

TURKEY Turkey

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The Study

This paper reports the findings of a mini-study carried out to assess the impact of the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) in Turkey. Owing to its limited scope it pertains to only some of the issue areas delineated in the framework of the international impact study on CEDAW. These are “ratification”; “uses of CEDAW”; “reporting” process and “NGO involvement.” The paper also includes a discussion on the awareness of the general public about CEDAW and the Turkish State’s obligations under it.

The information on these areas was collected via analysis of a number of different sources. Among these, state documents such as texts of relevant Constitutional Court decisions; minutes and publications of the Turkish Grand National Assembly (GNA) (i.e., the Parliament), justifications (*ratio legis*) of bills related to women’s human rights proposed by several past and present governments since the ratification of the women’s *Convention* were analyzed in order to assess the extent to which CEDAW was used in shaping and interpreting legislation and state action in Turkey.

Also, contents of major daily newspapers in the country for specified periods around and following any special event or action connected to CEDAW itself or to CEDAW related issues were reviewed and analyzed to determine the Turkish media’s coverage of the *Convention* and its issues. For the period of several weeks preceding and/or following any CEDAW-related occasion the contents of newspapers and journals were analyzed. Such occasions were, the ratification of the *Convention*; reporting of the State to the Committee; elec-

tion of a Turkish national as an expert member to Committee, as well as when a CEDAW-related law or amendment was discussed in the GNA (e.g. the Civil Law amendment on surnames of married women or the Law No: 4320 on domestic violence); a policy or program was recommended or implemented (e.g. literacy courses for women, credit mechanisms for women) or any specific women’s human rights issue (e.g. virginity-control) was brought up in public. It was assumed that the nature and extent of such coverage would give clues about the public’s awareness of CEDAW.

In addition, content analysis of three major semi-academic journals with varying political leanings (one left, one liberal right, one center-left) for the period between (1984 to 1998) was done to determine the frequency of their treatment of women’s issues in general and women’s human rights and CEDAW in particular. Such analysis, it was assumed, would reveal information about the salience attributed to these issues in Turkish intellectual circles, thereby providing some indication as to the level of awareness of CEDAW among the opinion leaders in the country.

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Finally, a limited number of interviews with women's NGOs based in Ankara, as well as, some civil servants (past and present) in the agency responsible for women's affairs [The General Directorate of Women's Status and Problems (GDWSP)] were conducted. The purpose of the NGO interviews was to gather information on NGO awareness of CEDAW and find out about the different NGO's actual participation in the "ratification" and "reporting" stages as well as to learn whether or not they had utilized the *Convention* itself and/or General Recommendations and/or Concluding Comments of the Committee in any particular way in their activities.

On the governmental side, the interviews conducted with the incumbent and previous high and middle level bureaucrats, in both the Foreign Affairs Ministry and the GDWSP were aimed at extracting information on the history and chronology of CEDAW related events and at finding out about how relevant CEDAW was to the work of civil servants as they conceived it.

The most serious limitation of the study was time and resource restrictions. Lack of sufficient time made it impossible to examine some truly essential documentation in depth. For instance, a thorough content analysis of the minutes of the GNA pertaining to the "ratification" discussion and a complete review of all the major national newspapers and weekly journals for the entire period since Turkey ratified CEDAW (1985) would, no doubt, have added on to the value of the study. Similarly, had it been possible to conduct interviews with local NGOs located in cities other than Ankara or with national and international NGOs, some of which have headquarters in Istanbul, the validity of findings would be significantly enhanced. It is hoped that such deficiencies of the present study would be overcome in

the future through additional research into the matter.

However, any research attempt in this area is also likely to face limitations that stem from the nature of the Turkish context. Such structural characteristics as insufficiency (and often total non-existence) of record keeping particularly by the NGOs, emerged as a primary obstacle in this study. This problem, although to a lesser extent, was also true of the young and understaffed government agency (GDWSP) responsible for women's affairs.

Poor record-keeping in the NGOs was mainly owing to the fact that most women's NGOs in the country are voluntary associations where women work in their free time. Consequently, in most cases, things are handled informally; proper record-keeping is often neglected and particularly when there is turnover in the leadership of the NGO in question, it is very difficult to find out what happened, when and who was involved.

For instance, so far as the NGOs interviewed for this study are concerned, wherever there had been change of personnel, it was difficult to find out the nature, style and timing of that particular NGO's involvement in the state's "ratification" or the 'reporting' activities to CEDAW.

In several cases, although it was known that the NGO had somehow been involved in such activities, under previous leadership, the person(s) currently in charge had no knowledge of it. In the absence of records, it is difficult to trace and monitor the institutional involvement of NGOs with CEDAW and related activities.

Even the GDWSP was, to some extent, plagued with similar problems. This is a relatively new and small agency where, since its inception, in 1990 bureaucratic leadership has changed often; such frequent turnover bringing in new personnel from other ministries and departments of the civil service. Also, GDWSP is a governmental agency known to function less formally and on a more 'ad hoc' basis with respect to specific issues and priorities than other more established branches of the Turkish civil service. Consequently, both institutional and personal memory in GDWSP leaves much to be desired. Often one

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needed to paste together pieces of information remembered by different past and present personnel to get the complete story.

However, it is also a fact that the informal and personal character of the available information has proven to be an asset in this study. Both on the NGO and government side the researcher's long-time acquaintance with the "women's community" in Turkey; the availability of personal contact opportunities and the willingness of all interviewees and participants in the study to support the endeavour has made gathering of information (which would otherwise be next to impossible) not only feasible, but also quite enjoyable.

In the following part of this paper those questions/issues on which specific information in the Turkish context was collected is discussed. In each section, following the presentation of whatever facts were collected on the issue, there is a brief evaluation of the situation in general highlighting, in an impressionistic manner, the main axes of the information collected.

Ratification of CEDAW in Turkey

Turkey voted "yes" both to the UN General Assembly Resolution 3521 dated January 15, 1975 requesting CSW to draft the women's *Convention* and to the Resolution 34/180 dated 18 January 1979, promulgating the *Convention*. She also participated in the drafting of the *Convention* in the Third Committee.

Such participation and the ensuing state actions were taken mainly by diplomats in the Turkish Foreign Affairs Ministry who thought this to be the "proper" line of conduct to be followed by a state where, since the establishment of the Republic by Mustafa Kemal Atatürk in 1923, official state ideology had loudly articulated a discourse on women's equality with men and their right to be free from sex-based discrimination. Consequently, Turkey's involvement with CEDAW originated on the initiative of the Turkish Foreign Affairs Ministry, the members of which simply regarded the women's *Convention* to be "compatible" with the Turkish State's long existing commitment to gender equality on the basis of the Republic's secu-

lar and modernist orientation.

In view of the fact that Turkey has not ratified some of the other international human rights treaties in the UN context (eg. the ICCPR or the ESCR Convention), the State's willingness to support the drafting and promulgation of CEDAW as well as its ensuing action to become party to this *Convention* could be attributed to the Turkish state's strong commitment to, as well as greater confidence in her record in the area of, women's rights.

While there is no clear evidence of any large scale civil society efforts, originating from women's groups or anyone else, that specifically contributed to the ratification of CEDAW by Turkey (1985) there is evidence that the *Convention* was known and discussed in intellectual and feminist circles prior to ratification. In this context, in works of feminist academics that discuss the history of the women's movement in Turkey in the 1980s, there are a few passing references to CEDAW. None, however, refer to any concerted effort on the part of the women's movement to motivate the state for "ratification." Once the instrument was ratified, some women's groups demanded, on different occasions, that the state ensure CEDAW's full implementation in the country.

The inadequacy of records in women's NGOs causes one to rely extensively on personal memories of those who have participated in the women's movement. For instance, one such account has indicated that in the early 1980s a "few-women-crusade" had actually been carried by some NGO members on two issues they deemed critical at the time. They attempted to get the military government of the times to legalize abortion (which it did in 1983) and to ratify CEDAW (which apparently it did not). However since there is no record of this activity, it can only be validated with additional testimony.

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On the State side, there apparently was no action taken in the years 1979-1985 with regards to the ratification of the *Convention*. The delay has largely been attributed to the presence of the military rule during part of this period (1980-1982) and its after effects. Some observers, have attributed the rejuvenation of the Government's interest in ratifying CEDAW in 1984, in an apparently "hurried" manner, to the then-in-power Özal government's desire to send a delegation to participate in the Nairobi meeting (Tekeli: 1989; Çelikel 1990). However, since this is a period when Turkey ratified several international and regional human rights instruments and pursued a clear policy of political and economic integration with the West, the attempt to ratify CEDAW can well be seen as a part with the government's overall strategy of liberalization.

As to the mechanics of the "ratification process" which was started in 1984, the discussion and negotiation primarily took place among different state agencies and few NGOs. The Foreign Ministry formally asked from various ministries, some NGOs, and academics their views on the possibility of Turkey's ratifying the Women's *Convention*.

In this context, the Justice, Interior, Agriculture, Labor, Social Security, and National Education Ministries as well as the Law Faculties of Istanbul and Ankara Universities and a few women's NGOs were contacted. Also, individual opinions from some well-known scholars working on women's issues were sought. Due to the fact that the Archives of the Foreign Affairs Ministry are difficult to access, it was not possible to review, for this study, the actual texts of the opinions presented by different agencies and groups on the matter.

At the end of this process, on November 19, 1984, it was recommended to the Govern-

ment by the Foreign Affairs Ministry that, on the basis of the responses received from different agencies and groups, the Turkish Republic ratify *Convention on the Elimination of All Forms of Discrimination Against Women* with certain reservations.

Ratification was proposed to the GNA on April 24, 1985 with the need for reservations only very briefly and generally mentioned in the justification (*ratio legis*) of the Governmental bill. The *Convention* was discussed in the GNA and ratified on June 11, 1985 while the reservations, either in general or in specific manner, were not (Çelikel, 1990; Tekeli 1989; Süral, 1991; Sirmen, 1990).

The text of the ratified *Convention* was published in the Official Gazette on October 14, 1985 and it contained no reservations. However, the text delivered to the UN Secretary General contained reservations to Articles 15 (2) and (4); 16 (c), (d), (f) and (g) and 29 as well as a declaration to Article 9.

Our research has indicated that there was not a significant or "heated" debate in the GNA during ratification of CEDAW. Furthermore, there was not any mentioning of the ratification process or CEDAW's coming into force in Turkey in the daily press at the time. The issue of the legal status of Turkey's reservations to the *Convention* has, however, been raised as a critical issue on numerous occasions in the subsequent years particularly by women academics and lawyers (Acar, 1998; Acar, 2000; Çelikel, 1990; Tekeli 1989; Süral, 1991; Sirmen 1990).

Under the circumstances the status of Turkey's reservations with respect to domestic law remained a controversial issue. Some scholars have maintained that the reservations were not binding on legislators, policy makers, civil servants or anyone else, so far as domestic law is concerned. It was, thus, claimed that therefore the state was under obligation to implement the *Convention* without reservations (Çelikel, 1990).

The Turkish State did not refute its obligation or intention to fully implement the *Convention* with regard to substantive issues and at no instance attempted to invoke its reservations as an argument or excuse for failure to implement any article of the *Convention*.

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For instance, in none of its reports to the Committee has Turkey referred to the reservations as a justification for not implementing any part of the *Convention*. Furthermore, over the years the state consistently declared its intention to lift the substantive reservations to Article 15 (2) and (4), and Article 16 (c) (d) (f) and (g) in line with the recommendations the Committee routinely makes, to all state parties that have placed reservations, in particular to Article 16. Turkey also has committed herself, in Beijing, to do so by the year 2000.

The legally controversial situation, nonetheless continued to exist for 15 years. Although most of the involved parties were agreed as to the appropriateness of withdrawing them the practical and political issues around the removal procedure delayed action. Finally, in July 1998, the State Ministry responsible for women's status convened a task force with the mandate to figure out the proper way to approach the issue. The adoption of the General Statement on Reservations by the CEDAW Committee at its 19th session (1998) calling for withdrawal of all reservations to the *Convention* by the year 2000, was an important motivation for this action.

In the same year a Parliamentary Commission was convened (26.3.1998-23.7.1998) upon the initiative of two women parliamentarians, in order to inquire into the issue of women's status in Turkey and figure out those measures needed for full implementation of CEDAW in the country. Chaired by another woman parliamentarian, this Commission, in its final report, which was presented to the GNA on November 3, 1998 recommended that Turkey's reservations to Article 15 (2) and (4) and Article 16 (c), (d), (f), (g) of CEDAW be withdrawn via the initiative of the government or directive of the President of the Republic (Report of the GNA Inquiry Commission No. 10/219).

Such views were reinforced by arguments of jurists who had been claiming all along that some of the reservations placed by Turkey upon ratification, were legally not necessary even at the time they were put, and that some others would no longer be justified, since several discriminatory articles of the Turkish Civil

and Penal Codes, the presence of which were originally seen as justifying the reservations, have since been repealed and/or annulled (Çelikel, 1990; Constitutional Court Decision No.1990/31).

In this context, although a part of the delay in removing Turkey's reservations could be attributed to practical obstacles, the situation also reflected a deep underlying ideological conflict between "progressivist" and "traditionalist" views with respect to gender equality, women's roles and, particularly, "private sphere" relations that has existed in Turkish society throughout the Republican era. In other words, regardless of their technical legal validity, Turkey's reservation to Article 15 (2) and (4) and Article 16 (c), (d), (f), and (g) of CEDAW had an important symbolic function in defining the nature of women's human rights and gender equality in Turkey up until very recently.

On September 20, 2000, the Turkish government withdrew the State's reservation to Article 15 (2) and (4) and Article 16 (c), (d), (f), and (g) of the *Convention on the Elimination of All Forms of Discrimination Against Women*. The action was taken by political decision-makers, cooperating closely with enlightened bureaucrats and independent academics. No significant efforts on behalf of the women's NGOs at this stage could be identified.

By such action, Turkey has joined the ranks of State's Parties that have removed their reservations to substantive articles of the *Convention* as called for by Committee. The domestic significance of this withdrawal is however, even bigger; for the political-cultural implications of this action are indeed far reaching. It is expected that such removal will be utilized to reinforce efforts for a more effective harmonization of domestic legislation with the provisions of

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CEDAW. In this context, the immanent amendments to the Civil and Penal Codes are particularly important.

Turkey has not withdrawn its reservation to article 29 of CEDAW, and the declaration to Article 9 also remains.

NGO Awareness and Involvement

Different kinds of NGOs in Turkey exhibit highly varied levels of general awareness with respect to differing spheres of functioning and/or types of issues. Accordingly, awareness/involvement of an NGO in CEDAW-related activities is primarily dependent on whether or not it is an “internationally-aware” NGO, or an essentially domestic one.

Those NGOs that are either branches or chapters of some kind of international association (e.g. Clubs such as the Rotary, the Lions, Soroptimists International, Association of University Women etc.), or are newer women’s human rights groups that have received international funding or which have had significant contact with international sources (e.g. Women’s Human Rights Project, the

Association for the Support and Training of Women Candidates (KA-DER), the Flying Broom, etc.) are, in general, more aware of CEDAW and carry out activities (public education, advocacy, etc.) directed towards the implementation of the women’s *Convention* in the country. In this context, one women’s NGO—Women for Women’s Human Rights (WWHR)—was involved in the preparation of a “shadow report” when the government report of Turkey was presented, in January 1997 to the Committee.

This alternative report was based on the coordinated contributions of WWHR with two other NGOs, the Equality Watch Committee and The Purple Roof Foundation, all based in Istanbul. This report was dis-

tributed to CEDAW members prior to presentation of the official report of Turkey, and a representative from WWHR was able to attend the Session in which Turkey’s report was considered. This NGO has been engaged in advocacy, lobbying, and outreach activities to which they have integrated CEDAW. They disseminate the text of the Convention in their “Legal Literacy and Human Right’s Training for Women” program, and advocate the integration of CEDAW, as one of the main international human rights conventions into the National Plan of Action for Human Rights Education in Turkey. Similarly, another NGO, (KADER) has utilized the *Convention* and the Committee’s General Recommendations (particularly General Recommendation No. 23) for advocacy to increase women’s participation in politics and training of women candidates for political positions.

Other NGOs that are strictly domestic and/or local, mainly concentrate their activities on issues that are defined in domestic terms, and often have limited awareness or direct involvement with CEDAW and CEDAW related activities. This separation of local and international agendas, and the locally oriented NGOs’ detachment from the international women’s human rights agenda as been to such an extent that although, in the last decade and a half, the number one issue-area on the agenda of many women’s associations in Turkey was amendments to the Turkish Civil Code, the issue was very rarely conceived as an obstacle to the full-implementation of CEDAW, and the state’s international obligations were hardly ever invoked by such women’s NGOs to support their demands for law reform.

This is despite the fact that, originally the nationwide signature campaign initiated by a group of intellectual feminist women in the 1980’s demanding that the discriminatory articles of the Turkish Civil Code be amended, was motivated by CEDAW. In the words of ?. Tekeli, the early efforts to demand change were fuelled by their desire to insure CEDAW’s full implementation in Turkey:

We decided to write a petition to the government on four issues based on CEDAW

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in order to state our objection to the likelihood of this *Convention* turning into a meaningless piece of paper. We wanted to let them know that we, the women, thought this to be a very important document. We wanted them to take urgent precautions. (Tekeli, 1989; 38).

However, over the years, the non-governmental organisations' campaign has come to be known exclusively as a domestic effort to amend the *Civil Law*; its ties with international obligations has ceased to exist in the consciousness of locally oriented NGOs as well as the public.

It is possible to say that, in Turkey, while CEDAW's indirect impact may be felt through the *Convention's* principles 'seeping through' to the public agenda, the instrument itself is not very visible or recognized as a major motivating force by the majority of domestic NGOs. So far as these groups are concerned, the content or the language of CEDAW is not very much incorporated into the planning and execution of their own activities, and it is not much utilized in their community-based work. Furthermore, CEDAW is not effectively invoked in their efforts to pressure the state.

Most women's NGOs in Turkey are voluntary associations with limited professional expertise and resources. Since they mostly function on a voluntary basis, they are not well institutionalized. Often, they have problems because they do have a high turnover of personnel; as well as an inadequacy of organizational and bureaucratic skills. These facts make it very hard for these groups to function effectively vis-à-vis the state or international agencies.

In one of the interviews for this study, the incumbent president of one of the women's NGOs stated the following:

I do not know much about CEDAW because our previous leader monopolized all information coming from the GDWSP. She always wanted to carry out those relations herself. So, although I know there was some activity and cooperation with the General Directorate, (other members) were not involved.

Similar, difficulties were perceived by representatives of state agencies who also often complained of the "erratic" nature of their relationship with NGOs. The NGO's 'casualness', 'lack of knowledge on issues' and the tendency of "NGO leadership cadres to personalize issues" were often mentioned as causes of the difficulty to communicate with them. These complaints were, in fact voiced by some women's NGOs themselves with regards to other groups.

For purposes of this study, representatives of five women's associations, all based in Ankara, were interviewed, and one human rights association and two human rights centers in academic institutions were also contacted.

Three of the representatives from women's associations had no knowledge of CEDAW; two, on the other hand, were quite knowledgeable. Of those NGOs that had no knowledge of CEDAW, two were happy to find out about it (one openly said she had just heard of this *Convention* on the occasion of the interview; the other had a very vague notion, but no real knowledge as to what CEDAW is and where Turkey stood vis-à-vis this instrument); the third, however, expressed clear disinterest in the subject.

It is difficult, however, to determine an NGO's level of information about or involvement in CEDAW, on the bases of the testimony of the person interviewed, since this could very well be the case with that person only. For instance, it was clear that even the NGOs that largely lacked specific knowledge of CEDAW knew there had been some kind of report given to the UN at one point, and there had been some meetings with NGOs on this issue that "someone" from their association might even have participated in.

Neither of the two human rights centers had ever been concerned with any specific

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project on women's human rights. Clearly, at the time of this study, women's human rights were not at all incorporated into the structure and agenda of these human rights centers. In general, in Turkey, "human rights" and "women's rights" are highly compartmentalized, and the conventional approach treats "women's rights" as a separate issue, while there has been an increasing awareness and sensitivity to "human rights."

In the last decade, mostly, human rights have been conceived exclusively in the context of protection from torture, and maltreatment and promotion of ethnic (Kurdish), political and cultural rights. The "human rights"-based NGOs, including the Human Rights Association, have almost exclusively functioned within such a perspective. Consequently, their day to day activities in the country were far from reflecting a "women's rights are human rights" mentality. In fact, the idea of "women's human rights" is still largely an alien concept, and is only being introduced to Turkish society, in the last few years, through mainly the activities of a few internationally oriented women's NGOs, and universities' women's studies programs/centers and feminist scholars.

To sum up, in Turkey, the degree of NGO involvement and/or awareness of CEDAW appears to vary according to the type of NGO. So far as domestically-oriented women's NGOs are concerned, such awareness is of a rather vague and general nature. NGOs that have international connections, as well as the large, well-established women's NGOs, exhibit significantly greater knowledge and awareness of CEDAW.

Also, awareness of the *Convention* and knowledge about Turkey's obligations under it, are quite well developed in intellectual and academic circles, and the women's studies com-

munity. Since the impact of the latter groups are commensurate with their size, means and access to media, CEDAW is not, by any means, an "unknown" international law instrument in Turkey. Neither are the problems and questions of its full implementation a "non-issue."

However, the inadequacy in incorporating "women's human rights" into the general "human rights" discourse in the country is obvious, and there is a clear need to increase both state, and particularly, NGO awareness on the topic. Also, more detailed information is needed on a nationally representative basis to assess the true extent of civil society's awareness of CEDAW, as well as the specific NGO efforts and needs to make use of CEDAW in advocacy, education and any other area, in the country.

With regards to general public awareness of the *Convention*; the content analysis of daily newspapers and journals has shown that the greatest coverage of the CEDAW *Convention* has occurred on such occasions as the presentation of the country reports and election of a Turkish national to Committee membership. Presentation of Turkey's Initial Report (1986), and the Combined Second and Third Periodic Reports (1997) have been reflected in the national press in both "neutral-news" and "critical-appraisal" formats.

The election of a Turkish expert to the Committee has received significant coverage in the national press, in 1997. The extent of media coverage of CEDAW-related issues and events has clearly increased over time. For instance, the presentation of the Combined Second and Third Periodic Reports, as well as election of a Turkish member to the Committee in 1997 have been widely covered in different national television, newspapers, and journals to a much larger extent than earlier cases.

Also, in the last few years CEDAW has been increasingly mentioned in the media in connection with issues other than 'reporting' or 'election' to the Committee. This tendency may be read as society's inclination to increasingly view the *Convention* as a fundamental "bill of rights" for women, rather than merely as a international legal instrument, the func-

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tioning of which is far from the everyday issues and problems faced by women in Turkey. As an indication of the society's real "adoption" of the *Convention* and its principles, this is a critical step.

In this context, a significant event was the wide media coverage of the first-ever domestic-violence law passed in 1998. The coverage often included direct references to CEDAW, and the Concluding Comments of the Committee to Turkey's Combined Second and Third Periodic Reports.

In the recent years, whenever such diverse women's human rights issues as virginity control, honour killings, affirmative action and quotas in politics, sexual harassment, tolerance for Islamic dress in educational institutions, or legal reform, appeared on the national agenda, the *Convention* has often been invoked, albeit in general terms, both increasing the public's overall awareness of the instrument and the familiarity with international women's human rights standards.

Reporting to the Committee

Turkey has reported to the Committee on the Elimination of Discrimination of Women twice. Turkey's Initial Report was presented to the Ninth Session of the Committee on the Elimination of Discrimination in 1990; her Combined Second and Third Periodic Reports were considered by the Committee in its 16th Session in January 1997. Both reporting efforts were taken quite seriously by the state.

The activities for the preparation of the reports have functioned as the main parameter of CEDAW awareness in the NGO community. In this context, it is clear that the extent and form of NGO involvement has gradually, but significantly, changed between the initial and the subsequent reporting. While the Initial Report was entirely prepared by the Government (State Planning Organization) with contributions from a few selected academics, prior to the submission of the Second Periodic Report, NGO participation was sought by the State. For this, the GDWSP wrote to several NGOs, and asked for their critical evaluation as well as their contributions to the draft of the report prepared by the government.

This researcher was able to locate written responses to the Second Periodic Report from eight NGOs, in the files of the GDWSP containing, specific as well as general, criticisms to the text prepared by the General Directorate. Many of these emphasized what the NGOs thought was the inadequate recognition in the government report of NGO activities, particularly in the area of Civil Law Reform. It is apparent from the responses that the NGOs saw the Government effort as a last-minute appeal without much chance of really affecting the content of the report. The very short time interval allowed for the responses and their possible integration into the report appears to support these claims.

In the case of the Third Periodic Report, which eventually ended up being considered as the Combined Second and Third Periodic Report of Turkey, the GDWSP sought contributions from a large number of NGOs. A two-day meeting in Ankara, allowing for direct, face to face interaction and dialogue with NGOs was arranged by the GDWSP (July, 1996). Representatives of women's NGOs, universities' women's studies centers and relevant government agencies were all invited to the meeting.

Judging from the responses of NGOs interviewed for this study, the meeting has contributed to awareness raising about CEDAW and its issues. Yet, its effectiveness on the specific contents of the country report was questioned by NGOs. Several NGO representatives saw the meeting basically as a "cosmetic activity" held because it was "expected" that the report be discussed with NGOs prior to submission. Although they felt dubious about the effectiveness of this consultation in general, they none-the-less admitted that specific contributions (ideas, corrections etc.), if made "forcefully enough" by "competent individuals", found their way into the government report. In this context,

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the inadequate capacity of many NGOs was often pointed out by the NGOs themselves, as well as state representatives, as the main factor curtailing their effective participation in the process.

It is noteworthy that this report writing exercise also depended heavily on the contributions of independent academics even to a greater extent than women's NGOs. While around thirty state agencies and twenty-three independent academic experts were invited to the event along with representatives of seven international agencies, the number of women's NGOs did not exceed fifteen. It has not been possible to locate a full record (minutes, conclusions etc.) of this meeting at the GDWSP. Therefore, despite best efforts, it has not been possible to analyze contributions by specific NGOs, and trace to what extent they have been reflected in the end product.

Use of CEDAW

In the Turkish context, not only the State's awareness of, but also its use of CEDAW, has generally been more significant than that of the civil society. An area, in which the use of CEDAW by State forces has been particularly significant, has been the legal-judicial context. In the years since the ratification, several legislative and judicial actions have made use of the Convention by referring to it in legal texts of critical nature.

Among these, the following can be readily delineated. The domestic violence act, (Law No. 4320 *Family Protection Law*) promulgated in 1998 was influenced by CEDAW in terms of not only the inspiration and ideology that promoted and legitimated women's human rights and obliged the State to take action to protect women from violations of their human rights but also with regard to the timing of governmental efforts for purposing this law.

The face-to-face dialogue between the Committee and state's representative during reporting, as well as the Concluding Comments of the Committee to the Combined Second and Third Periodic Reports of Turkey have been critical in the initiation and sustenance of efforts, by the State Minister

responsible for Women in drafting this legislation and ensuring its passage by the GNA often in what proved to be an uphill battle, in the face of strong opposition from conservative members of the parliament.

Secondly, the Parliamentary Commission, which was convened in December 1997 to inquire into women's status and determine the measures needed to be taken in order to ensure the full implementation of CEDAW in Turkey, was clearly directed towards investigating what should be done to step-up things for withdrawing the reservations to CEDAW and assuring the full implementation of the instrument as a recognition of its potential power in improving women's status in Turkey. As such, the report of the Commission published in July 1997, reiterated CEDAW's central function and underlined its salience as a yardstick for all measures to be taken, *de jure* and *de facto*, in order to ensure recognition, promotion and protection of women's human rights.

Presenting an extensive discussion of the Convention's ratification process; the situation with regards to the reservations; women's *de facto* and *de jure* conditions in fundamental areas of concern for the *Convention*, this report, urged the government to withdraw Turkey's reservations to Article 15 (2) and (4) and Article 16 (c), (d), (f) and (g) as well as making specific recommendations for measures to be taken in such areas as health, education, violence against women, work, politics, media and rural women's conditions (Report of the GNA Inquiry Commission No. 10/219).

Thirdly, the Constitutional Court of Turkey has, in the recent years, made four very salient decisions pertaining to legal equality of men and women. In two of these decisions, the court has specifically and extensively referred to CEDAW.

One of these decisions pertained to Article 159 of the Civil Code which had required husband's permission for wife's professional activity. This provision of the Civil Code was annulled on November 19, 1990 (Constitutional Court Decision No. 1990/31). Also, Articles 441 and 440 of the Turkish Penal Code defined adultery of husbands and wives

on different grounds, thus leading to unequal punishment for men and women in case of the said “crime.” The Constitutional Court annulled Article 441 (pertaining to husband’s adultery) of the Penal Code on December 27, 1996 making extensive reference to CEDAW as those of a ratified international treaty to which national legislation should adapt. The reasoning behind the Constitutional Court’s decision emphasized CEDAW’s notion of non-discrimination of women in marriage (Constitutional Court Decision 1996/34).

Article 440 which was the counterpart (pertaining to wife’s adultery) of Article 441, was subsequently also annulled by the Constitutional Court on June 23, 1993 (Constitutional Court Decision 1998/28). Removal of such discriminatory provisions through annulment by the Court has also meant that pending new legislative action, “adultery” is legally not a crime under Turkish law.

On the other hand, it is significant that the long-awaited governmental bills amending the Civil and Penal Codes, do not contain in their reasoning, any direct reference to CEDAW. Furthermore, despite the improvements they both bring to the existing laws in recognizing, promoting and protecting women’s human rights they, none the less, fall short of living up to the standards defined by the provisions of CEDAW specified in the General Recommendations of the Committee.

Some Concluding Observations

All in all, it can be concluded, on the basis of this limited study, that in the Turkish case, State agencies and the high judiciary have been more likely to exhibit awareness of CEDAW, in some relevant contexts, than NGOs. It was used in specific cases, and rather effectively by legislators, judiciary, and high-level bureaucrats to initiate debate and formulate policy.

The experience with respect to the GNA, the Constitutional Court, the Foreign Affairs Ministry as well as the relevant State Ministry and the GDWSP also suggests that presence of women among those in key decision-making positions in all of these agencies has been uniquely influential in bringing recognition to CEDAW at the state level.

So far as NGO awareness and use of CEDAW in general are concerned, there is observable increase in both scores over time. Yet, owing largely to the structural problems and deficiency of capacity in women’s NGOs, particularly the locally oriented women’s NGOs’ achievement on both scores continues to be insignificant and ineffective. There has, however, developed, in the general public, a greater consciousness of women’s human rights as a concern of the international community, and Turkey’s obligations under international treaties, among which CEDAW is fast becoming a popular reference.

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