARTICLE 1

8. Article 1 of CEDAW provides a definition of ‘discrimination against women’ for the purpose of applying the Convention. Turkey acknowledges that it has yet to incorporate this definition into its Constitution. Following Turkey’s submission of its combined fourth and fifth periodic report, the Committee recommended that Turkey amend its Constitution or appropriate laws to incorporate the definition of discrimination against women as it appears in Article 1.⁴ Turkey has failed to act upon this recommendation.
9. In its sixth periodic report, Turkey indicated that there are ‘ongoing efforts to further amend the Constitution some of which can be expected to impact women’s human rights and equality between women and men.’ From Turkey’s submission it is unclear (1) what the nature of these amendments are, (2) whether these include an attempt to amend the Constitution to include the Convention’s definition of discrimination against women, and (3) whether the government is actively pursuing them or if it is organisations, such as the women’s NGO’s mentioned, who are leading the effort to make this amendment to the Constitution.

⁴ Committee on the Elimination of Discrimination Against Women, 32nd Session ,10-28 January . *Concluding Comments: Turkey*, CEDAW/C/TUR/CC/4-5, at 4. (Available at: <<http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-CC-TUR-0523813E.pdf>> - Last accessed 12 May 2010).

ARTICLE 2

10. Under Article 2, Turkey undertakes ‘to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with that obligation’. Turkey purports to meet this obligation by pursuing ‘by all appropriate means and without delay a policy of eliminating discrimination against women.’
11. Turkey enumerates a series of legal reforms it has undertaken in compliance with Article 2 to reduce discrimination against women, such as amending Article 10 of its Constitution to provide for equality between men and women. However, Turkey fails to provide any proof of the actual effect of these legal reforms or evidence of reduced discrimination against women.

Gender-based / Domestic violence

12. Although not clearly explicated in Article 2, there exists a general consensus among states that gender-based violence is a form of discrimination that is in violation of CEDAW, a fact which has been affirmed by the European Court of Human Rights (ECtHR).⁵ Article 5 of the Charter for the Rights of Women in the Kurdish Regions and Diaspora calls on the Turkish government to take ‘[a]ll appropriate measures...to [p]revent, investigate, and, in accordance with existing legislation, punish acts of violence against women, whether those acts are perpetrated by the State, by non-state actors or by private persons.’ While Turkey has partially fulfilled its obligation under Article 2 by making appropriate legal reforms which purport to eliminate discrimination against women and to increase women’s rights in respect of protection against domestic violence, such as amending its Penal Code and implementing the Law on the Protection of the Family⁶, it has not taken sufficient measures to ensure the full implementation of these reforms at the level of law enforcement.

⁵ See *Opuz v. Turkey*, Application no. 33401/02, para. 192, ECHR 2009.

⁶ The Law on the Protection of the Family, Law No. 4320, was passed in 1998 and allows a court to order a spouse accused of domestic violence to abide by certain behaviours. If the court order is violated, the spouse may be arrested and imprisoned.

13. Pervasive cultural attitudes, male dominated environments and non-compliance of law enforcement officials hinders the full implementation of these reforms. Women's rights groups report that despite these reforms, they still struggle to defend women against community attitudes, which are tolerant of violence against women and are frequently shared by judges, senior government officials and opinion leaders in society.⁷ Various bodies are at fault for this gap between law and practice; police officers do not take allegations of domestic violence seriously; prosecutors do not investigate allegations for insubstantial reasons; protective orders against men accused of domestic violence, made under the Law on the Protection of the Family, are not sufficiently enforced.⁸ This discriminatory implementation of the Law of the Protection of the Family was highlighted by the European Court of Human Rights (ECtHR) in *Opuz v. Turkey*, in which the court found that Turkey was in violation of Articles 2, 3, and 14 of the European Convention on Human Rights due to failure of the police and courts to deal with the applicant's and her mother's reports of domestic violence and requests for protective measures under the Law for the Protection of the Family.⁹
14. Rather than taking appropriate measures pursuant to the Law for the Protection of the family, police officers often see their role as one of a 'mediator,' rather than a 'law enforcement official,' and encourage women to return home and resolve their issues with their spouse. Police decline to investigate allegations of abuse and institute protective measures¹⁰ and view domestic violence as a private family matter that should be sorted out amongst family.¹¹
15. The following examples illustrate the failure to protect women. In August 2009 a KHRP delegation was dispatched to observe the trial of Kerem Çakan, accused of the murder of

⁷ KHRP: *Human Rights in the Kurdish Regions of Turkey: Three Pressing Concerns* <http://www.khrp.org/khrp-news/human-rights-documents/2009-publications.html> pp.37-44 (last accessed 13 May 2010)

⁸ KHRP: *Human Rights in the Kurdish Regions of Turkey: Three Pressing Concerns* <http://www.khrp.org/khrp-news/human-rights-documents/2009-publications.html> pp.37-44 (last accessed 13 May 2010)

⁹ *Opuz v. Turkey*, Appl. no. 33401/02, para. 192, ECHR 2009.

¹⁰ KHRP: *Human Rights in the Kurdish Regions of Turkey: Three Pressing Concerns* <http://www.khrp.org/khrp-news/human-rights-documents/2009-publications.html> p. 40 (last accessed 13 May 2010)

¹¹ Women's Rights Information and Implementation Centre of the Diyarbakir Bar Association (KA-MER), *Research Report on Implementation of Law no. 4320*, 25 November 2005, cited by *Opuz v. Turkey*, Appl. no. 33401/02, para. 192, ECHR 2009.

his then-pregnant 17-year-old wife, Eylem Pesen¹². Pesen had previously been forced out of education to marry Çakan, her maternal uncle's son, who was accused of repeatedly stabbing and running over Pesem on 17 May 2009. The apparent motive for the killing was the defendant's suspicion that she was involved in a sexual relationship with his elder brother, although subsequent admissions by Çakan revealed that Pesen had reported twice being raped by this same brother. During the trial, which is still ongoing, the court failed to consider the murder as an 'honour-killing' (which has an impact on sentencing) and both the police and judiciary neglected further avenues of investigation that may have indicted the case as such.

16. A recent report by Bianet suggests that the Turkish state is not able to protect the women who apply to official institutions for protection because they have been exposed to violence¹³. Yet, according to the Constitution, domestic legislation and international obligations, it is the duty of the state to protect these women. The Bianet article reports that during March 2010, three women who had applied to state institutions for protection became victims of violence. The first incident was the case of Yasin İlbaş who killed his former mother-in-law Gülten Sansür and injured his wife Cemile Seçil Sansür. According to the reports, Cemile Seçil Sansür had previously applied for help because of her violent husband. Subsequently, primary school teacher Saadet Ulus was killed by Yasin Akbaş, about whom she had previously filed a criminal complaint. In a third incident of this sort, a man from Bingöl in south-eastern Anatolia cut off the nose and the ears of his pregnant wife because of a three-month prison fine imposed on him due to a complaint she had made.

17. A further article by Women Living Under Muslim Laws¹⁴ states that on 6 April, 2010, Yosma Altunbey, a mother of six living in the village of Çığırgan in Kars, Southeast Turkey, was subjected to a brutal physical assault by her husband and his brother¹⁵. She

¹² KHRP: *The Trial of Kerem Çakan: The Turkish Judiciary and Honour Killings: Trial Observation Report*. <http://www.khrp.org/component/docman/cat_view/46-2010-publications.html> (last accessed 13 May 2010)

¹³ Bianet: *Turkey Not Able to Protect Woman* 16 March 2010 <<http://bianet.org/english/gender/120693-turkey-not-able-to-protect-women>> (last accessed 10 May 2010)

¹⁴ *Turkey: Government failing in its commitments to protect women from violence* <http://www.wluml.org/node/6168> (last accessed 13 May 2010)

¹⁵ *Turkey: Government failing in its commitments to protect women from violence* <http://www.wluml.org/section/news/latest?page=3> (last accessed 13 May 2010)

managed to escape to her parents' house and filed an official complaint against the perpetrators at the gendarmerie station. According to reports, Gendarme Specialist Sergeant K.T. tried to make her withdraw her complaint, threatened her and eventually assaulted her himself when she refused. This raises the question of whether he had received any training as required by "The Role of the Police Forces in the Prevention of Violence against Women and the Applicable Procedures Project" which was intended to aid the enforcement of Law No 4320 on the Protection of the family.¹⁶ The Altunbey family is now preparing to leave the village following further threats to their safety.

18. It is not certain whether the Turkish authorities can reassure the public that the perpetrators of the original attack on Ms. Altunbey will face criminal charges. It is also not clear how the complaint filed against the gendarme by Mrs Altunbey will be properly investigated by a body independent from the Security Organisation. This case illustrates that the amendment of Law No. 4320 for the prevention of domestic violence in 2007 have not corrected its defects associated with enforcement. It is furthermore unclear what instruments the Turkish government have put in place to monitor and evaluate the implementation of the Combating Domestic Violence Against Women National Action Plan¹⁷, given that there are a number of international mechanisms for assessing the efficacy of the measures taken by states to eradicate violence against women, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
19. The article goes on to outline that data released by the Human Rights Association in Turkey shows that from 2007 to 2010, nine women were killed by the Turkish gendarmerie, 91 women were murdered in the name of honour, 169 women were victims of domestic violence, 226 women committed suicide because of domestic abuse, 92 women were raped and killed (including by security forces).
20. In cases where a woman is able to obtain a protective measure against an abusive spouse under the Law on the Protection of the Family, there exist problems with enforcing the

¹⁶ CEDAW pre-session working group, 46th session. *Responses to the list of issues and questions with regard to the consideration of the sixth periodic report: Turkey*, p.29.

¹⁷ CEDAW pre-session working group, 46th session. *Responses to the list of issues and questions with regard to the consideration of the sixth periodic report: Turkey*, p.19-21.

order, since the spouse is sometimes friends with the local police¹⁸. Such indifference toward domestic violence and non-enforcement of injunctions undermine women's ability to gain effective protection from domestic violence.

21. The severity of the situation is exacerbated for Kurdish women who do not speak Turkish. Similar to their experience in accessing other social services, Kurdish women who lack Turkish language skills are at a significant disadvantage in receiving redress for domestic violence since law enforcement officials, as appendages of the state, speak only Turkish. Since many Kurdish women are unable to communicate with law enforcement officials, they are deterred from bringing domestic violence allegations to the attention of the police and, additionally, fear violence at the hands of law enforcement.¹⁹ The Turkish government has not provided for any mechanisms, such as interpreters, which would increase the ability of Kurdish women to receive protection from their abusers and increase their access to justice. Hence, any legal reforms, such as the Law on the Protection of the Family, without additional apparatus to allow non-Turkish speaking minority women to access these reforms is ineffective, since it bars an entire segment of the Turkish population from benefitting from these reforms.
22. Another obstacle to full implementation of Turkey's legal reforms is the lack of awareness among Kurdish women of their legal rights. In its Sixth Periodic Report, Turkey does not enumerate any substantive awareness-raising measures it has taken to increase women's awareness of the legal remedies available to them. The measures Turkey mentions in its report, such as the 'Stop Violence against Women Campaign,' may increase the general awareness of the issue of domestic violence in Turkish society, but it is not clear how such measures increase women's knowledge of the legal avenues available to them when they are faced with domestic violence.
23. According to a nationwide survey published in 2009²⁰ only 2.1 % of women in Turkey and 0.8% of women in Eastern Turkey said that they would call the police, go to court or

¹⁸ "The opinion of Purple Roof Women's Shelter Foundation (Mor Çatı Kadın Sığınağı) on the implementation of Law No. 4320," submitted to *Opuz v. Turkey*, Application no. 33401/02, §192, ECHR 2009.

¹⁹ KHRP: Communication to the Commission on the Status of Women on the Status of Kurdish Women in Turkey, August 2009, para 17. http://www.khrp.org/khrp-news/human-rights-documents/doc_details/227-communication-to-the-commission-on-the-status-of-women-on-the-status-of-kurdish-women-in-turkey.html (last accessed 13 May 2010).

²⁰ Altınay, Ayşe Gül and Arat, Yeşim (2009) *Violence against women in Turkey: a nationwide survey*. See http://research.sabanciuniv.edu/11418/1/Violence_Against_Women_in_Turkey.pdf, (last accessed 12 May 2010)

go to the Association for the Protection of Women if their spouse beat them. Furthermore, data from Van Women's Association in 2008 indicates that 70% of women who applied to their centre did not apply anywhere to seek a remedy for their problems, 22 % applied to health institutions and local authorities and only 2.5 % of women applied to the police station. Once again Kurdish women who do not speak Turkish are particularly disadvantaged since these awareness campaigns are conducted only in Turkish. Non-governmental organisations and the private sector may be able to fill this gap, but the Turkish government cannot rely on non-state actors to educate a significant segment of the population on its legal rights.

24. To fulfil its obligation under Article 2, Turkey must overcome the indifference towards violence against women so pervasive throughout all levels of the criminal justice system, so that the Law on the Protection of the Family may be fully implemented and women may access all the protective measures this law affords. To overcome this attitude, the government should increase gender equality training for law enforcement officials who are the first point of authority for women who are victims of domestic violence. Additionally, Turkey needs to recognize the Kurds as a minority group, so that relevant data relating to the effects of domestic violence on all women in Turkey may be made available. In its discussion of its Fourth and Fifth combined periodic report, Turkey stated that such surveys on the issue of domestic violence would be taken.²¹ When Turkey finally undertakes these surveys, they must include Kurdish women. Without such data, it will be impossible for Turkey to address issues of domestic violence and comply with its obligations under CEDAW.

Women's shelters

25. Shelters for women who are victims of domestic violence are an important component in not only providing necessary protection for these women, but also in providing the necessary mental and health services required to rehabilitate victims of domestic violence. In its Sixth periodic report, Turkey acknowledged that there is currently a lack

²¹ UN Committee on the Elimination of Discrimination Against Women, "Anti-Discrimination Committee Takes Up Situation of Women in Turkey: Expert Members Commend Country's Commitment to Gender Equality." (Press Release WOM/1480). 21 January 2005. <<http://www.unis.unvienna.org/unis/pressrels/2005/wom1480.html>> (last accessed 12 May 2010).

of women's shelters. At present, it is not entirely clear how many shelters exist to serve its population of over 35 million women²² as official and non-official numbers differ greatly. What is clear, however, is that the number of shelters are insufficient to serve Turkey's female population. Turkey has failed to set out a strategy with which it intends to tackle this problem.

26. As mentioned in its Report, Turkey has passed the Law of Municipalities No. 5393 which gives local municipalities the authority to render women's services and requires municipalities with over fifty thousand inhabitants to create a shelter. Turkey cites this law as demonstrative of its intention to increase the number of women's shelters however when asked what penalties a qualifying municipality would suffer if it did not build a women's shelter pursuant to the Law, Mural Zorluoğlu, Head of Department of Directorate General for Regional Authorities, stated that a warning was the only penalty in place.²³ This law, thus, has no bite, since a municipality in violation of the law will receive no penalty and can essentially choose not to build these shelters that are an essential component in protecting women from violence.
27. In addition to creating penalties for non-compliance with this law, the Turkish government should provide more guidelines for the construction of these shelters, as some municipalities are willing to build shelters but are unable to move forward due to lack of guidance from the central government.²⁴ Municipalities are also prevented from constructing much-needed shelters due to a dearth in funding. An interview with Sevinç Ünal from the Women's Solidarity Organization²⁵, raises the concern that women are only allowed to stay in the shelters for three months. Ms. Ünal explains, "There are almost no social services which can be called post-shelter services, and unfortunately, 70 percent of the women, after staying in shelters, return to the houses in which they are

²² Turkish Statistical Institute, *Address Based Population Registration System 2008 Population Census Results*, No. 14, 26 January 2009.

²³ UK Border Agency, "Interview with Mural Zorluoglu, Head of Department of Directorate General for Regional Authorities, Ministry of the Interior," *Report of Fact Finding Mission, 11-20 February 2008, Turkey*. (London: UK Home Office, 23 July 2008), at 116.

²⁴ UK Border Agency, "Interview with Temucin Tuzecan, Director of 'Stop Violence against Women' Campaign, *Hürriyet* newspaper," *Report of Fact Finding Mission, 11-20 February 2008, Turkey*. (London: UK Home Office, 23 July 2008), at 66-67.

²⁵ Womensphere: *Is silence protecting the perpetrators of violence against women in Turkey?* <http://womensphere.wordpress.com/2010/02/16/is-silence-protecting-the-perpetrators-of-violence-against-women-in-turkey/> (last accessed 18 May 2010)

victims of violence because they don't have any other option," Ünal underlines that throughout Turkey there is only one single center for victims of domestic violence that operates 24 hours a day. In this new centre in Ankara, women can get all the services they need after violent incidents, including access to health services and the law. "Violence usually occurs at weekends or late at night but apart from this center there is no 24-hour service that women can reach," she explained.

28. Despite the need for an increase in women's shelters, these should however only be viewed as a temporary measure and the Turkish government must work to improve conditions at the grassroots level to deter and eliminate incidents of domestic violence through rigorous investigation, prosecution and sentencing of perpetrators, education of law enforcement and other officials, and education and rehabilitation of women through State supported schemes.
29. The government should work to increase gender sensitivity within law enforcement and the criminal justice system, so that women are able to access the available legal avenues to deal with domestic violence and are able to remain in their homes rather than flee to a shelter.

State violence against Kurdish women

30. Worse than violence against women perpetrated by non-state actors, violence against Kurdish women perpetrated by state actors is a salient problem which is a clear violation of Turkey's CEDAW obligations. Turkey has failed to address allegations of violence by state actors in its Sixth periodic report.
31. In a paper to the EU Turkey Civic Commission (EUTCC), Barrister and KHRP Advisor on Women's and Children's Rights, Margaret Owen, highlighted the issue of physical, sexual, and mental abuse and ill treatment of Kurdish women by Turkish state agents, such as security forces, police, and village guards.²⁶ Due to recent legal reforms increasing punitive measures for torture, state agents have resorted to using violence

²⁶ Margaret Owen, *Women's Rights in Turkey and Kurdish Cultural Rights*. European Union Turkey Civic Commission (Paper: Brussels 2005). <<http://www.eutcc.org/articles/8/20/document215.ehtml>> (last accessed 12 May 2010).

against Kurdish women as a substitute for torturing Kurdish men in formal detention in order to demoralise the community and also specific individuals.²⁷ State agents are aware of the dishonour attached to such violence, especially sexual assault, and of the low probability of these women reporting these acts of violence; thus, they are able to use physical and sexual violence against Kurdish women with impunity.²⁸ This use of sexual violence by state agents against Kurdish women is not only in violation of CEDAW obligations but also the Convention against Torture (CAT) and international *jus cogens* norms. The ECtHR has recognised the severity of such physical and sexual abuse in the KHRP-assisted case, *Aydin v. Turkey*, in which the court ruled that rape is a form of torture.²⁹

32. If Kurdish women do choose to report sexual violence by state agents, they then face extreme difficulty in pursuing criminal claims against the state. A KHRP-led delegation observed several trials prosecuting gendarmes who had allegedly committed physical and sexual violence against Kurdish women.³⁰ One such case involved Şükran Esen, a Kurdish woman who had allegedly been tortured and raped on three occasions by gendarmes who unofficially detained her. The Prosecutor had indicted 405 gendarmes for this crime which significantly lessened the probability of the guilty to be convicted beyond a reasonable doubt for physical and sexual violence. The victim's attorney requested that the court order the indicted gendarmes to be arrested for fear that the guilty ones would flee; instead, the court allowed the indictment of forty additional gendarmes which further reduced the victim's ability to assert her rights. Additionally, the victim's attorney drew attention to the fact that the Chief Commander of the Gendarme who had been found guilty of torture in *Aydin* had still not been removed from his post; this failure by Turkey to implement fully the ECtHR's judgment in *Aydin* signals a culture of impunity for torturers in Turkey.³¹

33. A KHRP-led delegation also found that the lack of proper recording of detentions, especially those such as the unofficial detention suffered by Şükran Esen, prevented

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ KHRP case, ECtHR case, Appl. no. 23178/94, *Aydin v. Turkey*, judgment of 27 September 1997.

³⁰ Margaret Owen, edited by Kerim Yildiz. *Trial Observation Report, Turkey's Shame: Sexual Violence Without Redress – The Plight of Kurdish Women*. KHRP: December 2003, at 10-21.

³¹ Margaret Owen, edited by Kerim Yildiz. *Trial Observation Report, Turkey's Shame: Sexual Violence Without Redress – The Plight of Kurdish Women*. KHRP: December 2003, at 21

Kurdish women from successfully bringing to justice those state agents responsible for the torture and ill treatment of female detainees. The Human Rights Association of Turkey (İHD) reported to the delegation that 99 per cent of detentions went unrecorded. KHRP concluded from these observations that physical and sexual violence against Kurdish women was rife in Turkey, and by ignoring illegal detentions and violence against Kurdish women by state agents, the Turkish government is in violation of relevant international conventions and *jus cogens* norms from which no state is legally able to derogate under any circumstances³².

34. A criminal court in Diyarbakir allowed for the confiscation of a Kurdish newspaper, *Azadiya Welat*, after a complaint from the Diyarbakir police department and demands by the Diyarbakir Public Prosecutor.³³ The newspaper's confiscation was ordered after it reported a woman's claims that she had been raped by four plainclothes Diyarbakir police officers. The woman alleged that she was sexually assaulted by these plainclothes officers for her activities with the Democratic Free Women's Movement (DÖKH). The Human Rights Association in Turkey (İHD) also reported that four other women had brought similar claims of rape by police officers within the same week.
35. It is of great concern that violence against women perpetrated by its agents is ignored by the Turkish government and that the authorities have in some cases taken direct action to conceal allegations of this violence. Under its international obligations, Turkey must investigate all allegations of violence, punish perpetrators whether they are state or non-state actors, and have in place preventative mechanisms protecting women against such treatment.

³² KHRP: Communication to the Commission on the Status of Women on the Status of Kurdish Women in Turkey, August 2009, para 18. http://www.khrp.org/khrp-news/human-rights-documents/doc_details/227-communication-to-the-commission-on-the-status-of-women-on-the-status-of-kurdish-women-in-turkey.html (last accessed 13 May 2010).

³³ Erol Önderoğlu, "Newspaper Confiscated for Reporting Allegations of Police Rape," *Bianet*, 10 July 2009, <<http://bianet.org/english/gender/115773-newspaper-confiscated-for-reporting-allegations-of-police-rape>> (last accessed 12 May 2010).

ARTICLE 7

36. Under Article 7 Turkey pledged to ‘take all appropriate measures to eliminate discrimination against women in the political and public life of the country’ by focusing on ensuring equal rights to voting, the ability to hold public office and formulate government policy, and to participate in non-governmental organisations.
37. Despite these promises, Turkey forbids the use of minority languages in political activities.³⁴ Given the low percentage of Kurdish women who are literate and who speak Turkish, the government’s policy of forbidding the use of minority languages disproportionately affects Kurdish and other minority women.
38. In addition to the language and literacy barrier, women in general in Turkey are underrepresented in political life. While there has been an increase in the number of women nominated by their parties for political positions since 2002, they usually represent less than 20 per cent of the parties’ candidates and are in low ranking positions on the nomination lists, resulting in many not being elected into the parliament.³⁵ On the whole, women’s participation in political activities within Turkey is largely limited to voting as political participation is viewed by most as the ‘male’s prerogative.’³⁶
39. Turkey acknowledges in its report that ‘Even though no legal instrument includes provisions leading to gender discrimination in terms of political rights, it is still not possible to say that de facto equality between women and men has been established in politics’. However, there is no information on how the Turkish government proposes to tackle and realign this gender imbalance.

³⁴ Minority Rights Group International, ‘A Quest for Equality: Minorities in Turkey’, (2007), 25, <<http://www.minorityrights.org/?lid=4572>> (last accessed 12 May 2010).

³⁵ The Republic of Turkey, Prime Ministry, General Directorate on the Status of Women, ‘National Action Plan Gender 2008-2013’, 2008, Ankara, 49, <http://www.huksam.hacettepe.edu.tr/English/Files/NAP_GE.pdf> (last accessed 12 May 2010).

³⁶ Ferhat Sellidşelli & Aygul Fazlioğlu, ‘Social Parameters of Woman Labour in GAP Region’, Second International Conference on Women’s Studies, East Mediterranean University, Centre for Women’s Studies, 26-28 April 2006, 11, <<http://www.gap.gov.tr/English/Sosprj/kibris.pdf>> (last accessed 12 May 2010).

ARTICLE 10

40. Under Article 10 of CEDAW, Turkey undertakes to ‘take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.’ Although the Turkish government has attempted to implement various administrative reforms and campaigns to increase educational opportunities for women and girl children, even in the Southeast Anatolian region, Turkey will never be able to meet fully its obligations under Article 10 until it allows Kurdish to be spoken and taught in schools and classrooms.
41. Illiteracy among Kurdish women is significantly higher than among women in Turkey generally. In Turkey, the illiteracy rate among women is roughly 20 percent, whilst in the Southeast Anatolian region whose residents are mostly Kurdish, the illiteracy rate is roughly 40 per cent.³⁷ While this is not indicative of a clear bifurcation in education levels between women in Turkey who speak Turkish and those who do not, it is an indication of the inequalities which Kurdish women face compared to Turkish-speaking women in Turkey.
42. Under Article 42 of the Constitution of Turkey, only Turkish may be taught as the mother tongue in Turkish educational institutions. Due to this constitutional limitation, those who do not speak Turkish as their mother tongue or at all are severely limited in their educational opportunities and cannot achieve at the same level as those who speak Turkish as their first language. This was a concern which the CEDAW Committee expressed in their Concluding Comments to Turkey regarding their 4th/5th Combined Periodic Report³⁸ but which Turkey has failed to address in its 6th Periodic Report. In a paper to the EUTCC, KHRP Advisor on Women’s and Children’s Rights, Barrister Margaret Owen noted that, ‘Thousands of Kurdish girl children do not attend school or leave after only a few years. Not being conversant in Turkish, facing humiliation because

³⁷ Turkey’s Prime Ministry State Planning Organisation, *Ranking of Provinces and Regions in Terms of Socioeconomic Development Indicators*, cited by Ferhat Şellı and Aygöl Fazlıođlu, *Social Parameters of Woman Labour in the GAP Region*, Second International Conference in Women’s Studies, Eastern Mediterranean University, Centre for Women’s Studies, 26-28 April 2006, at 5.

³⁸ UN Committee on the Elimination of Discrimination against Women, “Concluding Comments: Turkey” (CEDAW/C/TUR/4-5), 15 February 2005, at 6.

they have Kurdish names..., Kurdish children generally do not prosper or progress in the school environment as they should.’³⁹

43. The prohibition of all other languages besides Turkish has greater ramifications on Kurdish women beyond educational achievement; Kurdish women are also adversely affected in areas such as gaining employment, participating socially and politically, and accessing healthcare due to the importance of education in gaining Turkish language skills. By allowing Kurdish to be spoken in schools, the Turkish government could increase educational opportunities for Kurdish girls including the opportunity to learn Turkish.
44. A study in Turkey examining the influence of speaking Turkish on socio-economic indicators found that 90 per cent of women in the eastern and southern Turkish regions who do not speak Turkish did not finish primary school, are illiterate, and are employed either as agricultural or unpaid family workers.⁴⁰ This study further concluded that since Kurdish women and girls speak Kurdish at home, any restriction on educational opportunities will subsequently restrict any opportunities to learn Turkish and integrate into mainstream society.⁴¹ Consequently, any legal reforms and campaigns which the Turkish government undertakes which purport to increase the educational levels of girls throughout Turkey will not necessarily increase the status of Kurdish women in Turkey unless it takes certain measures regarding minority languages issues. Turkey must amend Article 42 of its Constitution to allow languages other than Turkish to be taught in classrooms and also actively ensure that women and girl children who do not speak Turkish receive the necessary training in order to realize fully the benefits of these reforms.
45. As noted in its Sixth periodic report, Turkey’s Ministry of National Education has conducted multiple campaigns with the aim of teaching Turkish to those students whose mother tongue is not Turkish and allowing non-Turkish speaking children to benefit

³⁹ Margaret Owen, *Women’s Rights in Turkey and Kurdish Cultural Rights*. European Union Turkey Civic Commission (Paper: Brussels 2005). <http://www.eutcc.org/articles/8/20/document215.ehtml> (Last accessed 12 May 2010).

⁴⁰ Jeroen Smits and Aye Gündüz-Hoşgör, ‘Linguistic Capital: Language as a socio-economic resource among Kurdish and Arabic women in Turkey.’ 26(5) *Ethnic and Racial Studies* 26:5 (September 2003), 829–853, at 849–50.

⁴¹ *Ibid.*

equally from formal education.⁴² It is unclear how successful such campaigns would be as no statistics have been provided which show the effect of these campaigns on equalising access to educational opportunities. Thus, although Turkey claims to have made some progress in advancing the well-being of their Kurdish citizens in allowing the tuition of non-Turkish dialects and undertaking campaigns to teach Turkish to non-Turkish speaking schoolchildren, its reforms regarding minority language tuition do not significantly increase educational opportunities for Kurdish women and girls since it appears that they are still unable to receive tuition in their mother tongue.

46. As a result of the EU accession process, the Government took an important step in 2002 by amending the Foreign Language Education and Teaching Law and the Learning of Different Languages and Dialects by Turkish Citizens to allow private courses to teach the different languages and dialects traditionally used by Turkish citizens. However the regulation introduced significant restrictions regarding the curriculum, appointment of teachers, and the criteria for enrolment, including a minimum age restriction, which prevented children from attending such schools. Although some private courses were opened in several provinces in south-east Turkey, these were closed down in 2005 because of bureaucratic restrictions and people's reluctance to pay to learn their mother tongue.⁴³

47. Through the South Eastern Anatolia Project (GAP), the Turkish government has created ÇATOMs which are community centres which provide various social services, particularly aimed at women and girls living in the Southeast regions, such as health services, literacy classes, information sessions regarding the Turkish Civil Code and legal rights, and programmes promoting female entrepreneurship.⁴⁴ These ÇATOMs have been successful in raising female literacy rates and school enrolment and have also increased women's awareness of the importance of education.⁴⁵ ÇATOMs are not readily available

⁴² Turkey mentioned campaigns such as, "7 is Too Late," "Pre-school Education Campaign," "Mobile Kindergarten," and "My Family."

⁴³ KHRP: NGO Shadow Report for the review of the Turkish Government under the UN International Convention on the Elimination of all forms of Racial Discrimination, para 44. February 2009.

⁴⁴ Aygül Fazlıoğlu, *Social Dimension in Regional Development: GAP Experience of Turkey's Southeastern Anatolia*. Regional Planning and Sustainable Development Conference, Damascus University, 26-29 November 2007.

⁴⁵ Ferhat Şellı and Aygül Fazlıoğlu, *Social Parameters of Woman Labour in the GAP Region*, Second International Conference in Women's Studies, Eastern Mediterranean University, Centre for Women's Studies, 26-28 April 2006, at 6.

to all Kurdish women and girls, however, due to travel constraints imposed by distance and also cultural constraints imposed by domestic duties and male decision-makers. While these community centres are an important mechanism for assisting in increasing educational opportunities for women, Turkey must adopt a more proactive strategy to increase educational opportunities for Kurdish women and girls further than ÇATOMs.

ARTICLE 11

48. Under Article 11 CEDAW, the Turkish government undertakes to ‘take all appropriate measures to eliminate discrimination against women in the field of employment’. A 2009 report by the US Department of State⁴⁶ stated that women continue to face discrimination in employment and are generally underrepresented in managerial-level positions as well as in government. The US Department of State report refers to a November 2009 report by the European Commission, which remarks that the levels of women's employment and their political participation nationally and regionally were low. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the retail, restaurant, and hotel sectors worked as unpaid family labour. The same US Department of State report references The World Economic Forum, which declared during 2009 that women earned 61 percent of what their male counterparts earned for similar work. Further on it mentions the European Commission's report in October, which stated that men involved in manufacturing work earned twice as much as women in the same field. According to the European Commission's report in October, a legislative amendment granted public contractors the right to paid maternity leave at the same rate as public servants.
49. Despite the absence of any legal barriers to female employment, the female labour force participation rate in Turkey is still significantly lower than that of males. The female labour force participation rate is even lower among Kurdish women than the general female labour force participation rate in Turkey. This disparity can mainly be attributed to the unequal access to education of Kurdish women which subsequently undermines the ability of Kurdish women to gain Turkish language skills. The ability to speak Turkish is requisite in gaining employment in a society in which Turkish is the official and the only permissible language. Without a cohesive strategy to increase Kurdish women's educational levels and Turkish language skills, Kurdish women will be systematically

⁴⁶ 2009 Human Rights Report: Turkey – Bureau of democracy, Human Rights and Labor [2009 Country Reports on Human Rights Practices](http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm) <<http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm>> Last accessed 10 May 2010.

excluded from the labour force, thus preventing Turkey from fulfilling its obligations under Article 11 of CEDAW.

50. According to the Turkish Statistical Institute, approximately 6 per cent of the 3.2 million women aged fifteen and older in Southeast Anatolia are employed compared to the 16 per cent employment rate of women generally in Turkey.⁴⁷ Even the 6 per cent employment rate in Southeast Anatolia must be viewed cautiously as most of these women, including Kurdish women, are employed as unpaid family workers or agricultural workers, work for which female workers are not significantly compensated and which require skills that are not transferrable to employment in an urban setting. In Southeast Anatolia, there is currently a high level of rural-to-urban migration partly due to the shrinking share of agriculture in the national economy⁴⁸; thus, many Kurdish women are finding themselves removed from their agrarian environments and injected into an urban society in which they are unable to participate due to their lack of marketable job skills and sufficient Turkish language skills. These Kurdish women in urban areas are relegated to unskilled labour and experience discrimination on various levels such as services in housing, education, and healthcare.⁴⁹
51. Those Kurdish women who remain in rural areas in Southeast Anatolia maintain their positions as unpaid family or agricultural workers and usually possess no Turkish language ability. In a study which utilised the 1998 Turkey Demographic and Health Survey to determine the influence of not speaking Turkish on the status of Kurdish and Arabic women in Turkey, it was found that only 15 per cent of non-Turkish speaking Kurdish women were employed; of those that were employed, all worked in manual occupations.⁵⁰ The study concluded that the opportunities for social mobility are

⁴⁷ According to the 2000 population census, there were 33,457,192 women in Turkey, of which 5,595,000 were employed, compared to 3,227,134 women residing in the nine provinces which comprise Southeast Anatolia, of which 195,000 are employed. See Turkish Statistical Institute, "Population By Population Group and Sex," The Characteristics Of The Population By Provinces, 2000 Population Census; "Employment Status by Years and Sex," Regional Results Of Household Labour Force Survey After 2007 (By the New Population Projections), Level 2.

⁴⁸ Ferhat Şellı and Aygöl Fazlıođlu, *Social Parameters of Woman Labour in the GAP Region*, Second International Conference in Women's Studies, Eastern Mediterranean University, Centre for Women's Studies, 26-28 April 2006, at 8.

⁴⁹ Ferhat Şellı and Aygöl Fazlıođlu, *Social Parameters of Woman Labour in the GAP Region*, Second International Conference in Women's Studies, Eastern Mediterranean University, Centre for Women's Studies, 26-28 April 2006, at 13.

⁵⁰ Jeroen Smits and Aye Gündüz-Hoşgör, 'Linguistic Capital: Language as a socio-economic resource among Kurdish and Arabic women in Turkey.,' 26(5) *Ethnic and Racial Studies* (September 2003), 829–853, at 841.

practically non-existent for Kurdish women who do not speak Turkish. For example 56% of women applied to the Van Women's Association in 2008 for economical purposes and to receive assistance in finding jobs and 90% of these women stated that they did not have any source of income⁵¹. Moreover, 38% of women who applied to the Women's Rights Information and Implementation Centre of the Diyarbakir Bar Association did not benefit from any social security insurance and 35% of women did not have any source of income.⁵² Thus, although the Turkish government notes the importance of education in increasing women's access to employment opportunities and has made some legal reforms regarding employment, non-Turkish speaking women, including Kurdish women, will not be able to benefit fully from these reforms. Such reforms will not increase the status of all women in Turkey until the government takes proactive measures targeting the marginalised populations in Turkey that do not speak Turkish and do not have the opportunity to receive education through which they are able to gain Turkish language skills. The Turkish government must develop a cohesive strategy to deal with the non-Turkish speaking populations residing in urban areas and to provide women among these populations with equal employment opportunities.

52. The government has attempted to address the issue of low employment among Kurdish women in Southeast Anatolia through its Southeastern Anatolia Project (GAP) by constructing ÇATOM community centres. These ÇATOMs have attempted to address issues of employability of women in the GAP regions by offering literacy classes and training which encourage female employment entrepreneurship.⁵³
53. This vocational training only instructs in traditionally female skills such as knitting, sewing, cloth dyeing, toy-making and felt processing which may not prove to be lucrative or marketable, especially in urban settings. While ÇATOMs have been seemingly successful in allowing women more opportunities for literacy training, vocational training, and social interaction outside of the household, the Turkish government must ensure the continued success of such centres in increasing the status of women in Southeast Anatolia by continuing to fund these centres, providing for the creation of more

⁵¹ Van Women Association, Assessment Data of the Applications Received in 2008.

⁵² Statistical Data of the Applications received in 2008 by Women's Rights Information and Implementation Centre of the Diyarbakir Bar Association

⁵³ See generally, Southeastern Anatolia Project Regional Development Administration, "Multi-Purpose Community Centres (ÇATOMs)," <<http://www.gap.gov.tr/English/Sosprj/catom.html>> (last accessed 12 May 2010).

ÇATOMs in the region, and expanding training for a wider range of employment related skills.

54. The success of these ÇATOMs in increasing the employment status of women in Southeast Anatolia must not be overstated, however. While these centres are an indication of progress in Southeast Anatolia, the services of ÇATOMs are not readily available to all Kurdish women. Since their primary labour is unpaid family work and they usually reside in more traditional communities, some Kurdish women are unable to take advantage of ÇATOMs due to the long distances they must travel, the high volume of domestic work to which they are expected to complete and submission to male decision makers.⁵⁴

55. As a result, the Turkish government must actively pursue measures which directly increase the employability and access to Turkish language or vocational training of Kurdish women. Without addressing the marked disparity of employment statistics and realities between women in Turkey generally and Kurdish women both in urban and rural areas, the Turkish government cannot fully comply with its CEDAW obligations under Article 11.

⁵⁴ Leila Harris, 'Developing women's spaces: evaluation of the importance of sex-segregated spaces for gender and development goals in Southeastern Turkey,' *Kadin/Woman 2000*, (1 December 2002.).

ARTICLE 12

56. Under Article 12, Turkey undertakes to ‘take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality with men and women, access to health care services, including those related to family planning’ and to provide services relating to pregnancy such as pre- and post-natal services to all women.

Despite the fact that the Turkish laws governing health care creates *de jure* equality between men and women in the field of health care, health indicators of the Kurdish region of Southeast Anatolia lag behind the country’s averages in infant and maternal mortality rates, disease incidence, quality of health services and facilities, the ratio of healthcare providers to population, and accessibility of health services.⁵⁵ Kurdish women in this region are hindered from accessing health services due to several obstacles including lack of health care infrastructure in rural areas and constraints that are a result of low education rates. As a result, it has been found that Kurdish women generally are less likely to use certain health services such as pre-natal care than non-Kurdish women in Turkey.⁵⁶

Pregnancy-related services and family planning

57. Kurdish women face numerous barriers in accessing health services, such as pre-natal care, assistance with delivery, and post-natal services. One such barrier is the disparity in distribution of health care providers among regions and provinces; there are less health care providers available to Kurdish populations residing in Southeast Anatolia as compared to the more developed provinces in Western Turkey. According to the website of Reproductive Health in Turkey⁵⁷, pregnancy care is received by 91% of women in Western Turkey and only 61% of women in Eastern region of turkey. The percentage of

⁵⁵ Ferhat Şellı and Aygöl Fazlıođlu, *Social Parameters of Woman Labour in the GAP Region*, Second International Conference in Women’s Studies, Eastern Mediterranean University, Centre for Women’s Studies, 26-28 April 2006, at 7.

⁵⁶ Yusuf Celik and David R. Hotchkiss, *The socio-economic determinants of maternal health care utilization in Turkey*. 50 *Social Science & Medicine* 50(2000), 1797–1806, at 1802.

⁵⁷ Reproductive Health in Turkey. http://sbu.saglik.gov.tr/tusp/turkce/mudahale_alanlari/guvenli_genel_bilgi.asp (last accessed 18 May 2010)

births assisted by healthcare personnel is 83% in Turkey, which can be broken down into 95.3 % in Western Turkey and 59.7% in Eastern Turkey, which illustrates a huge disparity. A 2009 UNICEF report⁵⁸ on maternal health states that the infant mortality rate (probability of dying between birth and exactly one year of age, expressed per 1,000 births) was 21 in 2007, compared to 5 in the UK. The neonatal mortality rate (probability of dying during the first 26 completed days of life) in 2004 was 16, compared to 3 in the UK. This demonstrates that pregnancy-related services in Turkey as a whole are in need of improvement.

58. In its Sixth Periodic Report, Turkey notes that improving maternal and infant health and increasing the availability of family planning and pre- and post-natal services are national priorities. Additionally, the Turkish government acknowledges its awareness that the disparity in educational levels among women is a causal factor of the disparity in health indicators across different regions, a point which is underscored by the 2003 Turkey Demographic and Health Survey. The 2003 Turkey Demographic and Health Survey by Hacettepe University for the Ministry of Health found that almost all women with at least a high school-level education used pre-natal care whilst only 53 per cent of women with less than a primary education utilised pre-natal care.⁵⁹ Independent academic studies⁶⁰ have also confirmed this correlation, finding that education increases women's autonomy and confidence in making decisions regarding their own health and increases the probability that women will seek out health care to produce better health.
59. As noted above, despite acknowledging this correlation the Turkish government has not yet produced a strategy to increase Kurdish women and girls' access to education and ability to gain Turkish language skills as part of its push to increase health indicators among the various regions in Turkey.

⁵⁸ The State of the World's Children 2009: Maternal and Newborn Health, p.120 <http://www.unicef.org/sowc09/docs/SOWC09-FullReport-EN.pdf> (last accessed 18 May 2010)

⁵⁹ "Chapter 10 – Antenatal Care and Delivery Assistance," *Turkey Demographic and Health Survey TDHS-2003*, 119, <<http://www.hips.hacettepe.edu.tr/tnsa2003/data/English/chapter10.pdf>> (last accessed 12 May 2010).

⁶⁰ See Yusuf Celik and David R. Hotchkiss, "The socio-economic determinants of maternal health care utilization in Turkey," 50 *Social Science & Medicine*, 50 (2000), pgs. 1797–1806; S. Raghupathy, S. 1996. "Education and the use of maternal health care in Thailand," 43(4) *Soc. Sci. Med.* 43 (4),(1996) , 459–471; K. Streatfield, K.,M. Singarimbun, M.,I. Diamond, I., 1990. "Maternal education and child immunization.,' 27(3) *Demography* 27 (3),, 447–455 .

60. Partly as a result of the educational policies of the Turkish government regarding its Kurdish population, Kurdish women are less likely to utilise pregnancy-related services due to not only a lower awareness among Kurdish women of the benefits of these services but also to Kurdish women's inability to communicate in Turkish.⁶¹ Since these state-provided services are only constitutionally permitted to offer health services in Turkish some Kurdish women who attempt to utilise these services are unable to do so. These obstructions in accessing health services results in higher maternal and infant mortality rates and possibly higher fertility rates, as information about family planning is not disseminated in any languages other than Turkish.
61. A study on the spatial distribution of fertility in Turkey⁶² shows that Turkey's Total Fertility Rate (TFR) was 2.53 in 2000. TFR varied from 1.66 children per woman in Edirne to 7.06 in Şırnak. Fertility differed widely among regions within provinces as well. The TFR was highest in Southeastern and Eastern Anatolian regions (average is 4.31 and 3.72 children per woman), lowest in Marmara and Aegean regions (TFR is less than 2.0 children per woman). In addition to this, TFR increased in eight provinces between 1980 and 2000. The more years of school that women have completed, the lower their fertility. Education affects fertility through a number of interrelated factors, including women's social and economic status, age at marriage, family size desires, access to family planning information and services, and use of contraception.
62. The Turkey Demographic and Health Survey of 2003 found that only 56.7 per cent of women with less than a primary education used family planning methods or contraception compared to 74.5 per cent of women with at least a high school education.⁶³ Education empowers women to make decisions about their bodies independently and encourages women to access health services which will benefit them. The use of contraceptive as a family planning method is discussed further under Article 16.

⁶¹ This Report's analysis of Turkey's progress under Article 10 discusses the correlation between Turkish language ability and education among Kurdish women.

⁶² Özgür E. Murat "*Spatial Distribution of Total Fertility Rate in Turkey*" Ankara University, the Faculty of Language, History and Geography, December 2004 Available at <<http://dergiler.ankara.edu.tr/dergiler/33/825/10466.pdf>> (last accessed 18 May 2010)

⁶³ "Chapter 5 – Family Planning," *Turkish Demographic and Health Survey, TDHS-2003*, at 64, <<http://www.hips.hacettepe.edu.tr/tsa2003/data/English/chapter05.pdf>>.

Mental health services

63. In a study by KHRP commissioned by the European Parliament on the increasing number of suicides among Kurdish women, KHRP found that the lack of mental health services was a predominant factor affecting suicides by Kurdish women.⁶⁴ The factors barring Kurdish women from utilising mental health services include a lack of mental health services in areas with high Kurdish populations and the inability to communicate with mental health service providers.
64. The inability of Kurdish women to access mental health services is a particularly pressing issue due to the history of political instability of the Kurdish regions in Turkey. Ayten Adlim, a Kurdish woman and humanitarian paediatrician, called for the governments of the states in which Kurds reside to find solutions to the severe problems that Kurdish women face in dealing with mental disorders resulting from the violence, displacement, war, and even torture experienced in these regions.⁶⁵
65. The Turkish Statistical Institute has no data on the distribution of mental health service providers among provinces. The only published statistics relate to the distribution of traditional health care providers such as physicians, dentists, pharmacists, and nurses.⁶⁶ This absence of any monitoring of mental health services in the Kurdish regions makes apparent the Turkish government's lack of awareness of how vital these services are to the well-being of Kurdish women, given the instability of the Kurds' socio-political situation and violent history in Turkey. As expounded by Dr. Adlim:

The improvement of women's access to health in the Kurdish region will be closely related to a change of the political climate in the region. Without a sustainable peace process including the democratisation of political, social, economi[c] structures and an indiscriminat[e] implementation of human rights, it will not be likely for Kurdish women

⁶⁴ KHRP, "European Parliament Project; The Increase in Kurdish Women Committing Suicide."

⁶⁵ Presentation by Ayten Adlim, "Multiple Oppression & Women's Access to Healthcare," International Free Women's Foundation, Netherlands, Sept 2005.

⁶⁶ See Turkish Statistical Institute, "Distribution of Health Personnel of Turkey by Provinces," Healthcare Providers, Social Security & Health.

to gain appropriate access to health care in their homeland. Peace is a precondition for health.⁶⁷

66. If Turkey intends to meet its CEDAW obligations under Article 12, it must prioritise efforts to decrease maternal and infant mortality and to increase health indicators in Kurdish regions, firstly by increasing access to education for Kurdish women and girls, and secondly, by offering health services and family planning information in other languages including Kurdish.

⁶⁷ Presentation by Ayten Adlim, “Multiple Oppression & Women’s Access to Healthcare,” International Free Women’s Foundation, Netherlands, Sept 2005.

ARTICLE 15

67. Under Article 15, Turkey purports to ‘accord to women equality with men before the law’ and ‘accord to women in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity.’ As highlighted under Article 2, Turkey amended Article 10 in its Constitution in 2004 to include a provision concerning equality between men and women thereby creating a duty for the Government to ensure equality between the genders. KHRP welcomes this development; however, many Kurdish women face unique barriers or challenges, which unless specifically addressed by the Turkish Government, will result in the perpetuation of inequality under the law and vulnerable living circumstances for Kurdish women.

Equality with Men: Marriage

68. The Turkish Court of Cassation has decreed in favour of men who want to annul their marriage because their wives supposedly did not enter the marriage as virgins. A newly-wed husband from Bolu filed a case against his wife to annul their marriage because on the wedding night he supposedly found out that she was not a virgin any more. Hereupon, the wife obtained a report from the local Obstetrics and Gynaecology Hospital proving her virginity and filed a divorce case against her husband. After combining the cases, the Bolu Family Court rejected the husband's claim and accepted the woman's divorce claim. The case was brought before the Court of Cassation and the Family Court's decision was overruled. Three of the five court members decreed for an annulment of the marriage in November 2009 and reasoned their decision as follows: "Upon the collected evidence it is understood that the wife appeared not to be a virgin on the wedding night...The necessary qualifications of the woman were not provided" This outcome gives a clear indication that the Court of Cassation does not view women to have equal standing before the law to men in the matter of marriage.⁶⁸

⁶⁸ Bianet: *Court of Appeals: Virginity as Essential Wedding "Qualification* 11 November 2009, Available at <http://bianet.org/english/women/118179-court-of-appeals-virginity-as-essential-wedding-qualification> (last accessed 20 April 2010)

Equality with Men: 'Honour Suicides' and 'Honour Killings'

69. Honour killings constitute discrimination against women in violation of Article 1 of CEDAW. In its General Recommendation No. 19, the CEDAW Committee stated that 'Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedom under general international law or under human rights conventions [including the right to life], is discrimination within the meaning of [A]rticle 1 of the Convention.'⁶⁹ Incidents of gender-based violence, therefore, create a duty on States to take all necessary measures to protect women from all types of violence.⁷⁰
70. In its Sixth Periodic Report, Turkey states that it has amended its Penal Code to provide for the most severe punishment for perpetrators of honour or custom killings, however honour crimes remain a salient issue affecting women throughout Turkey, and especially women living in the more conservative Kurdish regions in Southeast and Eastern Turkey.⁷¹ Despite the introduction of legal reforms intended to eliminate this practice, the lives of many women in Turkey continue to be shaped by custom and tradition.⁷²
71. The steps taken by the Turkish government to combat and bring to justice perpetrators and instigators of honour crimes is welcomed. However there remains the serious problem of the forced suicide of women who would have otherwise been victims of honour crimes. Increasingly, instead of the killing of women alleged to have dishonoured their family, families are forcing women to commit suicide in an attempt to spare male relatives from life imprisonment.⁷³ This issue remains to be acknowledged by Turkey.
72. In the largely Kurdish province of Batman in Southeast Turkey, three-quarters of all suicides are committed by women. In comparison, in the rest of the world, men are

⁶⁹ UN Committee on the Elimination of Discrimination Against Women. *Committee's General Recommendation No. 19 on Violence Against Women*, (1992) (CEDAW/C/1992/L.1/Add.15), para. 7.

⁷⁰ *Ibid* at para. 24.

⁷¹ UK Border Agency, 'Interview with Mural Zorluoglu, Head of Department of Directorate General for Regional Authorities, Ministry of the Interior,' *Report of Fact Finding Mission, 11-20 February 2008, Turkey*. (London: UK Home Office, 23 July 2008), at 63.

⁷² KHRP. *European Parliament Project: The Increase in Kurdish Women Committing Suicide*, (KHRP, London), at 6.

⁷³ *Ibid* at 9.

usually three times more likely than women to commit suicide.⁷⁴ Mustafa Peker, Batman's chief prosecutor, notes the difficulty in investigating such crimes, despite their high-volume and highly suspicious nature.⁷⁵ A KHRP report commissioned by the European Parliament described these 'honour suicides' as usually consisting of the family locking the woman in a room with various methods of death such as a noose, pistol, or rat poison. The woman would be kept in the room until she had committed suicide.⁷⁶

73. At present, the organisations which have the best statistics on suicides involving Kurdish women and which are in the best position to assist in eradicating the problem are local women's NGOs. The Turkish government has failed to provide the much-needed support that these local NGOs require to tackle this problem. Instead, these organisation are viewed by the government as pro-terrorist and separatist.⁷⁷
74. If it is to meet its obligations under CEDAW, Turkey must take pro-active measures to deal with the issue of family-forced honour suicides, which have increased as a substitute for honour killings. Such measures, in addition to legal reforms, should include social awareness campaigns in the Southeast and Eastern regions that are offered in Kurdish, in addition to Turkish, in order to target the relevant constituencies, training for law enforcement officers and judges on identifying and prosecuting for such crimes, and support programmes for vulnerable women. The government should work to collect more accurate data on the Kurdish dimension of this phenomenon, since without accurate data, the government will not be able to deal effectively with this problem which plagues much of the Southeast region. Additionally, Turkey should offer more financial and structural support to the local women's NGOs that are best-situated to collect relevant statistics and offer social services to combat this problem.
75. Despite amendment of its Penal Code to provide for the severest punishment for perpetrators of custom killings, the Turkish government must ensure that courts strictly adhere to these legal reforms and sentence perpetrators of honour killings to the maximum punishment of life imprisonment. There appears to be some progress in this

⁷⁴ Ramita Navai, 'Women told: 'You have dishonoured your family, please kill yourself'', *The Independent* [UK], 27 March 2009 <<http://www.independent.co.uk/news/world/europe/women-told-you-have-dishonoured-your-family-please-kill-yourself-1655373.html>> (last accessed 12 May 2010).

⁷⁵ *Ibid.*

⁷⁶ KHRP. *European Parliament Project; The Increase in Kurdish Women Committing Suicide*, at 9.

⁷⁷ *Ibid.*, at 13.

with courts adopting a proactive attitude towards cases involving honour killings and applying the proper sentence of life imprisonment; one court recently sentenced five family members, who were responsible for a sixteen-year-old girl's honour killing, to life imprisonment.⁷⁸

76. This progress has been long-awaited however there is room for more robust changes to be made. The European Court of Human Rights found in the case *Opuz v. Turkey*, decided in June 2009, that mitigation of sentences for honour crimes still existed in the Turkish judiciary. This finding was based on a report submitted to the European Court by the Diyarbakir Bar Association.⁷⁹ Under the Turkish Penal Code, the perpetrator of an honour crime may still invoke Article 51 which allows discretionary mitigation of punishments if a crime was committed due to 'unjust provocation' by the victim. Although this Article does not specifically mention 'honour crimes,' judicial precedent demonstrates that courts are willing to mitigate punishments for honour crimes based on defences of 'unjust provocation.'⁸⁰ Turkey must monitor courts more closely and ensure that courts are not applying discretionary measures and mitigating punishments for honour crimes.
77. While the trend noted above illustrates the increasing prevalence of 'honour suicides', recent reports show that 'honour killings' remain a persistent problem which disproportionately affects Kurdish women in Turkey. In 2006, a report compiled by the police titled 'Custom and Honour Crimes' found that over the past five years 1,091 people, 710 or 65% of them being women, were murdered in Turkey in 'honour killings.'⁸¹ The vast majority of victims were from poor families.⁸² However, unlike the common perception that 'honour killings' would be more prevalent in the Southeast region of Turkey, the predominantly Kurdish populated area where traditional customs are thought to be stronger, the report revealed that 'honour killings' are more common in

⁷⁸ Associated Foreign Press, 'Full family jailed for honour killing act,' *Hürriyet Daily News*, 14 January 2009 at <<http://arama.hurriyet.com.tr/arsivnews.aspx?id=10771619>> (last accessed 12 May 2010).

⁷⁹ 'Research Report on Honour Crimes, prepared by the Diyarbakir Bar Association's Justice For All Project and the Women's Rights Information and Implementation Centre,' cited by *Opuz v. Turkey*, Appl. no. 33401/02, para. 192, ECHR 2009.

⁸⁰ World Organisation Against Torture (OMCT). *Violence against Women in Turkey: A Report to the Committee Against Torture*, 353-354 (http://www.omct.org/pdf/VAW/Publications/2003/Eng_2003_09_Turkey.pdf).

⁸¹ Kurdish Women's Rights Watch, *Turkey: 'Honour' Killings, A scourge which is hard to eradicate*, 25 August 2006.

⁸² *Ibid.*

the western urban areas of Turkey.⁸³ When the victims and perpetrators were examined, however, the report noted that the majority involved in ‘honour killings’ were nonetheless people originating from the Southeast (suggesting that the perpetrators and victims were predominantly Kurdish).⁸⁴ The report suggested that the pattern observed could be attributed to the changes that individuals from the Southeast experienced when moving from rural to urban areas—while some members of the family may embrace a lifestyle in these cities that goes against their traditional upbringing and beliefs, others may react with violence, using force to maintain traditional practices.⁸⁵

78. A fact finding mission by KHRP in May 2009 found that a significant number of women in the Southeast also reported threats of ‘honour killings’ from family members. KAMER, the leading woman’s organisation in the southeast, reported to the mission that from 2003-2007 a total of 198 women from Eastern and Southeastern Anatolia contacted their organisation to report that a family member had threatened them with ‘honour killings.’⁸⁶ Among these reported cases, three of the women died from injuries sustained in attacks, one committed suicide, and 27 were pressured to commit suicide. Often it was the father or husband who decided the fate of these women. The organisation further reported that in these cases, 76 of the decision makers were illiterate and 47 had no education, which suggests a link between underdevelopment and ‘honour killings’ in the Southeast.

79. A 2009 report by the US Department of State refers to honour killings⁸⁷ and states that the Turkish National Police reported 43 honour killings and three attempted honour killings through August 2009. Most of these were in conservative families in the southeast or among migrants from the southeast living in large cities. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform such killings.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ KHRP: *Human Rights in the Kurdish Regions of Turkey: Three Pressing Concerns* <http://www.khrp.org/khrp-news/human-rights-documents/2009-publications.html> p.38 (last accessed 13 May 2010)

⁸⁷ 2009 Human Rights Report: Turkey – Bureau of democracy, Human Rights and Labor [2009 Country Reports on Human Rights Practices](http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm) <<http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm>> Last accessed 10 May 2010.

80. The same report states that due to penalties for honour killings, family members pressured girls to commit suicide in order to preserve the family's honour. Government officials worked with advocacy groups to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls.
81. The US Department of State report⁸⁸ added that in 2009 KA-MER, the leading women's organization in the southeast, reported 63 women from the Eastern and South-Eastern parts of the country contacted it to report that their family had threatened them with honor killings. Of these, 17 were between 13 and 18 years old, 29 were between 19 and 30 years old, and 17 were between 31 and 44 years old. The father or husband decided the fate of the woman in the vast majority of the cases. Increased education levels correlated with a drop in the rate of such crimes. KA-MER complained that, while in the past the police had shared statistics on suicides in such situations, the police did not share that information during the year.
82. It went on to report that in April 2009, 24-year-old Leyla Gok was beaten to death in Siirt's Eruh district, apparently because of her alleged affair with a married man. The woman had returned to her family after living with her boyfriend for some time. The family reportedly did not take the body from the hospital, and the victim was buried by municipal officials. After testimonies were submitted, Gok's brother, Hayrettin, was released and her boyfriend, Sukru Batuhan, was detained in connection with the death. The case continued at the end of 2009.
83. Further, in November 2009 in the Ceylanpinar district of Sanliurfa in the southeast, Aysel Cadir was shot and killed by Muslum Bakir, her husband via an unofficial religious marriage. The victim's mother claimed that the decision to kill her was made by the husband and his "family council". Cadir was reportedly three months pregnant. Bakir was in custody and the case continued at the end of 2009.
84. Also mentioned in the report⁸⁹, in January 2009 the Van Penal Court sentenced five members of the same family, including an older brother, father, mother, and two uncles, to life imprisonment for the 2006 murder of 15-year-old Naile Erdas, who was killed

⁸⁸ 2009 Human Rights Report: Turkey – Bureau of democracy, Human Rights and Labor [2009 Country Reports on Human Rights Practices](http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm) <<http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm>> Last accessed 10 May 2010.

⁸⁹ 2009 Human Rights Report: Turkey – Bureau of democracy, Human Rights and Labor [2009 Country Reports on Human Rights Practices](http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm) <<http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136062.htm>> Last accessed 10 May 2010.

after giving birth to a child conceived during a rape. Another uncle was sentenced to 16 years and eight months.

85. Given the findings in both the 2006 police report ‘Custom and Honour Crimes’ and the findings of KA-MER shared with KHRP during their fact finding mission in May 2009⁹⁰, there appears to be a need for Turkey to provide education against ‘honour killings’ to the Kurdish community. In its report to CEDAW, Turkey notes that the Prime Minister had provided guidance through a 2006 circular titled ‘Measures to be Taken to Prevent Custom and Honour Killings and Violence Against Children and Women.’ Given Turkey’s practice not to recognize the Kurdish people as a minority population, however, it is unlikely that their efforts have been tailored to address challenges that might be unique to the Kurdish community or to target the Kurdish community, particularly those without much education and who are illiterate, through educational literature or broadcasts in Kurdish. Until this is done, Turkey will not wholly meet its obligations under CEDAW to protect women in Turkey from such harm.

Equality in Capacity to Men in Civil Legal Matters: Language

86. As noted above, the Turkish Government promises to ‘accord to women in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity,’ as a result of Article 15 of the Convention. In reality, however, Kurdish women are disadvantaged in civil legal matters given the practice of not providing interpreters in civil legal matters. As has been noted above, a very high number of Kurdish women are not fluent in the Turkish language.
87. While there is no legal framework enabling minorities to use their mother tongue when interacting with the government or public authorities, Article 39 of the Treaty of Lausanne provides that all ‘Turkish nationals of non-Turkish speech’ have the right ‘for the oral use of their own language before the Courts’ and requires the state to ensure the realization of this right. In practice, Turkey provides interpreters for non-Turkish speakers in criminal proceedings (though these interpreters are often not competent to

⁹⁰ KHRP: *Human Rights in the Kurdish Regions of Turkey: Three Pressing Concerns* <http://www.khrp.org/khrp-news/human-rights-documents/2009-publications.html> p.38 (last accessed 13 May 2010)

translate legal proceedings), but its laws regulating civil proceedings do not provide minorities with a similar right.⁹¹

88. While men and women are formally equal under the law, the lack of translation facilities in civil matters disproportionately impacts women and renders them a vulnerable party in civil legal proceedings. This clearly impedes the realisation of equality in civil legal matters and this issue must be addressed for the reforms made thus far to have practical affect.

Equality in Capacity to Men in Civil Legal Matters: Access to Justice

89. Within Article 15's provision that Turkey 'accord to women in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity,' there is another problem faced more often by women than by men; women experience much greater difficulty in accessing the justice system due to a lack of basic education about the legal system. Given the prevalence of women receiving less education than men and their higher rates of illiteracy, and the lower level of education among women in the Southeast region⁹², Kurdish women often have much less, if not no understanding of their legal rights. For example 34% of women who applied to the Van Women's Association in 2008 were illiterate.⁹³ Similarly, according to the Women's Rights Information and Implementation Centre of the Diyarbakir Bar Association, from 679 women who applied to the Centre in 2008, 222 of them were illiterate, 81 of them were literate, 197 of them had only primary school education, 54 of them had secondary school education, 84 of them had high school education, 10 women had vocational school education and 5 women had upper school education. Only 11 women had university education.⁹⁴

90. The KHRP fact finding mission in Turkey in May 2009 found that overall there is a tendency for Kurdish women to lack an awareness of their rights and an absence of proactive measures on the part of the government to educate women on their rights.⁹⁵ KHRP's mission delegates encountered one woman in Siirt who exemplified the lack of

⁹¹ Minority Rights Group International, 'A Quest for Equality: Minorities in Turkey', (2007), 19, at < <http://www.minorityrights.org/?lid=4572>> (last accessed 12 May 2010).

⁹² UNDP, *Human Development Report: Youth in Turkey: Turkey 2008*, 2008, at 27-28.

⁹³ Van Women Association, Assessment Data of the Applications received 2008

⁹⁴ Statistical data of the Applications received in 2008 by the Women's Rights Information and Implementation Centre of the Diyarbakir Bar Association, 2008

⁹⁵ KHRP FFM Report, *Turkey: Fact Finding Mission May 2009*, (draft report, publication forthcoming).

understanding many Kurdish women have about their legal rights. She told the mission that she did not want to request free legal assistance when charged with a crime because she did not want to encourage the perception that she had committed the crime.⁹⁶

91. At times, however, lack of access to legal help does not stem from a lack of understanding of one's rights, but is connected to a lack of faith in an effective remedy through legal proceedings. The KHRP mission was also told that when public officials were the perpetrators of violence, many women were discouraged from lodging complaints due to a lack of belief that their complaint would be responded to fairly and fear that counter claims by the officials would put them under a risk of accusation of a crime.⁹⁷

92. There are also aspects regarding the administration of legal aid which lessen women's capacity to seek legal redress. Although there is no data for Kurdish women specifically, in Turkey women's salaries are generally between 20 and 50 per cent of those of men; men own 92 per cent of all property and approximately 84 per cent of gross domestic production.⁹⁸ Many women provide unpaid domestic work at their homes.⁹⁹ As a result of the low earnings or lack of paid employment for many women, legal aid is essential for women to access legal help. On KHRP's fact finding mission, however, the team was informed by a representative from the Commission on Violence Against Women in Diyarbakir that existing legal aid mechanisms are not effective for women, particularly when they are the victim of domestic violence or sexual assaults.¹⁰⁰ Accessing legal aid is a lengthy process, requiring submission of documents proving poverty.¹⁰¹ The Commission indicated that completing the required documents and receiving an attorney sometimes takes one to two months, which is often too slow in urgent and serious

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Kurdish Human Rights Project, *European Parliament Project: The Increase in Kurdish Women Committing Suicide*, 13, at <

http://www.google.co.uk/url?sa=t&source=web&ct=res&cd=1&ved=0CBUQFjAA&url=http%3A%2F%2Fwww.khrp.org%2Fkhrp-news%2Fhuman-rights-documents%2Fbriefing-papers%2Fdoc_download%2F126-increase-in-suicide-amongst-kurdish-women-presentation-to-the-european-parliament.html&rct=j&q=khrp+European+Parliament+Project%3A+The+Increase+in+Kurdish+Women+Committing+Suicide&ei=IszqS8vAAoai0gT-ptjTDA&usg=AFQjCNFZPseNsEfUY4fBS4eon365ySKALQ > (last accessed 12 July 2010).

⁹⁹ Ibid.

¹⁰⁰ KHRP FFM Report, *Turkey: Fact Finding Mission May 2009*, (draft report, publication forthcoming).

¹⁰¹ Ibid.

cases.¹⁰² Likewise, in civil cases which involve court fees there is a lengthy determination process in order to be exempted from the court fee. This raises another barrier against women in accessing justice.¹⁰³

¹⁰² Ibid.

¹⁰³ Ibid.

ARTICLE 16

93. Under Article 16, Turkey purports to ‘take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations’ and to prevent child marriages. The high prevalence of domestic violence and honour killings, as discussed under Article 2 and Article 15, reflect problems within Turkey in protecting equality within family life. While less serious, another area of concern under equality in family life relates to the decision and use of contraception among Turkish couples and the manner in which sexual relations are viewed outside of marriage depending on gender.
94. A statistical study from 1998 DHS data used the answers from husbands and wives regarding contraception to analyze the manner that power dynamics between husbands and wives affected contraceptive use. While the study did not find evidence that inter-spousal power relations played a significant explanatory role in contraceptive use, the data suggested that contraceptive use was more common when a couple had knowledge of a number of contraceptive methods, the husband approved of family planning, and each spouse perceived that the other spouse approved.¹⁰⁴ At one stage in the analysis, the wives’ acceptance of wife-beating was marginally significant.¹⁰⁵ The report suggests that despite finding that about half of all Turkish wives and husbands accept that a husband is entitled to beat his wife should she not obey him, gender inequality may not significantly impact contraceptive use in Turkey due to the fact that husbands assume some responsibility for contraception (with withdrawal being reported to be the method of contraception used by one in four Turkish couples).
95. With regard to Kurdish couples, however, the study found that Kurdish couples were less likely to use contraception.¹⁰⁶ Further study would be valuable in determining the causes underlying the lesser use of contraception among Kurdish couples, though the educational and income factors are very likely to be linked to this result. While gender inequality may not significantly impact the use of contraception in Turkey, the report did note, however, that ‘[g]ender inequalities are strongly evident in the sexual sphere in

¹⁰⁴ Andrzej Kulczycki, ‘Husband-Wife Agreement, Power Relations and Contraceptive Use in Turkey’, *International Family Planning Perspectives*, 2008, 34(3):127–137, at 127, 135.

¹⁰⁵ *Ibid.*, at 135.

¹⁰⁶ *Ibid.*, at 132.

Turkey, where premarital sex is disapproved for women but tolerated and even expected for young men.¹⁰⁷

96. Finally, from the study, it appears that while the 1998 Turkish Demographic and Health Survey (DHS) surveyed both husbands and wives, the 2003 study only surveys wives. Given the ability for this data to reveal power dynamics between the couples in choosing contraception, as illustrated by the study cited above, it would be beneficial for the Turkish Government to continue to survey both couples.

¹⁰⁷ *Ibid.*, at 135.