Memorandum

To: Redacted
From: Leigh Blomgren, Fellow, Avon Global Center for Women and Justice
CC: Sara Lulo, Executive Director, Avon Global Center for Women and Justice
Date: August 25, 2011
Re: Domestic Violence against Women in Turkey

This research Memorandum responds to your request for information on domestic violence and gender based violence in Turkey. This Memorandum provides a brief overview of violence against women in Turkey and, in doing so, it highlights select reports and news stories, and references key legal obligations and case law touching on this problem.

Background on Violence against Women in Turkey

Women in Turkey received the right to vote in 1934, and women are active and vocal in cultural, economic, and social sectors of society (unlike women in many other Muslim nations). There is, however, another side of life as a Turkish Woman – domestic violence.1 A 2009 study entitled “Domestic Violence against Women in Turkey” revealed that 42% of women over the age of 15 and 47% of rural women have suffered physical or sexual abuse by their husband or partner at some point in their lives.2 The study also found that almost 90% of abused women do not seek help from any organization.3 According to the justice ministry, there has been a 1,400% increase in the number of reported cases of violence against women in Turkey.4 This astounding figure can be attributed largely to two factors: violence against women is becoming more prevalent, and this long-standing societal norm is now being revealed. Violence against women is not simply a private family matter, and it is not a problem isolated to uneducated, underdeveloped areas. Violence occurs in all regions and across all socioeconomic and education levels.

There seems to be growing momentum to end violence against women in Turkey. Grassroots movements, public figures, government officials, media sources, social workers,

---

1 Much of the data concerning domestic violence against Turkish women also includes violence against women in general. Thus, some of the information about violence against Turkish women is not only limited to domestic violence, but also includes gender inequality, sexual assault, honor killings, sexual harassment, and trafficking.
3 Id.
activists, protestors, and celebrities are increasingly speaking out and raising awareness of this problem. Pinar Ilkaracan of the Turkish NGO, Women for Women’s Human Rights, states “At least now there is no question anymore if there is any domestic violence or not. But very unfortunately, in these 25 years, very little is done to work against domestic violence… When I compare it with European countries, it shows how Turkey is very behind in developing a program to stop, to eliminate violence against women.”

The Turkish government has systematically failed to protect women, and despite major legal reforms, there has been little change. Turkey has strong protection laws, setting out requirements for shelters for abused women and protection orders, however, failure to implement these laws leave women with nowhere to turn. According to Gauri van Gulik of Human Rights Watch, “There is a credibility gap. On one hand, you have this amazing progress in terms of legislation, so you have the penal code reform, the civil code reform… They have set this system of protection in principle in law. On the other hand, none of that is implemented properly. So women cannot count on getting the protection they need even in the most horrific circumstances.”


1. Despite progressive laws to protect abused women, there are pervasive gaps in the law and failures of enforcement by police, prosecutors, judges, and other officials.
   a. There are many shortcomings of protection laws for women (see below, Key Legislation and International Legal Obligations)
   b. "With strong laws in place, it is inexcusable that Turkish authorities are depriving family violence victims of basic protections," said Gauri van Gulik, women's rights advocate and researcher at Human Rights Watch and author of the report. "Turkey has gone through exemplary reform on women's human rights, but police, prosecutors, judges, and social workers need to make the system exemplary in practice, not just on paper."
   c. Example from HRW Report: Selvi T.’s experience reflects many of these problems. Her husband has beaten and raped her repeatedly for years, inflicting grave injuries, yet police sent her home multiple times when she sought protection. When she finally fled to a shelter, police told her husband the location, and shelter staff let him in and encouraged her to reconcile with him.

7 Id.
9 van Gulik, supra note 6, at 1-2, 44.
2. The HRW Report paints a picture of the lives of abused women in Turkey, with findings based on 40 case studies.
   a. HRW interviewed women and girls as young as 14 and as old as 65 who described being raped; stabbed; kicked in the abdomen when pregnant; beaten with hammers, sticks, branches, and hoses to the point of broken bones and fractured skulls; locked up with dogs or other animals; starved; shot with a stun gun; injected with poison; pushed off a roof; and subjected to severe psychological violence.\(^\text{10}\)

3. The report documents serious shortcomings with Law 4320 (see below, Key Legislation and International Legal Obligations). The law excludes certain groups of women altogether, such as divorced and unmarried women. The law continues to refer to the perpetrator specifically as the accused “spouse,” leaving open the question of whether a protection order can be sought in a case where a woman is not married to her abuser.\(^\text{11}\) Police, prosecutors, and judges in many cases neglect their duties. Many women said that police officers mocked them and sent them home to their abusers, rather than helping them get protection orders, and that prosecutors and judges were slow to act on protection order requests or improperly demanded evidence not required by the law.\(^\text{12}\)

4. HRW highlights Turkey’s International and Regional legal obligations, and makes recommendations for improving the protection laws and increasing their implementation.\(^\text{13}\)

**Key Points from Report to the United Nations Committee against Torture – “Violence against Women in Turkey” (2003)\(^\text{14}\)**

- Examines the effects of gender on the form that human rights abuses in Turkey take, the circumstances in which the abuse occurs, the consequences of those abuses, and the accessibility of remedies.\(^\text{15}\)

**Key Points from Summary Report – “National Research on Domestic Violence Against Women in Turkey”\(^\text{16}\)**
• Provides a detailed statistical analysis aimed to obtain national level data on violence against women and enable more effective formulation of policies and programs to combat violence against women.17

Sample of News/Media Reports

Key Legislation and International Legal Obligations

National
1. Turkish Constitution
   a. Article 17 prohibits “torture and ill-treatment incompatible with human dignity.”
   b. Article 90 reads: “International agreements duly put into effect carry the force of law. No appeal to the Constitutional Court can be made with regard to these agreements, on the ground that they are unconstitutional.”
      i. NOTE: Judges frequently ignore this provision, arguing that international law does not apply, and turn to national law instead.
2. Turkish Penal Code and Civil Reforms
   a. Over the past 15 years, determined campaigns by women’s civil society organizations resulted in Civil and Penal Code reforms, which represent major steps for women’s human rights.
   b. Turkey’s Civil and Penal Codes now include:
      i. A general principle of gender equality under the Penal Code;
      ii. Increased sentences for murders in the name of “custom”;
      iii. Even though there is no specific article regulating the crime of domestic violence, article 96 of the Penal Code stipulates that anyone causing torment to their spouse or family members will be sentenced to prison.

17 *Id.*, at 1.
Article 232 of the Penal Code provides for imprisonment for maltreatment of anyone living under the same roof;
iv. A prohibition on unauthorized genital examinations;
v. Criminal penalties for inciting suicide;
vi. Criminal penalties for marital rape;
vii. Equal rights to marital property for both spouses;
viii. Equal rights to custody of children for married spouses, and automatic custody for mothers if the parents are not married

a. In 1998, with the adoption of Law 4320 on the Protection of the Family, Turkey offered civil mechanisms to protect against domestic violence. Amended in 2007, Law 4320 established a protection order system under which a person abused by a family member under the same roof, male or female, can apply directly or through a prosecutor for an order from a family court. The orders can, among other things, require the offender to vacate the home, stay away from the victim and their children, surrender weapons, and refrain from violence, threats, damaging property, or contacting the victim. The system is designed to bring about quick action, within days at most, since people who apply for them are often in extremely dangerous situations.
b. The specific language of the law states that when a situation where domestic violence has occurred is brought before a Justice of the Family Court, the court can order the accused spouse:
   a. Not to use violence or threatening behavior against the other spouse or children (or another member of the family living under the same roof);
   b. To leave the dwelling shared with the spouse or children if there are any and not to approach the dwelling occupied by the spouse and children or their place of work;
   c. Not to damage the property of the spouse or children (or of others living under the same roof);
   d. Not to cause distress to the spouse or children (or others living under the same roof) using means of communication;
   e. To surrender a weapon or other similar instruments to the police;
   f. Not to arrive at the shared dwelling while under the influence of alcohol or other intoxicating substances nor use such substances in the shared dwelling.

4. Law on Municipalities
   a. Shelters for women and children are another important element of Turkey’s response to domestic abuse. The Law on Municipalities requires every municipality with 50,000 or more residents to provide a shelter, but the

---

18 Meline, supra note 11.
19 Supra note 8.
government has fallen far short of meeting this requirement. Moreover, women reported to Human Rights Watch that some existing shelters have dismal conditions and inadequate security procedures. In fact, staff in some shelters have allowed abusers to enter and have urged women to reconcile with their batterers.  

**Regional**

1. Member of the Council of Europe, ratified the European Convention on Human Rights
2. Seeking membership to the EU
4. Ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

**International**

1. Ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
2. State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
   a. 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.
   b. Ratified the Optional Protocol to CEDAW
3. Ratified the Convention on the Rights of the Child
4. Signed, but not ratified, the International Covenant on Civil and Political Rights
5. Signed, but not ratified, the International Covenant on Economic, Social and Cultural Rights

**International Case Law**

   a. The European Court of Human Rights ruled that Turkey had failed to fulfill its obligation to protect Nahide Opuz and her mother from brutal domestic violence inflicted by Opuz’s husband. The judgment represented the first time the Court had spelled out a state’s obligations in regard to domestic violence, stressing that such violence is not a private matter but instead an issue that requires state intervention.  
   b. Applicant brought this case against Turkey, alleging failure to protect her and her mother from domestic violence, violence which resulted in her mother’s death and

---

20 Supra note 8.
21 International Centre for the Protection of Human Rights, European Court finds Turkey in violation of obligations to protect women from domestic violence, 2008.
her own mistreatment. The victim and her mother were repeatedly abused and threatened by the victim’s husband, abuse which was medically documented. The victim’s husband and his father were at one point indicted for attempted murder against the two women, but both were acquitted. The abuse continued after the acquittal and eventually resulted in the husband’s father killing the victim’s mother. The husband’s father was tried and convicted for intentional murder, but because he argued provocation and exhibited good behavior during the trial, his sentence was mitigated and he was released pending an appeal. Taking into consideration regional and international treaties as well as the domestic situation in Turkey, the ECHR held that Turkey violated Articles 2, 3, 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The ECHR ordered Turkey to pay the victim non-pecuniary damages and costs.

2. Jessica Lenahan (previously Jessica Gonzales) Case (Inter-American Commission on Human Rights, 2011)
   a. Decided August 2011 (last week); first case brought by a survivor of domestic violence against the U.S. before an international human rights tribunal, the Inter-American Commission on Human Rights (IACHR) found that the United States violated its obligations under international human rights laws by failing to use due diligence and reasonable measures to protect Ms. Lenahan and her daughters from violence by her estranged husband.
   b. The case involved police’s failure to enforce a domestic violence restraining order. Claimant called the police after her estranged husband kidnapped her three children in violation of the order. After a long delay (ten hours), the husband drove to the police station, and he and all three children were killed in an exchange of gunfire.