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## **KEYNOTE**

### **“Women’s Rights In the Turkish Legal System Regarding The International Conventions**

## **PREFACE**

**The topic of the summer study of Towson University is (Turkey at the Crossroads: Women, Women’s Studies and the State), is a very distinguished detailed topic, which covers the contents of women- women work force and the State.**

**For all these topics five days would not be enough to cover it sufficiently, but will be a nice beginning. In addition to this I appreciate for organizing this kind of work in Turkey.**

## **GENERAL VIEW**

**It is a vast subject “Women’s Rights in Turkish Legal System Regarding the International Conventions and the Legal Documents. There are other speakers at this program, who will give you information about the political aspects of this issue. I thought that it will be enough that I will tell you about the points taken place at the Constitution, Civil Law Criminal Law, educational Codes, Labor Law and Social Security within the perspective of international conventions adopted by Turkey.**

**Nevertheless, before getting to the subject, being the first speaker, I would like to give you a brief note about historical and cultural aspects of Istanbul University, and also some notes how the Turkish civilization affected and the society.**

## **II – HISTORY OF ISTANBUL UNIVERSITY AND REFORMS**

**Istanbul University is one of the oldest educational institutes, not only for Turkey but also of the world, founded by Fatih Sultan Mehmet the conqueror of Istanbul. At that period,**

**the educational institutions called 'Medrese' Madrasah. Mostly they were theological schools.**

**The German Historian Richard Honig explains that the foundation of the Istanbul University should consider as March 1, 1321, but Turkish researchers convey the origin only to the year 1453.**

**In reality; the meetings held at Saint Sophia Church and Zeyrek the next day of the conquest are considered the beginning of the educational life of Turkish-Ottoman culture and the establishment date of Istanbul University. Researches say that Turks could not find the old university so they established a new one according to their civilization by themselves.**

**The first university established on 1470 at the Mosque Campus of Fatih Mosque, and as it is state by the Russian medicine professor Danisevski that the first faculty of medicine establishes at Istanbul.**

**This building, where we are now in, is the main building, which is located on a hill, as resembles to the university system of Rome and the faculties are equivalent to the faculties of medicine, law, philosophy, and literature is the core subjects of Istanbul University.**

**At the enlargement period of the Ottoman Empire, the emperors Beyazıd and Suleyman the Magnificent had added up faculties to this institute as the faculty of theology, science and letters. At later stages of the empire, when the fall began, the scientific and scholastic works began rejected, the rational mind lost its power, and while the whole of the empire system was losing power, the educational institutes shared the same destiny.**

**Even though some of the reformist actions took place where the signs of improvement towards the west had opened doors to the west, the reflection of this thinking on educational institutions were considered to be the reason of deterioration and the Sultans had to step back.**

**Then, on July 23, 1846, accepted that the real improvement could achieve by positive sciences and the Decree to**

**establish the modern university passed. This date accepted as the beginning of the secular high education, the university.**

**The first experimental physics lesson was given at December 31, 1863 but there was not much enthusiasm about it.**

**Later, at February 20, 1870, the modern university began its program again for the second time with the title Darulfunun-i Osmani. However, because of the lack of faculty and insufficient teaching material and the topic lectured not appreciated at that time (1872) this became the end of this attempt. The reason for this ending was the religious thoughts of the society. Some parts of the society could not stand the modernization.**

**The third phase of the university was at 1874, and at the Galatasaray Lycee. The faculty of literature, law and science established as Darulfunun-i Sultani, meaning the high educational institute of the Sultans. The lessons thought in Turkish and French. However, there are no public records and information about this institute after the year 1881. There had been three years of graduation but later for 20 years, no activity be traced. Now these buildings are the Galatasaray High School.**

**25. Anniversary of Sultan Abdülhamid the II on September 1, 1900, being on the reign, the university began again as the faculty of theology, mathematics, and literature, with the name Darulfunun-u Şahane (The University of the Emperor). However, this institute known to have no autonomy, had been strictly inspected by the authorities, and had been an institute of education far from rational sciences.**

**The Emperor's University had branches as theology, mathematics, medicine natural sciences and literature. Later political sciences joined them and were having classes at Zeynep Hanım mansion, where the faculty of Science and Letters is situated now. After this mansion burned down, the new building of the University built at its place.**

**After the proclamation of the Parliament, Istanbul University was established on April 20.1912. In addition, on 1919 with a new organization got its academic and managerial independence. Bernard Lewis tells that all these steps were very important for the birth of Istanbul University of modern Turkey and a very important threshold for the eastern culture. A very interesting aspect of Prerepublican era was that the girls who had completed their high school education could only attend to the admittance free for girl's classes at the university. Later there were special classes for girls at Zeynep Hanım mansion. Because it was not wished that they would be at the same classroom, the girl's classes moved to a building at Cağaloğlu. (it is now the historical neighborhood) At this period, girls not allowed attending faculties of law and medicine after the announcement of the republic girls accepted to the faculties of law and medicine and could attend the same classrooms.**

**The founder of Turkish Republic Mustafa Kemal Atatürk introduced us with many social reforms one of which is education.**

**The Turkish Republic right after it established needed a new organization based on scientific truth and free mind, had accepted the Decree no 493 on April 21, 1924, which formed the Istanbul Darulfunun as corporate body and at Oct 7, 1925 this organization, had its academic and managerial autonomy. The Madrasahs converted to modern faculties and as a mean of searching for modern academic way, at 1924-1926 foreign teachers invited to Istanbul.**

**Now The new Republic of Turkey got rid of its old and fanatical ways of thinking and did not carry any political fears ,that meant them to be apart from other countries of the world, decided to move on to the reformist era forever.**

**On 1933, with a decree, all educational organizations were appointed to the Ministry of Education, and at this time, it was decided to establish a new university at Istanbul. According to this on August 1, 1933 Istanbul University started with a new academic staff and organization. At the year of the 10 th anniversary of the Republic, on Nov 1, 1933, Istanbul University began its academic life as the first and only university of Turkey.**

**The World War II, an interesting fate, initiated the intellectual immigration and refuge of particularly German, Austrian, French, Italian and Hungarian scientists; and these foreign instructors were, either by taking refuge or being invited to Turkey have formed the colorful academic atmosphere with Turkish academic staff. This situation has improved the educational system of Istanbul University with a mental and scientific acceleration proven by the experience and scientificism of the west. Young academic members have thus formed and the university enlarged. The institutionalization, scientific methodology and research were established and a very favorable structure achieved.**

**By the 1961 Constitution, the universities disconnected from the Ministry of National Education and became autonomous. Later on although attempts taken to impose restrictions on the University for Political Reasons, the views and attitude towards Istanbul University have had, a substantial, historical effect, of not touching the universities' autonomy even by the amendment of the Constitution made in 1971.**

**By the New University Law no. 1750 dated 20.6.1973 which was enacted at the 50th anniversary of the Republic, Istanbul University was reformed largely. By this law, a supreme organization named Higher Educational Board (YÖK) established and very importantly, the older and well-established universities assigned the duty of meeting the academic staff requirements for the new establishing universities. Istanbul University has provided and is still providing academic assistance largely to the developing universities for supplying academic staff to them, as ordered by the law. Istanbul University regarding to the historical background it is still vanguard of scientific success.**

**Today Istanbul University operates under the provisions of the Law no. 2547 dated 6.11.1981, maintaining a historical, social and scientific function as a modern, progressive and secular educational institution.**

**The "snake logo", is the symbol of Istanbul University, which was inspired from Seljuk Recovery House motives dating to 1243.**

Moreover, a magnificent building that we are now in first constructed as the Ministry of Military during the Ottoman Empire then given to the University.

### **III – WHY TURKEY IS ON THE CROSSROADS?**

#### **A - HISTORICALLY**

Turkey at the Crossroads is a perfect explanation of Turkey's important role in this area. Because of its geographic situation and historical background, Turkey has been one of the most important centers of the world and it still is. The description of "Turkey on the Crossroads" is self-explanatory.

**To give a brief idea of how it is;**

Turkish Republic situated at the crossroads of Europe, Asia and Africa. At the east is Iran, at the west Greece and Bulgaria, at the south Syria and Iraq and at its north Armenia is situated. In addition, it surrounded by sea on three sides.

Let us now review the States or the populations that had been established and survived on this part of the earth:

The Hittites, Urartus, Phrygians, Lidians, Persians, Macedonian Empire of the Alexander the Great, Romans, Byzantines, Safavis that had influenced Anatolian Turkmenians at Eastern Anatolian borders, Seljuk's, Anatolian Seljuk's, Oghuz Turks, Ottomans as well as several peoples governed by the Ottoman Empire had filled up the stage. Anatolia, governed by the Moslem tribes during the period until completely ruled by the Ottoman Empire, received much immigration.

Anatolia, being surrounded by seas at three sides, was located in the midst of transport between Europe Asia and Africa. Its suitable climate, efficient lands and most importantly, its abundant hydro resources caused it to have been invaded many times. Today the top reason of the games played over Turkey is the WATER Problem.

**Since thirty years the top concern of the world is to produce policies on how to obtain lands with water resources for the future when there will be a lack of water. It is not difficult to understand why it was permitted to construct dams at the southeastern part of Turkey even during the war experienced for 15 years (I don't call this as terrorism, because what was experienced was a real war).**

**Anatolia is a very attractive place. And since her attraction continued in the course of history, the communities who came here by immigrations and invasions have enriched this territory from cultural standpoint as well.**

**Such immigrations and invasions have caused Anatolia to have a rich history. Anatolia with its very rich political, artistic, economic and even legal history continues to maintain its richness.**

**To list the civilisations with track records on Anatolia:**

**It was scientifically determined that in the years 10,000 B.C. a group of people named LUVI's lived at Çatalhöyük settlement in ANATOLIA as local people. These people at Hacılar Çayönü experienced Neolithic Age as well as the Calgolithic Age and that they experienced the bronze period, dealing with mining. What it means is that Anatolia is a region full of with ancient livings.**

**\* It seems that the Hitites were people who had come to Anatolia by immigration, though historians could not find from where and when they had come. It also said that the Hitites were original Turks. The track records of these civilizations and their living and culture can be seen on the Anatolian people in one way or other. We can even say that the people currently living in Anatolia have the same type of faces as those on Hitite fresks.**

**\* The Phrygians also came by immigration and lived in two separate regions in Anatolia, namely as the Major Phrygia and the Minor Phrygia, around Kızılırmak River and Cappadocia and around Bursa Uludağ, Bursa at the west respectively. Kibele, the Main Goddess of Anatolia, belongs to Phrygians. Archaeologically, they have left behind an important inheritance.**

**\* The Lidians established a civilisation in the surroundings of the rivers Gediz and Menderes, and this civilisation extending from Ephesus to the inner western Anatolia appeared to be a state that made and used the money for the first time in the history. Unfortunately, the Persians demolished the Lidians. This people dealing with art, trade and culture could not in fact afford the wars for long.**

**\* The Ions were the people who lived in the urban states formed by Akas who came from Greece in colonies and mixed with the local people in the locality extending from İzmir Bay to Güllük.**

**\* The Urartus established a civilisation around Van. Archaeologists definitely state that the Urartus were of Asian origin. In Urartus' religion, the Sun and all other existences in the sky deemed holy. Their neighbor, Asurians, gave the name Urartu to them. Later on the name of Urartu was changed to Ararat. Their distinctive feature as miners enhances the possibility that they came from Central Asia. Urartus were relatives with Hurrians. The Hurrian Civilisation located at Southern Anatolia influenced the Anatolian people as an advanced civilisation. The Urartus developed a great Civilisation. The Urartu miners influenced the Phrygians.**

**\* The Persians had also influence on the Anatolia people between the years 543-333 B.C. Anatolia remained under the influence of Persian culture.**

**\* The Asurians expanded up to Toros Mountains and Cappadocia as a state situated in the Southern Anatolia. They had great influences in Anatolia during the 18th and 17th centuries B.C. The Asurians were a state particularly having effect on the development of commercial life in Anatolian living. The Asurians were living in colonies, which made trade in flat settlements at the skirts of Kültepe Tumulus, Kayseri. Such information gathered from the tablets found. The Asurians came to Anatolia from Mesopotamia as a continuation of the Sumerian Civilisation and influenced the Anatolian people. Now the Syrians are the continuance of Asurians. The Syrian people since the 4th century A.C. has considered Asurians as their ancestors.**



**\* The Alexandrian Empire was a civilization that took Anatolia under its influence in the context of Alexander the Great is having expanded from Macedonia toward Asia. It has much effect on the Anatolian People. In addition, because of this, we see that the eastern and the western civilizations are mixed.**

**\* During the Akas' immigrations in the years 1200 B.C., the Akas established colonies in the settlement areas such as Ephesus, Milet, Trabzon, Sinop, and they appear to be people that were effective on the formation of Anatolian culture by mixing with local people. They had effects on the formation of Hellenism. All these differences can explain how democracy, secularism and Islam could prosper at the same land.**

**\* After Alexandrie the Great, the KINGDOM OF BITINIA founded at Erdek, Balıkesir near Çanakkale at Northwestern Anatolia, and PONTUS KINGDOM at Black-Sea and BERGAMA KINGDOM at Western Anatolia established as well. Eventually, these states issued invitation to the Romans, inviting the Romans to come and govern them and thus the Roman period started.**

**\* The Roman Empire influenced the Anatolian legal system, fine arts, and politics. They ruled over a vast territory from Rome to Egypt and left behind many archaeological ruins in Anatolia.**

**In the year 395, the Roman Empire divided into two, Istanbul named as Constantinople, was the capital of the Eastern Roman Empire. This state ruled from Istanbul, later got the name as Byzantium, and was ended 1453, and became an important part of Ottoman Empire. Roman Law is the base of European Law and still maintains its effects on the system of Turkish Law as well.**

**Because the Anatolian people were influence by variety of cultures, they practice Islam very different from other Islamic countries.**

**So democracy and secularism could achieve with Islam only by such interaction. The occurrence of such several raids, invasions, crusades to Anatolia would indeed cause mixing of the eastern and the western cultures, which appears as the richness of the country and of the nation.**

## **B - HOW TURKS CAME TO ANATOLIA**

**The Anatolian land where the Turkish Republic founded, such civilisations as we listed above came and lived, and many of them passed through or went away, the culture of some maintained their effect and some were undergone changes.**

**Turkey as a cradle of many civilisations and nations has a full historical inheritance. However, it should be stated that the Greeks, Syriacs, Celdanians (Orthodox), Nasranians who maintained and are still continuing to maintain their own culture, civilisation, language and religion on this land. Armenians immigrated at Emperor Justinianus time during the period of Roman Empire, and the Armenian people settled by him in the surroundings of Erzurum and Erzincan also continued to live on these lands during the period of Ottoman Empire in the same manner. All these groups have maintained their own culture, religion and language. These people lived here as the nationals of Roman Empire as well as of Ottoman Empire, and are currently living on the same land as citizens of Turkish Republic.**

**The Greeks (Roman citizens not people from Greece) lived with Ottoman Empire beginning from Byzantium and maintained their living as Roman (RUM)( Greek) and are non-Muslem people.**

**In line with these explanations, it would be of use to put emphasis on the description of whether the Anatolian people are composed of as a mosaic or not. It should identify if this is a mosaic or an alloy; because, in many books, these two concepts are confused.**

**A mosaic can defined as an integrity in which any components having different features are involved individually by maintaining their own features.**

**In view of Turkey, it is not possible to mention as mosaic, because mosaic implies that the individuals with different form of religion, language and life style on the same piece of land, as their country.**

**Mixing of various elements having the same cultural origin such as Turkish, Arabic, Persian, Laz, Bosnian, Georgian, Albanian, Zaza and Kurdish with other cultures to form a compound of another culture on the same lands cannot be qualified as a mosaic.**

**It would not be wrong to admit that those people from different clans, who speak the same language, believe in the same religion, though involved in different sects; and who are not nationals of different states to come together lives on the Anatolian land as an alloy. Because several Turkish states established, and formed Anatolian Turks in a cultural accumulation, in which the Turkish ness aspect remained effective and suppressive.**

**On the contrary it can be perceived different. Against the fact that such formations of clans, tribes, beylics, princedoms, khanates, kingdoms, empires coming from the same origin, can't they live in brotherhood?**

**It would not be wrong to say that the Oghuz Turks are a part of Turkish-speaking clans who came to Iran via Mavennahünehir and to Anatolia, mixed with many ethnic groups to form a nation with Turkish identity. However, it is a fact that the people who came to Anatolia whom we call Turk omen or Turks speak Turkish language. Because there are not documents about this matter, not much interpretation can made. It took very long time for this Turkish-speaking people to come to Anatolia and they founded or helped states on their way, and at last they came here by conquest.**

**However, due to the unique character of Turks, they maintained their own culture, features and nature at every place where they settled.**

**In short, the Turks, who came to Anatolia in the years 700-800 A.C. and lived on these lands for centuries, formed various**

**states and ultimately, by forming a secular republic governed by democracy, they continue their sovereignty on this land.**

**Geographically that is the first reason why Turkey is at the crossroads, but this is not the only reason why she is at crossroads.**

**The second reason is that such civilizations as we mentioned above had established on these lands are worth living, intercontinental transport and compound of civilizations are available. Migrations from Asia to Europe for discovering new continents and to the south were realized on this land. Crossing from Asia to Europe, several states founded on these lands and, Roman Empire made its raids to the east via this land. The Crusades took place on this land, the Eastern Roman Empire maintained its sovereignty on this land and righted with Turks on this land.**

**There is no other land in the world where such a complexity of various cultures, races, languages and religions incorporated to form such integrity. Those who lived on these lands, also being the nationals of such states as we listed above, have indeed left their tracks behind them, and this is why the nationals of this country have so much accumulation of cultures in her past. This is a great richness.**

**Another important reason is that Turkey's position as a country at the crossroad is very important that the international political relations of Turkey with their neighbors are on a very fine platform. Although there are severe problems arising in between, they consider Turkey as a conflict-preventive and crisis-manager.**

**Both parties politically prefer, the Turkish Government as a mediator in most of their interstate conflicts for political or military purposes.**

**It has now been understood by the World states and by supranational institutions that without Turkey, the non-Moslem developing countries would have no skill whatsoever in solving problems with their surrounding countries.**

**We can explain these as follows:**

**→Without Turkey, arrangement of oil transportation from the Middle East might not be possible.**

**→Without Turkey, settlement of democracy in the surrounding countries might not be possible.**

**→Without Turkey, it would not be possible for Europe, USA and Russia to establish the trade relations and the system, which they wish to establish under the name of democracy in the surroundings of Middle East and Caspian Sea.**

**→Without Turkey, it is not possible to implement peace programs in the Middle East as well as in the particular regions of Asia.**

**So, let us see the legal system related to the rights of women living in “Turkey at Crossroads” is and what kind of women’s rights are available in this country with very intensive accumulation of cultures where so many civilizations were established in the past.**

**By visiting Turkey, you will have the opportunity to be able to see that Turkey is not the same as seen from outside. Besides, by hearing conflicting thoughts, from very distinguished speakers on human rights and women rights issues is very fashionable these and recent years, you will also determine the richness on this.**

**As a legal person, I would like to give you the juridical sources of Women’s rights. How much of this is operational, you will hear it from sociologist, practitioners and those in charge of polling will more clearly tell you to what extend it is implemented or not implemented.**

## **IV - LEGISLATURE AND WOMEN RIGHTS**

### **A) INTERNATIONAL DOCUMENTS**

**Turkish legal system based on democratic and secular principles. Equal rights and enforcement of law is fundamental at this system.**

**International agreements are very important and great emphasis placed on them. It is not that in our system we have fewer rights than especially in Europe or our system gives less opportunity to people to reach justice, Turkey has a very contemporary legal system and that nearly all international agreements are accepted and applied. It is contemporary that especially the women's rights agreements and other international documents about human rights are applied to national system.**

**It has emphasized that the article 90 of Turkish Constitution states that any international convention comes into force in accordance as the procedures of acceptance are completed; these became a part of Turkish legislation.**

**The international conventions (either United Nations or Council of Europe documents) that ratified and signed by Turkish government that related about the women's rights mentioned below:**

**a) Convention on the Elimination of All Forms of Discrimination Against Women. (United Nations Conventions-dated Dec. 18, 1976)**

**Turkey had ratified this document on and accordingly with the Elimination Against Women Act was accepted on June 11, 1985 and on Dec. 20, 1985 completed the procedure.**

**b)Convention on the Political Rights of Women. (United Nations Convention New York dated March, 31, 1953)  
Turkey has accepted it on Jan, 12, 1954 ; it is in force since Jan, 26, 1960.**

**c)Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women. (United Nations Protocol, New York Nov 06, 1999.  
Turkey had signed this document on Sept, 9, 2000.**

**d)International Convention on Civil and Political Rights (United Nations document dated Dec.6,1966 )  
Turkey had signed this document on August,14,2000.**

**e) European Convention for the Protection of Human Rights and Fundamental Freedoms. (Accepted by the Council of Europe in 1952)**

**Turkey had ratified this document on March 10, 1954**

**f) Social Chart (Council of Europe document dated 18.Oct 1961)**

**Turkey had ratified it on July, 4, 1999 Decree No 3582.**

**Additional Protocol to the European Social Charter was also signed on May, 5, 1988.**

**Besides all these documents of either, the United Nations or the Council of Europe works on; many issues on discrimination about women or abuse of women, works done by the subcommittees also. They are helping to the state parties that signed these documents or even to the states which are not even parties to the organizations, trying to inform them about their rights or what can be done to avoid the abuse or help them do work on national scale about this subject.**

**Turkey being a member of all these organizations had done what it is to be done legally at national scale and also a great variety of NGO"s are working on this field. The NGO"s is especially working to built social awareness. The government also tries to prevent violent actions against its citizens especially women and work with the NGO"s on several programs.**

## **B) NATIONAL DOCUMENTS WITHIN THE CONTEXT OF INTERNATIONAL CONVENTIONS**

### **a) TURKISH CONSTITUTION**

**Social rights that the Turkish citizens are favored had been a part of the Turkish Constitution since it is accepted.**

**Since the beginning of the Republic there had been four Constitutions (at 1921, 1924.1960, and1982) with different code numbers. The recent constitutions is codified on Nov. 7, 1982 Decree no 2709.**

**The special articles that take place in Turkish Constitution especially on this matter give a better view of the subject.**

**The preamble of Turkish Constitution begins by stating that**

**”.....every Turkish citizen has the right to exercise the fundamental rights and freedoms set forth in the Constitution on basis of equality and social justice.”**

**Article 2 gives the fundamental characteristics of Turkish Republic States that Turkish Republic is a democratic, secular and social state, respectful to human rights, and governed by the rules of law.**

**Article 5 determines the duties of the social state and the obligations of as to respect and protect the rights of human beings and progress on:**

- Fundamental freedom and rights of the individual,**
- Remove the political, social and economic obstacles, which restrict the fundamental rights and freedoms of the individuals.**
- Provide the conditions required for the development of the individual’s material and spiritual existence.**

**Article 10 is about equal treatment before the law. Accordingly, all individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any other such consideration.**

**The said article also states that no privilege granted to any individual, family, group, class, state organs, and administrative authorities should act in compliance with the principle of equality before the law in all their proceedings.**

**Fundamental rights of individuals take place at article 12 of the Constitution. It is stated that every individual possesses inherent fundamental rights and freedoms which are inviolable, not transferable and inalienable.**



**Article 42 of the Constitution is about the rights of education and training. According to this article no one could be demolished his or her education rights. Fundamental or primary education is compulsory and free of charge for every boy or girl and every citizen.**

**The constitution sets forth the general rules about the rights and freedom and gives directions to establish for ways and means of the establishing all of these specific codes.**

### **b) WOMEN'S RIGHTS WITNIN THE CONTEXT OF CIVIL CODE**

**Besides the Constitution, the chapter about family law of Turkish Civil Code has supplied additional rights on proprietorship of women since 1926.**

**Although there is not a legal discrimination at heritage law about men and women, the situation of the surviving spouse, when the partner dies, the portion of the living spouse is sharing the heritage with their children, or sharing the heritage with the died one's relatives, if they have no children. Giving half of the heritage to the living spouse would be the ideal distribution, with whom the heritage would split equally with the others. This issue worked by NGO's and Bar Association on as a proposal to the parliament for amending the law, at the process of codification, but the parliament did not accept.**

**The Civil Code revised at October 8, 2001 and in power at 1 January 2002 arranged a very important new article about the property law in favor of women. Before the amendment, separation of properties was the legal system, but now sharing the added properties after the marriage is the legal form. In other words, both parties at marriage would share all the assets gained after, except the ones inherited from their parents, donated especially to one of them or gained by lottery. At divorce, all the assets will be shared percentage 50- % 50.**

**If the partners did not sign any other agreement, this will be the rule. At this point, there is no discriminaton of men or women.**

**If the parties married before January 2002, if there is not a signed agreement for all the property that gained after 2002, it will split up in half, or an agreement will be signed accepting this regime to be in effect from an earlier time. Or else the married couple can choose the personal property regime instead of the legal form that is sharing half-and-half.**

**Within the context of inheritance rules, Civil Code must have some modification; this is an important expectation of the women in our society.**

### **c) WOMEN'S RIGHTS WITH IN THE CONTEXT OF CRIMINAL CODE**

**Criminal Code is the most important law that criticized being against the women's rights in Turkey recently.**

**However, it can say that the content of the criminal Code is matching with the international documents.**

**The Criminal Code revised according to the points at CEDAW report. The articles that pointed out as being against the women's rights were abolish, or changed accordingly. This had been the result of tedious work of many women's associations for two years or more and as a result, the articles that were against equal rights of women abolished.**

**The new Criminal Code will be in effect on June 1. Some changes still done and not known what the alterations of the new Code will be.**

**The changes done in the Criminal Code so far are those:**

**\*Sexual assault among married couples are considered crime (Art.102/2)**

**\*Sexual abuse to women workers at their work place considered sexual arrestment. (Art 102/3-b)**

**\*The punishment to inflict to the person who causes women to quit its job because of sexual harassment is aggravated.**

**\*Before the amendment of the Criminal Law, if the woman who raped marries the rapist, the punishment postponed, now this statement is changed and there is no postponement.**

**\*Murders under the motive of honor killing get the most severe sentence, sentenced to lifelong prison.**

**\*If the parents kill their daughter in the name of honor, or because their girl married to the person that they did not approve, not gets any reduction of their punishment pertaining to unfair provocation.**

**\*Violent action at the family is consider as torture and the penalty for that is to be given the most severe form of torment.**

**\*Not taking care of the married wife or husband considered a crime and not giving support to the pregnant women that carries his child punishes.**

**\*The punishment for prostitution is derivate, and to encourage help or force to be a prostitute is punished severely. Outsourcing women from different countries, forcing the children to prostitution punished. The women who are force to prostitute no punishment give to, only they given medical help or therapy.**

**If we look at the points that are brought to attention by CEDAW**

**Article 2 of the Convention which is:**

**“State Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake;**

**a)To embody the principle of the equality of men and women in their national constitutions or other appropriate**

**legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;**

**b) To adopt appropriate legislative and other measures including sanctions where appropriate, prohibiting all discrimination against women.**

**c) To establish legal protection of the rights of women on a sexual basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discriminate.**

**d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.**

**e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;**

**f) To take all appropriate measures. including legislation, to modify or abolish existing laws regulations, customs and practices which constitute discrimination against women;**

**g) To repeal all national penal provisions which constitute discrimination against women.**

**Has accepted.**

**According to CEDAW article 15/I is:**

**State Parties shall accord to women equal with men before the law.”**

**According to this statement, there is not any contradiction with the Turkish Criminal Code.**

**The discussions about the Criminal Code impose by several NGO’s and this gives some ambiguity to the judge to decide upon**

**the case. However, the law is strict and it is practice equally to everyone. It means that the judge has no right for discretion.**

**The most important issue is the killing for honor and killing for traditions. (I must say that, in the old days in Turkey there wasn't such kind of Arabic or Islam origin punishment for the women. There was only blood feud between some families arouses of property disputes or some killings because of economic factors or silly arguments arouse between friends even, but not because of opposed marriages or killing for honor like Arabia.)**

**Now we can see that it is been a hot issue in Turkey's agenda or it has been made up intentionally as an issue.**

**I think that;**

**Turkey got and still gets illicit migration from Iran, Iraq and Syria, because of political, economic, and legal reasons, and the living conditions of these countries were and are harder than Turkey.**

**Many of these people even young children without families had run away from the borders illegally and come to live in Turkey. Those who had the relatives in Turkey were much lucky in loosing their traces. These people found so many ways of crossing the border or came as a tourist and stayed in Turkey forever. At the Population Polls done once in five years, these young or elder people, declared that they have no identity cards because of their parent's negligence.**

**By managing to have identity cards automatically, they become citizens, which mean becoming a part of Turkish population. This illicit way, had added up a great amount of population at Turkey, where the Turkish population on the Polls in 1925 shoved that Turkish citizen were only around 12 million. The cause of this was those men population killed during the Independence War.**

**Now the Turkish population is around 80 million, and the cause of this must be detected well.**

**Also, as a coincidence, the severe population growth has been especially at the southeast. In addition, at the same land these Kurdish and Arabic speaking new population are forming. Moreover, these people do not speak the same language or the same dialect of Arabic or Kurdish as at the southeast part of Turkey where the Arabic and Kurdish origin people lived in harmony as in the old days. The identity of the new comers cannot be traced, because they cannot prove any ancestors.)**

**For the killing for traditions Turkish Criminal Code, article 82, has sentenced the most aggravated degree as life long prison. In addition, this is not considering unjust provocation. At this situation, according to the wording of the Code, the judge does not have the right to determine to diminish the punishment, but the NGO's have a different opinion on this subject. For the honor killing, where the husband kills his wife or the wife kills her husband if there is a sexual relation, this is punished according to article 81 of the Criminal Code, and they are sentenced to life long prison, for the act of intentional murder.**

**Only the judge can decide at this point, considering Article 24 of the Criminal code, and lessen the punishment as reasoning it is just provocation. At this point, there should not be any judgment of decreasing the punishment as considering it as provocation.**

**For me, it is not fair to apply a decrease to this penalty by the judge's decision.**

#### **d) WOMEN'S RIGHTS WITHIN THE CONTEXT OF EMPLOYMENT**

**In Turkey, the legal structure of the working women is scattered in different codifications according to the fields they work. If one is a government officer different rules are applied than a worker.**

**The social security organizations for different workers are also different. But for all these different codes, equal rights and**

**opportunities are necessary, and equality before the laws is the main principle. For this reason, there are some opportunities set out for women, because of their nature, repeated in all of them.**

**The legal rights of working women in Turkey were at international standards before Turkey signed the Convention on Elimination of all Forms of Discrimination Against Women. Because Turkey is a member of ILO and although did not ratified the whole conventions of ILO is practicing most of the key rules. For this reason, any reform of the Turkish Labor Law does not cause important problems in the country. As mentioned above, Turkish citizens have equal rights before law according to Turkish Constitution. This main principle has affected all the working life and the legal principles so that there is not any discrimination of men or women. The legal Codes has equal principles on working rights, wages, working conditions, social security, retirement and rights of compensation for both men and women. It is not possible to make a different arrangement than this basic legal principle. The employer at its work relations cannot discriminate race, sex, language, political thoughts, belief, religion and sect or any like subject.**

**The employer cannot offer lower wage regarding to different sexes. Because of special preventive measures, lower wages cannot offer.**

**Incase the employer violates the mentioned rules pecuniary punishment can be determined.**

**Furthermore, incase the employer violates the said obligations mentioned in the law, workers has the right to sue the employer for their loss amounting to his/her four months salary plus benefits he did not obtain.**

**Apart from the rules pertaining to the benefit of workers in general, without any discrimination, there are also below mentioned protective rules for women as positive discrimination at Labor Law.**

**If need to summarize:**

**- Women workers are in better conditions in principals of getting severance payment. If a women worker because of getting married terminates the employment contract voluntarily within one year as of the date getting married, they are entitled to have a severance pay. In Turkish Labor Law, severance payment is an institution, which is money legally due by employer to the worker, incase of implementation of some conditions depending on expiration of the labor contract.**

**-It forbidden that the women workers cannot be employed under water or under ground.**

**- Women workers may only work according to the obligatory rules that placed in guidelines in night shifts and on some industrial plants.**

**- Pregnant women protected because of this reason. For the pregnant women eight weeks of leave before the birth and eight weeks of leave after the birth, which is totally 16 weeks of paid leave accepted. During this period, even if the worker wants to work forbidden for the employer to accept them at work.**

**According to the pregnant women's health conditions, this period can be longer. In addition, the women worker may ask free leave up to six months, because of this reason. This is not compensating for yearly vacation. When women worker begins work after giving birth to her child, she has one and half hours of leave each day for breast feeding her child. How to use this time is up to the women worker.**

**Positive incentives for women workers pertaining to Social Security Law:**

**Men and women can retire or have old age insurance at different ages. Generally, in Turkey women can retire at the age of 58 and men at the age 60.**



**There is a special coverage for women that are motherhood. Women workers besides getting all kinds of health cover can have compensation also while she is away from her work. There is not any other sexual discrimination about women workers besides these mentioned above.**

**Evaluation of CEDAW within the context of Employment, Social Security and rural living:**

**The article 11 states that:**

**“State Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same right, in particular.**

**a) The right to work as an inalienable right of all human beings.**

**b) The right to the same employment, opportunities, including the application of the same criteria for selection in matters of employment.**

**c) The right to free choice of profession and employment, the right to promotion ,job security and all benefits and conditions of service and the right to motion ,job security and all benefits and conditions of service and the right to receive vocational training and retraining including apprenticeships, advanced vocational training and recurrent training.**

**d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.**

**e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;**

**f) The right to protection of health and safety in working conditions including the safeguarding of the function of reproduction.**

**2- In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their**

**effective right to work, State Parties shall take appropriate measures.**

**a) To prohibit, subject to the imposition of sanction, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status.**

**b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.**

**c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of the network of child-care facilities.**

**d) To provide special protection to women during pregnancy in type of work proved to be harmful to them.**

**3- Protective legislation relating to matters covered in this article shall review periodically in the light of scientific and technological knowledge and shall revise, repealed or extended as necessary.**

**The rights stated in these articles take place in the Turkish legal system. That is why anything related with these subjects are already exist in the Turkish legal system so there isn't any subject to be considered further.**

**The article 12 of the CEDAW is:**

**“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, Access to health care services, including those related to family planning.**

**Notwithstanding the provisions of paragraph 1 of his article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal**

**period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”**

**In Turkish legal system, this subject is also cover so there is not any need for any other modification on this issue.**

**Nevertheless, it should be clarified that there is not a general social insurance system in Turkey. Also in the world, there are many countries where mandatory health insurance or any kind of free health insurance is not possible. Only very wealthy nations can afford such free health coverage, and this is somewhat impossible or is a utopia.**

**Even thought there is not a general health insurance in Turkey there are different social security systems without discrimination of men and women, who are working for public officers, workers or people working at their own premises as employers or workers or employers at agricultural field.**

**For this reason, a large majority of the community, as workers, employed or employees or agricultural workers are covered with health insurance. Besides all these mentioned groups or unemployed people or people do not fit to any category mentioned above, has given health care by the government and it is called Green Card. This is how health care provided to economically poor people.**

**Article 13 of CEDAW states that:**

**States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:**

- a)The right of family benefits;**
- b)The right to bank loans, mortgages and other forms of financial credit;**
- c)The right to participate in recreational activities, sport and all aspects of cultural life.**

**There is not any discrimination of men and women about the items concerned at this article. All the rights and opportunities**

mentioned in this article dedicated to all Turkish citizens. So there is no need to make any other revision for women.

**Article 14 of CEDAW states that:**

**“1. State parties shall take into account the particular problems faced by rural women and significant roles which rural women play in the economic survival of their families, including their work in the non/monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.**

**2. State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate at and benefit from rural development and, in particular, shall ensure to such women the right:**

**a) To participate in the elaboration and implementation of development planning at all levels.**

**b) To have Access to adequate health care facilities, including information counselling and services in family planning.**

**c) To benefit directly from social security programmers:**

**d) To obtain all type of training and education, formal and non formal including that relating to functional literacy, as well as inter alia, the benefit of all community and extension services. In order to increase their technical proficiency.**

**e) To organize self-help group co-operatives in order to obtain equal Access to economic opportunities through employment or self-employment.**

**f) To participate in all community activities:**

**g) To have Access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reforms as well as in land resettlement schemes.**

**h) To enjoy adequate living conditions, particularly in relation to housing sanitation, electricity and water supply, transport and communications.**

**In Turkey legally is not any discrimination for the women working in rural areas. It means working men and women at this sector does not have different rules and opportunities.**

**However, the truth is that the rural women in Turkey usually works at their fields and farms for the survival of their families without paid. This is very hard to control and at the traditional Turkish family life, it is very hard to change this structure to economical scale.**

**In fact, workers of rural sector and agricultural workers and the employers must comply with the rules of employment Law; these binding states take place at the legislation. The wordings of the law and the decrees are in harmony with the international documents and there is no need for any revision of the law also any need for any amendment. Recently those who are working at the agricultural field are bound with Labor Law that needs no modification.**

**There is also another positive discrimination for women at social security coverage. If they are single and have a father who was covered with social security, and after the death of her father, the daughter has the right to get a part of his pension, where the son can not get after the age 18 or he is out of school.**

#### **e) WOMEN'S RIGHTS WITHIN THE CONTEXT OF EDUCATION.**

**In Turkey, Turkish women can have the same education as Turkish men. This is the legal form in all Turkish Codes about education. There is not any article about discrimination of women.**

**The Turkish Constitution, states that primary education is compulsory and without any pay to any of its citizens. The government has the obligation to have all needed means for primary education that is eight years from the age of 7-to 14.**

**The statistics about literacy of women shows a lack of this. It mostly is the result of hard financial and natural conditions.**

**The parents with many children prefer to send the boys to school if they have limited financial possibilities, because later they will be the men who will be breadwinners. Girls brought up to get marry and their responsibilities are for the continuity of the gender and the survived of their families.**

**All schools in Turkey are secular and they regulate and control, inspect by the government. According to the same rules of law, that consists of equity.**

**There are both public and private schools all around Turkey Public Schools are free, for private schools you have to pay tuition. Public schools can be accessible in any place of Turkey, besides. So, the government has boarding schools for both boys and girls at the east and southeast parts of Turkey where it is hard to reach school because of harsh climatic conditions. These schools are also free now; at eastern parts there are new campaigns for supporting the girls to attend school. Some incentives by the government are given, like a little amount of money per year/per family.**

**The legal proceedings for the girls to be accepted to school are the same as boys. The girls accepted even to military schools, and to all kinds of technical schools that give them vocational skills.**

**All students take the same exams to enter all kinds of schools, so discrimination cannot make. They have the right to sue at the Court. If the girls are as bright as the boys they can reach to any kind of grants or scholarship programs with the boys.**

**There are more programs for the health and well-being of the families, especially family planning for women in Turkey. Women rural areas even more interested on this subject comparing men.**

**All these are in accordance with the article 10 of CEDAW.**

## **CONCLUSION**

**As I was trying to explain you that the “Turkish Constitution” has all modern terms and was revise accordingly with international conventions, it is not wrong to say that women’s rights legally taken into consideration where there should be no discrimination.**

**2006**

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