

SEXUAL CRIMES AND HARRASSEMENT AT TURKISH LEGAL SYSTEM

I) INTRODUCTION

Now a days all around the developed countries sexual harassment with in the concept of discrimination became a very popular subject to discuss and search for remedies.

Regarding the sexual crime and harassment, Turkish people are not as courageous as the people of western to bring the sexual harassment or sexual crimes or events in front of public opinion. It would not be wrong to say that it is not fashion in Turkey yet to announce the sexual harassment either applying to the court or make it public in large scale. But soon or late victims should be fearless any way; because of economical reasons, and the changing of the living standards and unemployment, which is in a dramatic dimension, would give a start to speak the real reason of the unfair dismissals, which is sexual harassment. This should result to obtain compensation from the employer or the offender in a better procedure and may incline the sexual crime and harass.

Nevertheless in 2000's the concept of sexual harassment became popular among academicians, and with the impact of the studies legislator stipulate below mentioned provisions about sexual harassment and crime in Turkish legislation. The scope of this study is limited with sexual crimes and harassment. Mobbing and bullying are not included because of theirs very large dimension ¹

According to Turkish Constitution in general, everyone has the right to live, to protect her/his moral and physical being and to improve it². At Turkish legal system a new Penal

¹ Mobbing is a word which express the act of hostile and unethical behavior and communication directed towards a person, by one or few individuals, in a systematic way, with continuing activities, who is pushed and helpless and defendless in position. This is physiological terror, or physiological harassment.

² Turkish Constitution art 17/1 (07.11.1982) Rights and Duties of the Individual.

I. Personal Inviolability, Material and Spiritual Entity of the Individual (As amended on May 22, 2004)
ARTICLE 17. Everyone has the right to life and the right to protect and develop his material and spiritual entity.

The physical integrity of the individual shall not be violated except under medical necessity and in cases prescribed by law; and shall not be subjected to scientific or medical experiments without his or her consent.

No one shall be subjected to torture or ill-treatment; no one shall be subjected to penalties or treatment incompatible with human dignity.

Cases such as the act of killing in self-defence, occurrences of death as a result of the use of a weapon permitted by law as a necessary measure during apprehension, the execution of warrants of arrest, the prevention of the escape of lawfully arrested or convicted persons, the quelling of riot or insurrection, or carrying out the orders of authorized bodies during martial law or state of emergency, are outside of the scope of the provision of paragraph 1.

Code is being in force since June 1, 2005³ where, sexual crimes take place at the section of “Crimes to person” with the heading “crimes against sexual immunities”.

In the old Penal Code, the sexual crimes took place with “crimes against ⁴ general manners and against family life. In the new Penal Code new trends took place and contemporary provisions adopted. Also there are general provisions in Code of Obligations, and according to the Turkish Labour Code there are provisions about sexual harassment regarding to the ILO Agreement number 111 about Discrimination in Respect of Employment and Occupation,⁵ and European Union Directives, European Council’s documents and agreements on Human Rights reflected as well. Especially recommendation number 12 and 19 of the committees of the Convention on Elimination of all Forms of Discrimination Against Women(CEDAW), and also Nairobi Declaration dated 1985 ⁶Development of Women and Strategies for Future and Beijing Declaration dated 1995 , the 4 th. World Conference is the international documents which influenced Turkish Legislation and approved by Turkish Government.⁷

Turkey as a member of International Labour Organization and member of United Nations and Member of European Council ratifies most of the key conventions, declarations, international documents. That is why the legal rights are based on contemporary and international rules. About sexual harassment and crime where most of the victims are women

³ Turkish Penal Code, (26.09.2004)

⁴ Old Turkish Penal Code (765) (01.03.1926)

⁵ According to the ILO Convention,111, although there is not any brief provision about the sexual harassment in article 1 of the convention puts the general rule about discrimination “any distinction, exclusion or preference made on the basis of race, color, sex religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

⁶ Nairobi Declaration , Report of the World Conference to Review and Appraise the Achievements of the UN Decade for Women: Equality, Development and Peace July 1985.

⁷ Bakırcı Kadriye:İşyerinde Cinsel taciz,200, p.203-218.; It should mention the international events to understand the destination and the aim of women movement regarding the sexual harassment. Prior to the 4th World Conference on Women that took place in 1995; the United Nations had previously organized three conferences on women and women's issues. The first conference took place in Mexico City in 1975, and as a result of the conference the UN General Assembly had declared between 1975-1985 years the Decade for Women. The second conference that took place in 1980 in Copenhagen, it was decided to focus on women's education, participation in the workforce and health during the latter half of the Decade for Women. The third conference took place in Nairobi in 1985, where the Decade for Women evaluated and the Nairobi Forward Looking Strategies for the Year 2000 were accepted unanimously for the advancement of women. Thus, a national, regional and international framework thereby established, to enable the empowerment of women and ensure the enjoyment of their human rights. In 1990 no conference was organized; According to the evaluation of UN Division for the Advancement of Women stated that there is a high sensitivity to the issue to work on because it is necessary to take the interest of women on their rights and the awareness should remove from the society. Especially in Turkey some how after the decade for women could be say there is **visible relaxation**. But with the implementation of the Nairobi Strategies, the Fourth World Conference on Women organized with the aim of both re-vitalizing the interest towards women's issues, as well as to take up issues that had made their way according to the international agenda such as violence against women, including sexual abuse, sexual harassment.

⁸Turkey is a country where great importance are given to the international documents, such as Declaration on Elimination of Violence Against Women which accepted in the General Assembly of UN dated 1993, 48/104 is a model of practice. Never the less although at meetings delegates sign and promise to obey the accepted rules during the conferences, it is not that easy to apply the rules even if legislation has the provisions relating to the issue. This happens because of government policy and lack of information, and politician’s attitude.

and children, the issue considers with in the concept of discrimination of gender. The remedies focus on discrimination which is the right perspective to begin with. In Turkey many NGO's are dealing with the question in all circumstances to avoid the unequal practice, ensure the human rights of women and female children and protect them against violation in all states. Trying to train the male gender, to promote the values of the societies by eliminate all forms of discrimination.⁸

II) DEFINITON OF SEXUAL HARASSMENT

Sexual Harassment could define as either violation of traditional individual /personal rights or sex discrimination regarding to the gender. There are various definitions of the sexual harassment. Especially in Turkish doctrine, sexual harassment considers as discrimination of gender. Although there is not a brief definition in the legislation, it is possible to define or interpret it from the provisions about sexual harassment or crime as;-

“Sexual Harassment is the violation of the protected individual rights in all senses.”

This violation could be behavior of the offender towards not only against one person but could perform against to several individuals as well. Harassment could perform in the places where the people meets each other, or may occur in work places or close to work places or living areas or in neighborhoods or in other public areas etc. Violation could perform as by creating uncomfortable environment, or spoiling the regular ambiance, or behaving incongruous to the moral consideration, or behaves relevant to the sex or sexual preference.⁹ This is a general definition which could also compromise mobbing as well.

As a very plain definition, sexual harassment is violation of individual or personal protected rights by laws or in other ways. In most of the countries this sort of events considers as the violation and disapproved event, and punishes according to the criminal code or some other ways stipulated in the legislation system.¹⁰

In Turkish legal system, it is provided that sexual harassment is a prohibited behavior and according to the provisions of the Constitution, Penal Code, Code of Obligations, and Civil Code, and Labour Act, individuals are protected by laws against harassment.

⁹ Bakırcı Kadriye: İşyerinde Cinsel Taciz, 2000, s. 101.

¹⁰ Bren Creighton&Andrew Stewart: Labour Law, 2000.p.278 -282.

III) ACCORDING TO THE LEGISLATION SEXUAL CRIMES AND HARRASSEMENT

A) PROVISIONS IN TURKISH PENAL CODE

According to the new Penal Code, the rule of the previous Code which was;

“Marrying with the victim of the sexual crime is the reason of postponement or end up the punishment” does not exist.

At the Old Penal Code when raping, dare to rape or kidnapping and detain with a sexual purpose happens, and if one of the identified suspect marries the unjustly treated women victim, the criminal case and the penalty be postponed about the husband and the Court may consider about the other abettors to end up the punishment as well.¹¹

The aim of this order was to protect the victim because in Turkish society virginity and value of family formation consider very important.

This statement criticized among academicians and by NGO's; because of having negative impact on the victims' free decision. And it is also a very dishonoring situation for the victim. In the new Penal Code there are considerable reforms as explained below.

aa) A New Crime at Turkish Legal System: Raping in Marriage.

Raping in marriage arranged as a crime at the new Penal Code¹² which is in accordance with the contemporary legal system. But unfortunately the traditional belief of the majority still considers the wife as husband's belonging and by marriage, supposing that wife gives silent consent to the husband for sexual intercourse at any circumstance and without any retract and resistance, as if married women does not have any bodily integrity.

In most of the contemporary countries they do not have such understanding or left that behind already. In Turkey to be able to change this understanding where masculine domination still exist, should accept raping in marriage as a crime which would have remedies and dissuasive and will be helpful to lessen the sexual harass.

But it is undoubted and it wouldn't be wrong to say that, this sort of crime will be kept as a secret in most of the families, and most of the events will never report as a complaint by married women to the Court, because of conservative belief and way of living.

To have this article at the new Penal Code should give a notion to the community that raping in marriage could not be+ approved and should treat as a crime and this certainly would have positive affect on the potential offenders.

¹¹ Old Turkish Penal Code art 434

¹² 5237 Turkish Penal Code, art 102/2

bb) Sexual Crimes in Penal Code..

There are four basic criminal offences related to the sexual liberty in the New Penal Code.

- a) Sexual assault
- b) Sexual abusing of the children
- c) Having sexual intercourse and harass of children under age 18.
- d) Sexual Harassment

aaa) The Crime of Sexual Assault

The crime of sexual assault covers the crimes of rape, dare to rape, molestation or insulting and sexual abuse. These types of crimes were also at the previous Penal Code.

Penal Code describes that: There are two ways to commit the crime of sexual abuse: :

- The violation of ones immunity of the wholeness of the body by not entering the body with an organ or another material (called ordinary sexual assault, (two-to seven years of imprisonment) ¹³
- The violation of ones immunity of the wholeness of the body by inserting an organ or another material (qualified sexual assault, seven –to twelve years of imprisonment).¹⁴Aggregated punishment for qualified sexual assault.

The crime of ordinary sexual assault may only occur unless the victim gives a petition of complaint to the attorney generalship. Qualified sexual assault is considers as aggregated crime which needs no complaint by petition, but if the husband is the offender than petition is required.

Although it should consider a very important issue, in the Article 102/3 of Turkish Penal Code which is about Sexual Assault, using force, threatening, or using deceitful or fraudulent actions is not consider as component of the crime. Nevertheless these points took place only at the justification of the Penal Code where interpretation of the Judges would be necessary in practice.

Committing the crime of Sexual assault by above mentioned ways, if the below factors took place, the punishment will be aggravated ½ times more.¹⁵

¹³ Art 102 /1 of Turkish Penal Code 5237

¹⁴ Art 102/2 of Turkish Penal Code 5237

¹⁵ Art 102/2 of Turkish Penal Code 5237

- Should the victim is in such a state of mind and body that the victim can not defend herself.
- Should the offender is a public officer or using his hierarchic power depending on employment relation which ease the abuse,
- Should the parties have blood or in law kinship up to third degree.
- Should there were any kind of weapons used or more then one person involved.

If much force was applied during the assault to make the victim irresistible and caused the victim severe bodily injury, the offender would punish for this act as causing intentioned injury as well.¹⁶

As a result of the sexual assault if the victim would have severe damage of body or mind or the victim enters a state of coma or dies, the penalty for the offender would aggravated.¹⁷

bbb) Sexual Abuse of the Children

Individual under the age of 18, are called children. Sexual abuse of the children includes all kinds of sexual action to the child. This crime can be performed in two ways:

- Sexual abuse of the child (ordinary abuse three to eight years of imprisonment)¹⁸
- Entering the body with an organ or any other instrument (aggregated sexual abuse eight to fifteen years of imprisonment) ¹⁹

The consent of the child under 15 years old (adultery is age 18), do not effect the formation of the crime. But if the child is over 15 years old and has a progressed ability of understanding of the meaning and the result of the performed action; to consider the action as sexual crime, action must be performed by applying force, by threatening or by using parental authority and such act must block the ability of thinking or reacting or diminish the capacity to defend herself against the act. Otherwise this cannot be qualified as sexual crime.²⁰

The sexual abuse to children can be committed in both ways. If below mentioned actions occurs the punishment would aggravated ½ times or more.²¹

- The offender is an elderly family member or a kinship or has the responsibility of protecting or caring the child,
- The action performed by an employer or public officer dictating his power or ascendance, and more than one offender was involved in the action²²

¹⁶ Ibid., Art 102/4

¹⁷ Ibid., Art 102/5-6,Art 23

¹⁸ Ibid., Art 103/1

¹⁹ Ibid., Art 103/2

²⁰ Ibid., Art 103/41

²¹Ibid., Art 103/43

²² This aggregated penalty accepted on 2006 June 29 by the Law number 5377.

- The action performs to a child under age of 15 or to a child with mental disease who has no ability to discriminate by using physical force or by frightening her,
- As a result of this action the body or mental health of the child is severely affected.
- The result of the action causes the victim to be in a state of coma or death occurs.²³

If the force or violence applied to the victim at sexual abuse causes her severe injury; the penalty for intentional severe injury will be additionally applied. (Turkish Penal Code Art. 103/5)

ccc) Sexual Intercourse with Non-Adult (15years old or more)

According to the New Penal Code, if a person has sexual intercourse with a child of age 15 or more even if without applying force, or threatening, should be punished. For the punishment the sexual crime a petition of complaint is necessary.²⁴

Most of the academicians dealing with criminal law, declares that it is wrong to punish individuals who have sexual intercourse (children between 15 to 18 years old.) with their own consent how could admit them as the victim and the offender of this crime because both have desire and consent. Parents of the female individual who is not adult could have right to give petition. In some events this provision in Penal Code causes unfair applications and punishments may be inequitable. According to the Art 12 of Civil Code, child who is 15 years old may admit as an adult by a Court order with her/his wish and the consent of the parents. So if a 15 year old child could be considered as an adult by Court order according to some necessary events or situations, than this provision in Penal Code could be over viewed under the name of justice.

ddd) Sexual Harassment

According to the new Penal Code to harass someone with sexual intention is stipulated as a crime and punished with a penalty of imprisonment beginning with 3 months up to 2 years. But it should mention that, this crime also requires petition against the offender to be punished.²⁵

This crime covers the verbal or indecent assaulting crimes of the old Penal Code.

Sexual harass is the violation of the sexual immunity of the victim, but not as severe as the sexual attack position but pretending of performing the attack with all kinds of oral or written actions of sexual feelings.

The crime of sexual harass is not described at the Penal Code, but takes place in the justification of the Penal Code such as; “ *offending the victim by all kinds of attack on the*

²³ Art 103/3-4 ,6-7 of Turkish Penal Code 5237

²⁴Ibid., Art 104/

²⁵ Ibid., Art 105/ 1-2

sexual ground, and attacking against to the moral values of some one by all kinds of actions.”

In case below mentioned conditions occur punishment may aggregate ½ times or not less than a year of prison term in Penal Code Art. 105 /2

- Abusing the power of being on higher rank of employment or education or pertaining to family relations, punishment should aggravate 1/2.
- By using the opportunity of working in the same workplace. Punishment should aggravate 1/2.
- If the victim obliges to quit the job, leave the training or has to leave the home, or school, the punishment should be a minimum prison term of one year.

It is not possible to say that in Penal Code the provisions are quite enough to solve the social problem in an effective way. Nevertheless new scientific works obliges the legislature to take stable and effective steps on the issue. NGO's are quite efficient actors in the society, by establishing meetings, seminars and work shops to educate families especially in rural areas.

B) PROVISIONS IN TURKISH LABOUR CODE

Before the new Labour Act, to forward the sexual harassment as the direct subject of the labour disputes was not an easy task. In most of the cases although the real reason, of the termination of the employment contract either by employee or by employer, was sexual harassment, employee's compensation claims were depending on unfair practice or dismissal.

Now days, if the real cause of the termination of the employment contract is because of sexual harassment of the employer, employee dares to prove the unfair dismissal on the ground of sexual harassment. This new trend hopefully would disincline the sexual harassment.

Labour Act which came into force on the year 2003 has new provisions about sexual harassment, comparing with the previous Act.

Sexual harassment may occur in everywhere and among everyone, such as in hospitals, prisons, universities, shops, neighborhood, among family members, relatives, friends, etc. But sexual harassment in workplace should be considered differently rather than outside of the workplace. Harassment by employers or supervisors is the abuse of the power and violation of trust. In Turkish legislation system harassment in labour relations are introduced with quite contemporary provisions.

In the event of sexual harassment general rules are applicable such as Penal Code but if the occurrence is within the employment relation than the provisions of Labour Act would also apply to protect the victim in all sense. This protection could be for the employer or the employee as well. Both sides of the employment relation have obligations and duties to each other with in the context of employment contract and Code of Obligation.

aa) Right of Employee in case of Sexual Harassment According to the Labour Act.

In Turkish Labour Act there are several ways and reasons to terminate the employment contract. One of them is to terminate the contract for just cause where no term is necessary. It is called immediate termination

The Article 24 of Labour Act which is about the right of the employee to terminate the employment contract immediately for just cause, has a heading, (Art 24/II) like,

Behavior Contradicting to rules of Ethic and Goodwill and Similar States:

In the paragraph of Art 24/II-d it is stipulated that:-

If incase where the employee sexually harassed by another employee or by third persons in the establishment, adequate measures were not taken although the employer was informed of such conduct.

According to that provision, employee has the right to terminate the contract immediately, which means no term should be given to the employer.

Employee may also ask for severance pay and compensation for injury. This could be moral indemnity or compensation to repair the physical damages. These are the incomes which the employee deprived of including subordinate benefits.²⁶

Moreover, if the action is described in the Penal Code as a crime, than employee may complaint with a petition to the Court for punishment of the offender. As it is mentioned above, if an employee as a victim harassed by the employer or by his representatives, Art.102/b Penal Code stipulates that, if the offender is a public officer or using his superior power depending on employment relation which ease the abuse ,the penalty would be aggravated. According to the art 105/1 of the Penal Code in case sexual harassment occurs and the victim complains about it than the penalty is between 3 months to 2 years of imprisonment. But according to the Art 105/2 of the Penal Code, if this event occurs in the establishment and the employer did not take the adequate measures and employee ought to terminate the employment contract as a result of the sexual harassment, the penalty with the complaint of petition by the victim, should not be less than e year of prison.

Any termination of the employment contract by employee relating to the ground of sexual harassment, employer should pay compensation unless otherwise is proven.

²⁶ Code of Obligation Art 345.

According to the Code of Obligations, Art 344, either employee or employer may terminate the employment contract because of just cause and necessary reasons, at any time without giving any term. Any circumstance which is against the ethic values or against the good faith considers just cause. So according to the Code of Obligation sexual harassment is also one of the just cause as well.

The legal liability of the employer, according to the Constitution²⁷, Code of Obligations (Art. 332)²⁸ and Labour Act,²⁹ is to respect and protect employee's right of personality or dignity and guarantee safe working conditions to protect the employee's health and life. Employer must behave in good faith and protect employees from unlawful conduct in the workplace. If the employer fails to adopt proper measures to stop any act of sexual harassment would be liable according to the provisions stipulated in Turkish legislation. If employer knew or ought to know the unfair behavior of the other worker's or third party and failed to remedy it and does not take proper measurements should be liable of the consequences. Employer has duties and obligations against his/her employee's, if he neglects to behave in good faith and performs sexual harass against the employee, within the context of legal arrangements he has criminal and contractual liability.

The employer is directly responsible for all transactions and obligations entered by his representatives' acts related to the employees. Therefore, acts of sexual harassment in the workplace by supervisors, other employees or third persons would be in the liability of the employer regardless of whether the employer knew or should have known of their occurrence.

If a third person intentionally or through negligence causes offence to another person then is liable to provide compensation to that person. But if this event occurs in a workplace to an employee, employer would be liable with the offender.

Article 100 of Civil Code, may also be applicable to the ground of sexual harassment, such as, incase during the interview of a candidate employee, the employer would liable for the acts (sexual harass) committed by her/his supervisors or the employees against the candidate. According to the provision, person who transfers the transaction of the performance of any obligation or duty to his/her representative or supervisor, he should be liable from their actions which cause injury to third parties. Incase the offender is the employer; the general rules would be applicable.

bb) Right of Employer in Case of Sexual Harassment Happens in the Work Place.

This should explain the duties, liabilities and the obligations of the employer to the employee according to the Turkish legislation. As it is mentioned above, employers have a vast liability. The duties and the liabilities are stated in Code of Obligation and some provisions of Labour Act and Social Security Act and Penal Code as well.

In general: employer must protect the employee's dignity and personality and oblige to guarantee safe working conditions in all perspective. Employer must protect employee's

²⁷ Turkish Constitution art, 10,48,49,50.

²⁸ Code of Obligations, Art. 332, stipulates that, employer should supply appropriate working conditions and to take all measurements available to protect employee.

²⁹ Labour Act Art 24/II-d

health and life by taking all kinds of measurements and must obey the ordered provisions in detail. Taking necessary measurements are not enough; measurements must also give beneficiary consequences. In case any injury occurs; employer has no right and chance to claim that the necessary measurements were taken and all sorts of precautions existed. He would be liable even if all sort of measurements were taken. That means employer cannot neglect in taking measurement at performing his /her duties and must behave in good faith and if performs sexual harass against the employee, he has criminal and contractual liability as well. If there are third persons involve to the injury and the employer has no fault than employer may have right of recourse the compensation to be paid to third persons or the person/persons who involved in it.

As a result, it means employer must behave in good faith and protect employees from unlawful conduct in the workplace. If the employer fails to adopt proper measures to stop any act of sexually harassment would be liable according to the provisions stipulated in Turkish legislation.

If employer knew or ought to know the unfair behavior of the other worker's or third party and failed to remedy it and did not take proper measurements should be liable of the consequences.

Turkish Labour Act stipulates the right of the employer to terminate the employment contract of the employee with just cause. Sexual harassment is one of the just causes to terminate the employment contract. If in the enterprise an employee performs sexual harass against co-employee or towards the employer this would be the just cause.

Article 25 of the Labour Act with the heading of:- "***Employer's Right of Immediate Termination on Justified Grounds.***" Stipulates the employer's right to terminate the employment contract immediately for just cause.

The heading of Art 25/II is: "***Behavior Contradicting to Rules of Ethic and Goodwill and Similar States.***" This article gives right to the employer to terminate the contract without giving term, because of the just cause.

25/II-c: is about: - ***If the employee sexually harasses another employee of the employer, this is the just cause to terminate the contract.***

In most of the disputes either the dismissed victims (employee) could be the subject of the sexual harassment, or could be the subject because of being the refused one of the sexual harass, either offended by the employer, representative or supervisor or co-employee , or dismissed employee would be the reporter of the sexual harass to the management ,or the employee being or involved in sexual harass with his/her acts ,and having inappropriate actions or dismiss because of being witness or help to occur the sexual harassment in the work place. These or similar events may occur to dismiss the employee. Some may not be considered as just cause, but it is necessary to distinguish all events in their own circumstances to find the right decision.

It is obvious that to dismiss an employee within the context of sexual harass, it should be done fairly and judicious and should not be the subject of a punishment of the victim (employee) because of gender discrimination.

IV) GENERAL OPINION ABOUT THE SEXUAL HARASMENT IN TURKEY.

Although sexual harassment is a quite important and social problem in Turkey, Trade Unions or Government has not necessary interest yet. Nowadays only the activity of the NGO's pulls the attention of the society and the media within the context of women rights and discrimination. The main reason of the lack of interest is unawareness. There must be campaigns to improve the awareness of the society, and most of the women fears to talk about their experience because of the possibility of loosing their jobs. Victims go to the court very rarely. The women should be encouraged to talk about their experience or the events witnessed. There are some surveys done by Trade Unions, but it is hard to consider them as valid statistics because most of the women fears to explain their experience. The mentality of the population is that; if woman makes the sexual harassment public, it is sure that she would be the one whom accepted as the guilty side. Hiding the event of harassment is a general tendency in Turkey; especially victims fear to explain their experience which creates more offenders.

Nevertheless, it should congratulate the NGO's women search programmers. Advocates of women's rights in Turkey achieved a great victory on September 26, 2004 when the Turkish parliament approved a major reform of the Penal Code. Many amendments such as sexual autonomy and bodily integrity is adopted to protect women's individual rights and to be harmonious with international documents.

International movements encourage the Turkish NGOs to take significant steps towards to establish regional solidarity and support networks. It is necessary to fight for women's human rights; especially all kinds of discrimination are important issue to be solved. Although there are new provisions adopted in the new Penal Code, the performance of the provisions in life would not be easy. To strengthen women's equal protection under the laws, could only be successful, with wide spread net work to change the patriarchal concepts and domination of male gender which is not originally Turkish customs and usage.

Global human right norms are unknown in the rural areas. Most of the women are not aware of the right of freedom, bodily integrity, and sexual rights. The new Penal Code offered unprecedented right of women's bodily integrity and sexual rights. Marital rape and sexual harass accepted as crime. Penalties for rape, sexual assault and sexual abuse are aggravated. Considerable change is the elimination of the distinction between crimes occurs against virgin and non-virgin, married or unmarried women, and as it is mentioned above, the very important change is the provision which was legitimizing the rape incase the offender of the rape marries the victim.

New Penal Code classified sexual offence as crimes against individuals rather than crimes against society. So it is obvious and affirms the notion that, women's body belongs to them rather than to their families or society and women's rights are human rights.

V) REMEDIES TO PROHIBIT THE SEXUAL HARASSMENT.

Sexual harassment is a very important problem, not only in Turkish society but all around the world. That is why NGO's and international organizations and national government organizations work on the issue to find out effective solutions as remedy regarding to several different aspects.

To have some provisions in legislation is not enough to prohibit the sexual harassment in Turkey. The mentality of the male gender should be trained, starting from the early ages. Comparing with the past decades increasing number in sexual crimes and harassment is terrifying.

Education is one of the main raising problems in Turkey. During the last decades the explosion of the population without any planning caused the education system to collapse. Especially some states helped to grow the population in east villages with in the organization of aid programs, either by donation money or giving opportunity to educate the young generation in their facilities.

This generation is now about 30 years old. Although they may speak a foreign language they are unemployed. Most of them excluded from their society because of being strange ways of living. In addition to such group, there are other male individuals who are under the state of lack of contemporary education and lack of income, lack of having female gender relation, because of conservatism, so at the end this psychological and sociological situation causes the harassment any how. Even if psychologically defected individuals may have jobs they may easily harass the others in any circumstances.

Most of the well-organized work places give detailed interviews before signing the employment contracts to protect their employees against inappropriate events in work places. But this precaution is not sufficient enough to avoid the sexual harassment in general.

Unemployment is another important issue in Turkey. Although the government statistic shows that unemployment rate is not more than other European Countries, this explanation makes no sense.

Minimum wage is 300 USD, most of the employers even oblige the Trade Unions to accept the minimum wage in collective agreements, putting forward the economic situation, inflation and instability of international market and unemployment because of privatizations of the state enterprises. It is obvious that with that amount if only one person is working in the family and the members of the family are around 3 to 4 persons it is not possible to survive in Turkey. The pressure of this issue also causes sexual harassment even in marriage.

Now a day's another reason of the sexual harassment is cultural erosion. According to old Turkish tradition, culture and customs to respect and protect the female gender is an essential and ethical value. Turks, whom migrate in large groups to the Anatolia around 700-800 DC from Asia would not be able to protect and spread their customs and culture as pure as in the old centuries. The traditions, culture and belief of Turks were influenced by other cultures in the centuries. Nevertheless, majority of the Turkish origin people preserved and spend huge effort to survive the cultural values.

Almost in all societies, of such individuals who could not stand without applying violence and has no values of culture exist. They cause harass and inappropriate events and spoil the societies order, offend crime and injure the people, attack the individuals' protected rights. Hopefully they are not in majority but harassment events effect the society and injure the values of the society.

Some other sociological, physiological and economic reasons could be given as the cause of the sexual harassment and crime. But the main issue should be to avoid the sexual harassment and crime, which this kind of behavior makes individuals uncomfortable. It is necessary to take effective measurements to ensure the peace and security of the society.

Turkey, as being a country in crossroads, there are so many obstacles to give necessary importance to the said issue. So, it would not be wrong to say that, even if there are contemporary legal remedies, it would be hard to accomplish the occurrence of sexual harassment in near future without appropriate education of the whole society.

VI- CONCLUSION

At the new Penal Code, the sexual crimes arranged as penalties against sexual immunity. With the article which accepts rape in married life as a crime, aims that the concept of married women's statue should be change.

Accepting the sexual intercourse of children over 15 years old with their own consent as a crime become a topic of criticism.

Provisions in Labour Act relating with the sexual harassment are not in agenda as large scale. As mentioned above, victims are not ready to announce the events, because of family reasons. Especially for the young woman, who could hardly take permission from their parents or families to work in a job, is hard to explain the experience that they live or face with the sexual harassment. Penalty according to Penal Code Article 105 would be an effective provision to prevent most of the improper events.

Now a days, there are few presses news could be seen relating to the sexual harassment cases in either Criminal Court or Labour Courts. The popularity of this news is because the victims are the models or movie or TV stars mostly.



