

Social Changes and Their Impact on Women in Turkey and Its Membership to the EU



Yildirim Kemal

A B S T R A C T

The aim of this paper is to reflect Gender, Discrimination and Human Rights in Turkey, Most of the Women in Turkey face setbacks with regard to education, employment and public representation. The illiteracy rate for women in Turkey is nearly twenty percent, while female employment is under thirty percent. In addition, women are poorly represented in the political sector, and only four percent of parliamentary seats are occupied by women. On the other hand Gender discrimination and violence against women are a widespread problem throughout Turkey. In a recommendation on Turkey's accession to the European Union, the European Commission noted that discrimination and violence against women, including honor killings, remains a major problem. On the Other hand, Honor killings are another widespread violation of women's human rights together with sexual assault which is a serious problem in the Country.

KEW WORDS: *gender, discrimination, human rights, Turkey*

Introduction

In the history of the Turkish Republic, there have been two periods when major improvements were made to the status of women. One was the 1920s, the early years of the Republic, when Mustafa Kemal Atatürk outlawed polygamy and abolished Islamic courts in favour of secular institutions. This first period of reforms is well known and celebrated in Turkey.

The second major reform era has been the period since 2001. Reforms to the Turkish Civil Code have granted women and men equal

rights in marriage, divorce and property ownership. A new Penal Code treats female sexuality for the first time as a matter of individual rights, rather than family honour. Amendments to the Turkish Constitution oblige the Turkish state to take all necessary measures to promote gender equality. Family courts have been established, employment laws amended and there are new programmes to tackle domestic violence and improve access to education for girls. These are the most radical changes to the legal status of Turkish women in 80 years. As a result, for the first time in its history, Turkey has the legal framework of a post-patriarchal society. The reforms of the 1920s were carried out by an authoritarian one-party regime. Women were given the right to vote at a time when there were no free elections. Generations of Turkish women were taught to be grateful for Atatürk's gift of freedom and equality. However, legal inequality of men and women remained in place in Turkey throughout the 20th century, long after it was abolished in the rest of Europe.

The reforms of the last few years have come about in a very different way from those of the 1920s. They were the result of a very effective campaign by a broad-based women's movement, triggering a wide-ranging national debate. The current AKP government proved willing to work constructively with civil society and the main opposition party CHP. This open and participatory process produced the most liberal Penal Code in Turkish history. It represents a significant maturing in Turkish democracy.

The Theoretical Core of Gender Equality

There are some who fear that Turkey may be turning its back on its secular traditions. Some of the loudest voices come from Kemalist women, who insist that the rise of 'political Islam' represents an acute threat to the rights and freedoms of Turkish women. There have even been calls for restrictions to Turkish democracy, to protect women's rights. Yet such an 'authoritarian feminism' is out of touch with the reality of contemporary Turkey and the achievements of recent years. Turkey has a long road ahead of it in narrowing its gender gap. In a recent international study, Turkey ranked an embarrassing 105th of 115 countries – far behind the worst-ranking EU member. Improving gender equality will involve tackling a series of deeply entrenched problems, from improving access to education in rural regions to removing the institutional and social barriers to women's participation in the workforce. Elections in July this year will test

the commitment of Turkey's political parties to increasing the number of women in parliament. It is these issues which deserve to be at the centre of the current political debate in Turkey. And it is only the maturing and further development of Turkish democracy that holds out the promise of a genuine liberation of Turkish women.

“Pay attention to every corner of the world, *we are at the eve of a revolution*. Be assured, this revolution is not going to be bloody and savage like a man's revolution.”

Today's Feminists are implacably opposed to any social roles being determined by sex. Feminists assert the absolute and unqualified equality of men and women, notwithstanding anatomical differences. They deny that there is any inherent biological distinction between men and women on the basis of sex which determines that the wife should be the housewife and mother and the husband the breadwinner and authoritarian head of the family. They believe that women should take just as active role in sexual intercourse as men and not be passive. They demand the abolition of institutional marriage, home and family, asset complete female sexual freedom and that the upbringing should be a public responsibility. They insist that all women should be given the right to complete control over their reproductive lives. They are demanding that all restrictions must be lifted from laws governing contraception so that devices can be publicly advertised and available over the druggist counter to any women regardless of her age and marital status and purchasable without a doctor's prescription. All laws restricting abortion should be removed and that women have a legal right to abortion at any stage of pregnancy. Abortions should not only be available at demand but should be supplied free by the state to any women who wants one so that the poor can take full advantage of facility

The new Islamic feminist paradigm began to surface a decade and a half ago simultaneously in old Muslim societies in parts of Africa and Asia and in newer communities in Europe and North America. I give three examples.

In Iran, immediately post-Khomeini, Muslim women, along with some male clerics, associated with the then new paper Zanan, as Muslims and citizens of an Islamic Republic called, in the name of Islam, for the practice of women's rights they found being infringed upon or rolled back, grounding their arguments in their readings of the Qur'an as the virtual constitution of the republic.

In South Africa, Muslim women and men, who had engaged as South Africans in one of history's fiercest battles for human dignity and justice, in the immediate post-apartheid period focussed their attention upon questions of justice, and especially gender justice, within their own Muslim community. Having been shunted around and cordoned off, conscientised (to use the expression from the Struggle) South African Muslims were sensitive to issues of access to space and the injustices and indignities attendant upon selective use of space and mandatory cordoning off of some human beings (on the basis of physical attributes) from "preferred others." These sensitised South African Muslims fought equal access to mosque/communal space for all Muslims, women and men alike.

In North America, women in immigrant (especially the second-generation) and convert communities turned to the Qur'an as a guide to life in new complex environments in which they did not have ready-made life-templates as Muslims. Patriarchal patterns of life in the villages and cities from which first-generation Muslim immigrants had come, which they tried to re-impose on women as Islamic, jarred in their new environments. Convert women in western societies were faced with a painful contradiction between what they understood to be Qur'anic ideals of justice and equality and various patriarchal notions and practices urged upon them as novices by self-appointed custodians of Islam.

Islamic feminism is an inter-Islamic phenomenon produced by Muslims at various locations around the globe. There is no East/West fault line. We cannot speak of Islamic feminism and the West. Islamic feminism, like Islam today, is in the West as it is in the East. Muslim detractors allege that "the West" has foisted feminism, first secular and now Islamic, upon Muslims to the detriment of Islam and society. Muslim proponents, on the other hand, hold that Islamic feminism promotes the enjoyment of social justice within the umma while it will also contribute to the creation of a more pluralistic and socially just West where all insan will be treated equal whatever their ethnic, religious, and gender affiliations. The triumph of Islamic feminism will also be part of the enhancement of social justice and equality in the African and Asian societies where Muslims live.

Turning to the older Muslim societies in Africa and Asia, Islamic feminism appeared first in countries where (patriarchal) Islamism got its earliest start, countries which had a large and expanding educated and professional female middleclass, and countries with a history of

homegrown feminist thought and activism. Islamic feminism appeared on terrain prepared by Muslim women's earlier secular feminisms that were an amalgam of Islamic modernist, secular nationalist, and humanitarian (later human rights) discourses. Islamic feminism gave paramount attention to the Islamic modernist strand of secular feminism and, through engaging in new Qur'anic hermeneutic work, articulated an Islamic doctrine of the full equality of women and men across the public/ private spectrum. As such, it was more radical than the secular feminisms that had accepted the notion of gender complementarity, not gender equality, within the sphere of the family.

The theoretical core of Islamic feminism continues to be grounded in Qur'anic interpretation or tafsir. The central focus remains the explication of gender equality in Islam. There is increased evidence of the application of Islamic feminist theory in practice. This is seen in the revision of the Moroccan Mudawwana or Civil Code, now the most gender-egalitarian sharia -grounded civil code. It is also evident in the new draft revision of the Family Code in Indonesia, devised by a commission of religious scholars (half of whom are women) appointed within the Ministry of Justice. Another example of the application of gender-just interpretation of Islam is found in the arguments marshaled, through a dynamic investigation of fiqh (jurisprudence), that led to the acquittal of two Nigerian women accused of adultery and condemned to death under the new hudud (criminal laws) instituted in their northern Nigerian states while their partners were never held accountable.

Gender and Dress Codes

Despite the taboo status of sex and sexuality in many Muslim societies, some Quranic scholars have argued that the Quran itself discusses these subjects openly and positively, and that Islam is one of the most sexually accepting of the major world religions (Safra project, 2009)

There is debate over the interpretations of the Quranic verses that have been cited to outlaw homosexuality , principally the verse relating to the story of Lot (see Qur'an verses: 11:69-83, 29:28-35). Quranic verses appear to relate specifically to male homosexuality. Contemporary interpreters and campaigning organisations are working to reinterpret texts to allow for a wider spectrum of sexual relationships, including

homosexual and bisexual but there is much resistance from the mainstream Muslim community.

Another issue that concerns Muslim women is the dress code expected of them. In some countries such as Afghanistan and Saudi Arabia they are expected to wear the all-covering *burqa* or *abaya*; in others, such as Tunisia and Turkey they are forbidden to wear even the headscarf (often known as the *hijab*) in public buildings. There is mixed opinion among Muslim feminists over extremes of externally imposed control.

However, a number of Islamic feminists, including Fadela Amara and Hedi Mhenni support bans on hijab, for various reasons. The veil is the visible symbol of the subjugation of women, and therefore has no place in the mixed, secular spaces of France's public school system. When some feminists began defending the headscarf on the grounds of "tradition", Amara saw red. "It's not tradition, it's archaic! French feminists are totally contradictory. When Algerian women fought against wearing the headscarf in Algeria, French feminists supported them. But when it's some young girl in a French suburb school, they don't. They define liberty and equality according to what colour your skin is. It's nothing more than neocolonialism. (Guardian ,2006) .

Violence Against Women in Turkey

The United Nations defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

There are many forms of violence against women, including sexual, physical, or emotional abuse by an intimate partner; physical or sexual abuse by family members or others; sexual harassment and abuse by authority figures (such as teachers, police officers or employers); trafficking for forced labour or sex; and such traditional practices as forced or child marriages, dowry-related violence; and honour killings, when women are murdered in the name of family honour. Systematic sexual abuse in conflict situations is another form of violence against women.

Turkey ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, the Convention against Torture) on 2 August 1988. Upon ratification Turkey

recognized the competence of the Committee against Torture to receive and process individual communications under articles 21 and 22 of the Convention against Torture. Turkey is a State Party to the Convention on the Elimination of All Forms of Discrimination against Women. In General Recommendation 19, the Committee on the Elimination of Discrimination against Women concluded that gender-based violence, including torture, is a form of discrimination against women as defined under article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. Turkey ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 29 October 2002. Additionally, Turkey ratified the Convention on the Rights of the Child in 9 September 1994. On 15 August 2000, Turkey signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, neither Convention has yet been ratified. Under article 90 of the Turkish Constitution, international treaties duly ratified, have the force of law, and can be invoked in Turkish courts. At the regional level, Turkey is a member of the Council of Europe, ratified the European Convention on Human Rights in 1954, and is seeking membership in the European Union. In order to fulfil the commitments incumbent on members of the Council of Europe and to satisfy the membership criteria for accession to the European Union, Turkey has ratified a number of regional human rights treaties including the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. On January 15, 2003,

Turkey signed Protocol No. 6 to the European Convention on Human Rights prohibiting capital punishment in peacetime. At the national level, Article 17 of the Turkish Constitution prohibits "torture and ill-treatment incompatible with human dignity." Article 243 of Turkey's Penal Code criminalizes torture, cruel, inhuman or degrading treatment by state officials. On November 22, 2001 the Turkish legislature passed comprehensive legislative bill designed to promote gender equality in civil legislation.

Civil Code which came into effect on January 1, 2002. Prior to the reforms of 2002, the Turkish civil code had seen few changes since its adoption in 1926 modeled on the Swiss Civil Code of that time. Since the 1950s, women's rights groups in Turkey have struggled to reform the code

and have argued that women's legally subordinate position in the family has contributed to continuing and serious violations of women's human rights.³ In 1994, a government commission was formed to prepare a draft of the new civil code and many women's groups began an intense lobbying effort to push through the reforms. In 2001, the entire reform process was almost derailed by the Nationalists and Islamists in parliament who objected to a measure giving women equal division of marital assets in case of divorce. The religious conservatives and Nationalists argued that the equal division of property acquired during marriage would "change the family from a matrimonial union to corporation, destroy love and affection in the family and increase the rate of divorce and consequently ruin Turkish society."⁴ Thanks to the efforts of more than 126 women's groups, the objections of the Islamists and Nationalists were surmounted and the reforms were passed in the form of 1030 new articles covering important amendments to family law. Under the old civil code the husband enjoyed a position of absolute legal supremacy in the family, with the legally sanctioned authority to make choices over domicile, children, and property. This approach has been abandoned in favor of one that defines the family as a union based on equal partnership. This new concept is also reflected in the language of the new Civil Code. The terms "wife" and "husband" have been replaced by the term "spouse(s)." Moreover, the language of the Code has been considerably simplified and out-of-date legalistic terminology has been replaced with comprehensible, modern terms, making the law more accessible to everyone. Several noteworthy changes to the Code reflect the new approach to gender equality: 1) The husband is no longer the head of the family; spouses are equal partners, jointly running the matrimonial union with equal decision-making powers; 2) Spouses have equal rights over the family abode; 3) Spouses have equal rights over property acquired during marriage; 4) Spouses have equal representative powers; 5) The concept of "illegitimacy" formerly used to designate children born out of wedlock has been abolished; custody of children born outside marriage lies with the mother.⁵ The new Civil Code has also raised the legal minimum age for marriage to 18 (it was formerly 15 for women and 17 for men), gives the same inheritance rights to children born outside the marriage, gives single parents the right to adopt children, and gives women the right to retain their maiden names when hyphenated with that of their spouses. While the reform of the Turkish Civil Code constitutes a step forward in terms of establishing gender equality in Turkey it is nevertheless evident that reforms in the legal domain alone are not sufficient to prevent gender

discrimination and violations of women's rights. In Turkey, women's lives continue to be shaped by a multiplicity of traditional practices which violate existing laws, including early and forced marriages, polygamous marriages, honour crimes, virginity testing and restrictions on women's freedom of movement. In the eastern and south-eastern regions of Turkey 16.3% of women living in the region were married under age 15.6 One in ten women live in polygamous marriages, although the practice of polygamy was banned already under the Civil Code of 1926.7 More than half of the women (50.8%) in that region were married without their consent although consent of both parties is a precondition for marriage under Turkish law.8 Violations of the new code are not limited to the rural South east of Turkey. In January 2001, shortly after the new code went into effect the Turkish media published a story of a "school in the Europeanized west of the country where more than 20 girls aged between 10 and 13 had been married off in exchange for a bride price (Turkey Country Report, 2006). It is thus evident that the Turkish government must take further proactive steps to insure that the provisions of the new code are enforced and respected by the authorities and that violations of the code are effectively prosecuted.

Domestic violence is common and there are no specific laws addressing the issue, nor any adequate protection for the victims. Incidents of domestic violence are rarely reported or even talked about publicly.

According to Arab beliefs, woman is a symbol of man's honor (Namus) and it is the duty of the male guardian to protect his honor. So-called honour crimes, whereby a woman is punished or even killed by male family members for having put "shame" on the family honour, are also prevalent. The suspicion alone of a woman's wrong-doing is often enough for her to be subject to violence in the name of honour. Migrant women (Saudi Arabia has a large expatriate population), often working as domestic helpers, represent a particularly vulnerable group and their living conditions are sometimes slave-like and include physical suppression.

Women, as well as men, may be subject to harassment by the country's religious police, the mutawwain; torture and physical punishments, often without having their case presented in court.(OECD 2006).

Turkey's Possible Future Membership to the EU

Turkey's possible future membership to the EU--which would make it the only predominantly Muslim member nation as well as the largest of all EU. members in population--has already caused serious tension in the current member states.

Germany, one of the original EU members and home to the largest Turkish population within the EU, has voiced concern over a number of issues, including immigration, if Turkey were to join. Turkish membership was also a major issue when France voted against the EU.'s new constitution last month, in effect rejecting the document that set out the future of the union. Though no date is set for Turkey's entry into the now-25 member union, talks first began last December. The EU.'s executive body, the European Commission, is next set to meet Turkish officials to open negotiations for accession Oct. 3. During that process, which some say could take as long as 10 years, Turkey will have to implement legal changes across the board to join the EU.

In the European Union at the level of the European Commission the principle of gender equality, called gender mainstreaming, has been introduced in all areas of activities and policy. The term "gender mainstreaming" is the key and it has been accepted for the implementation of policies of gender equality in the EU Member States, that, according to the definition of the Council of Europe means reorganization, improvement, development and evaluation of political processes in a way that the perspective of gender equality is included in all policies at all levels and degrees, by the actors involved in political decision-making (Handalić, 2009).

The resolution, approved by the European Parliament, was a first look at women's rights in Turkey and will serve as a foundation for the commission's negotiations. The parliament has called on the commission to make women's rights a priority during the negotiations.

The European Parliament has no legal authority but, as the only democratically elected arm of the EU., it issues opinions in the form of resolutions to be considered by the European Commission and the EU. member states.

Few studies have been completed on the various areas of women's rights in Turkey, which makes analyzing the situation there difficult. Now, the parliament is asking the EU. to fund and undertake social research

projects in order to fill the gaps in information from rural education to the violence against women.

This information, used alongside the annual monitoring by the parliament of Turkey's progress towards achieving women's rights, will be used as one of the tests for the country's long-sought-after wish to join the EU.

The Parliament also stresses an increase in women's participation in politics. At the moment, only 4.4 percent of national legislative positions are held by women and only 1 percent on the local level, the women's committee said in the report.

"This report has to be seen as an appeal to the Turkish government to recognize that women in Turkey face severe problems in their everyday lives, in the family, in society, in the workforce and in the political sphere," the resolution said. "A lot has been done on paper, but this now needs to be put into practice."

Parliamentarians said changes to Turkey's penal code that went into force June 1--criminalizing marital rape and honor killings, including accomplices in honor killings--are a good start towards harmonizing Turkey's policies with the EU.

But the parliament says issues such as access to education, the work force and political office--as well as protection from domestic violence--must all be addressed before Turkey can join the EU.

"The report calls for Turkey's progress in the field of women's rights to be monitored on a yearly basis," said Dutch member of European Parliament Emine Bozkurt who was the lead author of the report. Bozkurt, who is half Turkish and speaks Turkish fluently, will travel to Turkey in September to discuss the report with women's organizations, the national government and others. "The European Parliament has spoken, now the ball is in the court of Turkey," she said. "What is essential now is that the new laws are implemented and are seen to be implemented."

Conclusions and Recommendations

OMCT welcomes Turkey's ratification of major international and regional human rights treaties, including mechanisms that facilitate individual complaints procedures. OMCT is also encouraged by the passage of new laws in Turkey aimed at meeting the human rights

requirements for membership in the European Union, including laws specifically designed to improve the status of women. In particular, the Constitution and the Civil Code provides for equality between women and men. However, the Penal Code still contains discriminatory provisions against women.

OMCT is deeply concerned by the lack of opportunity for Turkish women to make decisions in the political, economic and cultural contexts as this has serious implications for the advancement of women and the full enjoyment of their fundamental rights. Specifically, the unequal gender power relations created by discrimination in education, employment and in political life renders women vulnerable to violence, both in the domestic and the community sphere. OMCT would recommend that the government take extensive steps to promote equality of women and men through education and awareness raising campaigns.

OMCT further suggests that affirmative action programs be instituted in both political and organizational settings to ensure women's participation at political and economic levels. Despite the many new laws that have been passed, the government has not fully lived up to its obligation to enforce the laws that protect women's rights, particularly with regard to laws concerning traditional practices such as polygamy, forced marriage, honour crimes, and virginity testing. As effective implementation of laws is central to any effort to promote and protect women's rights, OMCT would urge the government of Turkey to raise awareness about existing laws protecting women's rights and the harms associated with these traditional practices, institute mechanisms to encourage women to report violations of their rights, establish protections for women who report violations of their rights, and train police and judicial personnel, and any other government official having contact with women whose rights have been abused, to handle cases of violations of women's rights with gender sensitivity.

OMCT notes that the structure of the Turkish Criminal Code places women's sexuality under the control of the family. While other forms of violence are considered under the title "Felonies against individuals," rape and other forms of sexual violence are classified as "Felonies Against Public Decency and Family Order." Moreover, in this section, several articles refer to the virginity of victims as a constitutive element of the crime.

Although the Turkish Criminal Code does not explicitly provide for a defence based on honour, several provisions of the Code contain defences that are regularly used in order for the perpetrators of crimes committed in the name of honour to receive reduced sentences.

Finally, OMCT would insist upon the need for the Government to fully implement all of the provisions of the standards and recommendations of the Committee against Torture, the Special Rapporteur on Torture, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the European Committee on the Prevention of Torture, the Convention for the Elimination of All Forms of Discrimination Against Women, the Beijing Rules and Platform for Action and the Declaration on the Elimination of Violence Against Women as these instruments provide detailed protection for women against violence in the family, in the community and at the hands of State officials.

The terms Islamic feminism and Islamic feminists are now more widely accepted. Islamic feminism is also part of the philosophy and politics of the movement of Progressive Islam. The term Progressive Islam first appeared in South Africa in the 1990s. Two years ago the Progressive Muslim Union was formed in the United States and recently the Progressive British Muslims group was launched in London at the House of Commons. Islamic feminism and progressive Islam are trans/nationally organised. The first international conference on Islamic feminism, held last fall in Barcelona, drew participants from old and new Muslim societies.

Muslim women are moving beyond passive knowledge of religion by engaging in *ijtihad* (independent investigation of religious sources) and becoming new authorities. In my historical investigation of Muslim women's early (secular) feminisms it was clear that Islam was salient in their gender thinking and activism. In the early decades of secular feminism (the late 19th and early 20th centuries), observation confirms that women as Islamic feminists remain committed to elaborating and living a gender-egalitarian Islam that they understand to be at the very core of the religion -- a notion radical at the time of revelation and still radical today. I guess Islamic feminism understands many hadiths are taken out of context; some hadiths are weak and may be shaky. So people and scholars may read and re-analyse them.

As to the maturing Turkish Democracy, I also believe that Turkey's problems have not ended, and the current government in power so called AKP (Development and justice party of Turkey) will have to work hard to

meet its new challenges. However, It needs to simultaneously bridge the divide between the demands of Kurdish nationalists and the positions of hardliners, and assure liberals that their lifestyles will not be overshadowed by the empowered conservative classes. The new parliament carries the potential either to mend social fault-lines or to further polarise.

From the other hand, some also believe that Turkish democracy has matured in recent years. Thus Europe may also need more sophisticated templates to analyze the changes ongoing in the country. And, judging from the miscalculations of the opposition, so do the Turks themselves.

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