

THE TRIAL OF KEREM ÇAKAN: THE TURKISH JUDICIARY AND HONOUR KILLINGS

TRIAL OBSERVATION REPORT

November 2009

By Michael Kearney



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KURDISH HUMAN RIGHTS PROJECT
BAR HUMAN RIGHTS COMMITTEE OF ENGLAND AND WALES

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The Kurdish Human Rights Project is an independent, non-political human rights organisation founded and based in London, England. A registered charity, it is dedicated to promoting and protecting the human rights of all people in the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include Kurdish and non-Kurdish people.



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LIST OF ABBREVIATIONS

CEDAW	United Nation's Convention on the Elimination of All Forms of Discrimination against Women
DGSPW	Turkish Republic Prime Ministry Directorate General on the Status and Problems of Women
DTP	<i>Demokratik Toplum Partisi</i> (Democratic Society Party)
ECHR	European Convention on Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
KHRP	Kurdish Human Rights Project
Mazlum-Der	Association of Human Rights and Solidarity for Oppressed People
UDHR	Universal Declaration on Human Rights
VAKAD	<i>Van Kadın Derneği</i> (Van Women's Association)
WRC	Van Bar Association Women's Rights Committee

FOREWORD

The Kurdish Human Rights Project (KHRP) is committed to raising awareness and addressing the issue of violence against women throughout the Kurdish regions. The difficulties experienced by women in accessing justice and reporting violence at home has been repeatedly relayed to the organisation. Based on these reports and its own research, KHRP has long been concerned by the ineptitude displayed by the Turkish government in ensuring the effective application and implementation, of legal guarantees and obligations for the protection of women's rights, and the failure to adopt practical measures to prevent domestic abuses.

This was KHRP's first opportunity to observe a trial such as this. Having led and been involved in fact-finding missions, trainings, and trial observations related to the prosecution of women's rights defenders in Turkey, KHRP identified the case of Eylem Pesen's murder as the embodiment of the country's systemic problem of violence against women; one that would serve as a solid illustrative case to help disseminate knowledge and understanding of Turkey's obligations, under international law, to refrain from any form of discrimination against women.

KHRP has developed extensive efforts in the protection of women, notably through its collaboration with a local civil society organisation, the *Van Kadın Derneği* (Van Women's Association, VAKAD). KHRP and VAKAD have worked together in organising training seminars for members of women's organisations in Van, Turkey, helping to raise awareness amongst human rights defenders of Turkey's failure to comply with the United Nations' Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). By inviting VAKAD to attend the trial, the mission could observe and demonstrate the need to improve a defendant's access to a fair trial, and encourage women and women's rights defenders to pursue and strengthen their own tools and methods of advocacy.

The report itself highlights the need for progress in increasing the transparency of the Turkish system, and a more coherent and effective approach— legal, cultural, social, and economic— towards ensuring respect for the rights of women in Turkey. In particular, the mission's findings from its observation of the trial point not only to the ongoing breaches of regional and international human rights law, but also to Turkey's considerable lack of effort in preventing honour killings in the Van region. While this case may have set a precedent for future prosecutions for honour killings, significant changes are still necessary within the Turkish system.

The need for deeper measures is revealed by the police force's inadequate response, and the lack of trust and reliance of women in Turkey on the judicial system. The report also underlines the need to change societal attitudes towards discrimination against women and in particular, to honour crimes, and calls for social awareness campaigns to be included within any programme of legal or internal reform.

Kerim Yildiz
Chief Executive, KHRP

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INTRODUCTION

The trial of Kerem Çakan highlights the ongoing violence and discrimination against women, commonly witnessed in the Kurdish region of Turkey, as well as the failure of Turkish authorities to ensure in practice, their stated aims of protection of women from violent abuse.

Indeed findings revealed last February by the Turkish Republic Prime Ministry Directorate General on the Status and Problems of Women (DGSPW), were that four out of ten women in Turkey are beaten by their husbands.¹ The response of Justice Minister Sadullah Ergin, to a formal inquiry from Fatma Kurtulan, MP and Deputy Chair for the *Demokratik Toplum Partisi* (Democratic Society Party, DTP) in Van, reveals that the number of women murdered in Turkey has drastically increased in the past seven years.² In his response, the Justice Minister provided data on violence against women and the number of women murdered since 2002. According to the statistics, 66 women were murdered in 2002, whereas 953 women were murdered in the first seven months of this year alone. Another response by the State Minister for Women and Family Affairs, Selma Aliye Kavaf, to a formal inquiry from DTP Batman Deputy, Ayla Akat Ata, also confirms the seriousness of honour killings and violence against women. In her response, the Minister stated that 1,100 women were killed in the name of honour in the last five years, based on a report from the Province and District Human Rights Boards which encompass Turkey's 81 provinces.³ The Minister also noted that 61 per cent of women who were placed in shelters stated that they were subjected to violence.

As co-founders of the European Union (EU)-Turkey Civic Commission, KHRP promotes Turkey's bid to accede to the EU, seeing it as an effective means to address the country's poor human rights record. The EU has placed an emphasis on Turkey's need to improve its efforts to monitor human rights abuses as a condition of

1 Global Post, 'Turkey's shocking domestic violence statistics', Nichole Sobecki, 20 February 2009. See <http://www.globalpost.com/dispatch/turkey/090219/turkeys-shocking-domestic-violence-statistics> (last accessed 15 November 2009).

2 Today's Zaman '953 women murdered in 7 years, minister says', 9 November 2009. See <http://www.todayszaman.com/tz-web/news-192395-953-women-murdered-in-7-years-minister-says.html> (last accessed 9 November 2009).

3 Fırat News Agency 'Kadınlara yüzde 61'i şiddet görüyor' 3 November 2009. See <http://www.firatnews.com/index.php?rupel=nuce&nucelID=16319> (last accessed 3 November 2009).

its entry, and cases such as the murder of Eylem Pesen are particularly important in the context of its ongoing reform agenda. However, as the European Commission's 2009 Progress Report on Turkey identifies, despite several positive steps taken by the Government, particularly in undertaking reforms of the judiciary and opening debate into the Kurdish issue, the pace of reforms— including on women's rights and gender equality— needs to be stepped up considerably.⁴

As highlighted by this report, the trial proceedings against Çakan do go some way in ensuring that perpetrators of violence against women in Turkey are brought to justice under the law. Nevertheless, Pesen's murder also highlights deficiencies in Turkey's efforts to commit to internal reform. Furthermore, it brings attention to the inconsistencies in its legal system and its failure to overcome ingrained cultural mindsets, prejudicial to the rights of women. Not only does the 2005 Turkish Penal Code fall short of meeting basic human rights standards, but those serving within the police and judicial system often fail to recognise or take seriously honour crimes. As a result they tend not to effectively investigate instances when victims have reported being at risk from, or have in fact been killed as a result of an honour crime. Indeed in this case, after hearing Çakan's argument that his wife was involved in a sexual relationship with his brother Tahir Çakan, the court saw no need to investigate the possibility of the defendant having committed the murder in the name of 'honour', or to cross-examine other family members in this respect, such as to scrutinise whether they too could have been implicated in the killing. Most importantly the indictment did not qualify the case as an honour killing, which would have increased the charge to aggravated homicide and with it carries a heavier sentence. The court's omission in this regard is demonstrative of honour crimes not being given enough attention by the Turkish government.

It is the view of the mission that as such a significant and pervasive issue in south-east Turkey, efforts to prevent and punish violence against women must be placed at the centre stage of any effort to improve Turkey's judicial system, and the government's efforts in this regard must be of critical consequence for the country's position in the international arena.

4 Commission of European Communities, *Turkey 2009 Progress Report*, 14 October 2009, available at http://www.ihb.gov.tr/english/turkey_progress_report_2009.pdf (last accessed 13 November 2009).

I. BACKGROUND TO THE CASE

Between 26 and 28 August 2009, KHRP closely observed and monitored the initial trial proceedings against Kerem Çakan. The 25-year-old man was brought to trial before the Van Heavy Crime Court Number 2, Van, Turkey for intentionally killing his pregnant 17-year-old wife, Eylem Pesen. On 17 May 2009, Çakan allegedly stabbed her to death, before running her over with his car. Consideration of all the accessible evidence and the autopsy report clearly indicated that the murder of Pesen was premeditated; at the hearing the defendant was not granted any defence of mitigating circumstances.

In his statement at the initial court hearing the defendant claimed that he had suspected that Pesen was involved in a sexual relationship with his older brother Tahir Çakan. Yet he also subsequently stated her confirmation to him that she had been twice raped by his older brother.⁵

When the mission spoke to the victim's father, he stated that Pesen's husband had made prior attempts on her life, which he had sought to make look like either suicide attempts or accidents. Like many women who are the victims of domestic violence, Pesen had not made any formal complaints of these incidents prior to her death.⁶

As was relayed to the mission by the victim's family, they had taken Pesen out of high school while she was studying in second grade, and she had been forced to marry Çakan, her maternal uncle's son. The mission heard that the couple had a religious marriage ceremony and never married in accordance with Turkish civil law.⁷ It also learned from the *Van Kadın Derneği* (Van Women's Association, VAKAD) and others that this practice is not infrequent in south-east Turkey where women of 16-18 years of age are often withdrawn from school and placed in religious-only marriages, without any civil wedding procedures as required by law.

5 Transcript of Trial Hearing as recorded by KHRP.

6 FFM interview with Necmettin Pesen, father of Eylem Pesen, Van, 26 August 2009.

7 FFM interview with Necmettin Pesen, father of Eylem Pesen, Van, 26 August 2009.

II. THE TRIAL

a. The Defended and the Charges

The defendant, Kerem Çakan, son of Fadıl and Perihan, was detained on the morning of the killing, on 17 May 2009, in Cevdetpaşa neighbourhood, Arek square, Van city. He was formally arrested the same day by decision no. 2009/95 of Van no. 1 Peace Court where he was charged with premeditated homicide. The significant points are set out in the indictment prepared by the Public Prosecutor:

They were staying at the house of the suspect's elder brother Adil. At around 03.00 the deceased said she felt ill on account of being pregnant, whereupon the suspect, deceased and suspect's sister-in-law, witness Maksude, headed towards the Maternity Hospital in a Kia Sorento jeep, registration number 34 RLV 63. On arriving in front of the hospital witness Maksude got out; at this instant the suspect, with the deceased sitting in the back, did not stop. On being asked by the witness, he said he was going to park the vehicle and come, however he drove off with the deceased, going towards Cevdetpaşa neighbourhood. At this time he spoke with the deceased, accusing her of being unfaithful to him with his elder brother Tahir. Immediately after halting the vehicle when arriving at Arek square in Cevdet neighbourhood, he began to stab the deceased sitting in the back in the abdomen with a knife registered with safe keeping under no. 2009/605, when the deceased cried out he removed her from the vehicle and began to stab her on the ground in the legs and breasts. The deceased got up and attempted to walk but fell to the ground. The suspect got into the vehicle and left the scene of the incident; in an examination at the scene bloodstains were found towards the head of the corpse made with tyre marks. Subsequently the suspect called his relatives, telling them he had killed the deceased and asking the whereabouts of his brother, Tahir; the suspect was arrested in his vehicle by police officers on patrol. On being asked the suspect said that the bloody knife he had used in the incident was on the floor between the hand brake and gear stick of the vehicle.⁸

8 Indictment no: 2009/264. Dated 22/06/2009.

According to the autopsy report:

A total of 6 wounds inflicted with a sharp cutting instrument were found in the chest and abdominal region of the deceased; 4 on the legs, damage to the left lung, stomach and intestines. Death occurred due to bleeding from these wounds and retroperitoneal bleeding in the right thigh region connected to a trauma. It was also established that the wounds inflicted by a sharp instrument in the chest and abdominal region nos. 1, 3, 4, 5 and 6 were all of a character capable of causing death.

In his defence:

the suspect in summary stated that he had carried out the act on account of a sexual relationship between the deceased, his common-law spouse, and his elder brother, Tahir, that he had thought there was a relationship between them, that the deceased had confessed to this.⁹

The indictment considered, but ruled out, the possibility of the defendant relying on a defence of provocation, as provided for in Article 51 of the Penal Code. Contrary to the defendant's statement at the first hearing and to the statements by the victim's parents to KHRP that Pesen had in fact been raped by the defendant's brother, the indictment asserted that:

when all the evidence in the file is evaluated there is no evidence of a relationship between the deceased and the suspect's elder brother Tahir, as alleged by the suspect and thought by him to constitute provocation. Therefore there are no mitigating circumstances in this regard; the results to be obtained from the DNA examination of blood from the foetus and from the suspect will be available in the event of any claim.¹⁰

It was of concern to the mission that the indictment's summary included the statement that 'there are no mitigating circumstances regarding incitement,' as it clearly signified the continued practical relevance of Article 51 of the Penal Code vis-à-vis honour crimes.

b. The Trial Process

KHRP observed the first hearing of the trial which was held at the Van Heavy Crime Court Number 2, Van, Turkey on 27 August 2009. VAKAD, a local women's rights organisation also observed the trial. The defendant gave a statement to the court during

⁹ Indictment no: 2009/264. Dated 22/06/2009.

¹⁰ Indictment no: 2009/264. Dated 22/06/2009.

which he stated that the victim had been raped twice on the day of 16 May 2009 by his brother at their home. He repeated the essence of the statement he had earlier given police up to the point at which they were alone in the car near the hospital; he claimed not to remember what happened from that moment until the police arrested him. The judge then read the offender's statement as was given to the police on 17 May 2009 and asked him whether this was correct and to clarify controversial parts of it. The defendant confirmed that the statement was correct and was then asked whether his statement before the Public Prosecutor, also dated 17 May 2009, was correct. The defendant verified that his statement before the Public Prosecutor was correct and next stated that his testimony before the investigation judge too was correct.

The victim's parents then joined the proceedings as complainants. Complainant Necmettin Pesen (Eylem Pesen's father), requested a lawyer, and stated to the court that he did not accept the defendant's testimony. He refuted Çakan's claims that the car used on the night of the murder belonged to him and not his brother, and that he had not premeditated the killing by putting the knife in the car. He also alleged that the defendant's family, namely the wife of Tahir Çakan (the defendant's brother), who had been in the car up until she had been dropped off at the hospital minutes before the killing, had been equally involved in what he considered was a premeditated murder. The complainant Herdem Pesen (Pesen's mother), also contended that the defendant's family had been intimately involved in the planning and commission of her daughter's murder.

The Public Prosecutor followed by calling on the court to continue the defendant's detention.

The hearing concluded with the court deciding:

- to extend the applicant's detention;
- to issue an order for witnesses (Adil, Tahir, Nadir, Maksude, Kutbettin and Hakan Çakan, members of the defendant's family) to be brought forcibly;
- to write a letter to the Bar Association to appoint a lawyer for the complainants.

Following the initial trial hearing, on 18 September and 14 October 2009, the court assessed the defendant's conditions of detention, remanding him in custody and postponing the hearing until 3 November 2009. Çakan did not attend the second court hearing on this date, during which his brother was heard by the court. Tahir Çakan denied allegations of having an affair with Pesen and explained that he had had disputes with his brothers over their properties. The court decided to extend the Accused's remand in custody and postponed the hearing until 29 December 2009.

III. SPECIFIC ISSUES ARISING FROM THE CASE

The circumstances of Eylem Pesen's death raise a whole series of grave concerns about Turkey's record in ensuring respect for, and promotion of, the human rights of women. These concerns go beyond the process of the implementation and application of the 2005 Turkish Penal Code, described in Turkey's sixth periodic report as representing 'a very significant legal foundation to combat violence against women,'¹¹ to encompass the broader responsibility of the State in the promotion of women's rights in the economic, social, educational and cultural spheres, particularly amongst the Kurdish community.

It became clear following a series of interviews held by KHRP with law officers, civil servants, members of the Bar Association, political representatives, and local NGOs, that there exists little, if any, faith in the willingness or capability of the State to make any coherent efforts at ensuring the prevention of honour crimes in the Van region, as obligated under international and domestic law.

A recurring motif in discussions was that despite the progressive steps taken in the adoption of the 2005 Penal Code, there remained a critical lack of capacity among the police force to act effectively in protecting women at risk, particularly in an impoverished society where perceptions of traditional practice ensure women are reduced to subordinate roles at all levels of daily life. The solution which was suggested over and again was to educate the population, not just specifically with regards to their rights and duties under the law, but on a deeper scale. Yet the emphasis placed on the importance of education by all those interviewed, was in stark contrast to perceptions of the actual capacity of the existing social and education system in the Van region to actually handle this.

Many of the respondents were keen to highlight several key issues in this respect, namely:

- the general lack of resources or development provided by the State in the Van region;

¹¹ *Turkey's Sixth Periodic Report to CEDAW*, CEDAW/C/TUR/6, 24 November 2008, p.10. Available at: <http://209.85.229.132/search?q=cache:MFb7tLPOVbkJ:www.ksgm.gov.tr/Pdf/cedawrapor6ing.doc+Turkey%E2%80%99s+Sixth+Periodic+Report+to+CEDAW&cd=4&hl=en&ct=clnk&gl=uk>.

- the State's failure to provide adequate numbers of schools and health facilities;
- the State failure to enforce legal obligations such as the requirement that marriages be registered before the civil administration, and that every child must complete a mandatory minimum of eight years of schooling.

It struck the mission that the combination of inadequate resources, and a failure to implement legislation regulating civil marriages and education, suggested an abeyance by the State of its responsibilities to protect women at risk of violence. It is in the context of such an environment that several respondents left the impression that crimes such as honour killings and violence against women, however reprehensible, simply were an unfortunate fact of life in a deprived community, and that although terrible, things are not as bad as they were in the past.¹² It is to the credit of local women's organisations such as VAKAD that they continue to struggle against such resignation.

a. Recognising the Case as an Honour Killing

That Pesen's murder by her husband was an 'honour killing' was made clear in his statement to the court at the first trial hearing as witnessed by KHRP. The Van Bar Association Women's Rights Committee (WRC) suggested that there could be 3-5 such cases each year in the district, but given that it was reported by Pesen's father that there had been prior attempts on her life by her husband which she did not report to anyone, it is believed by the mission that the true figures are likely to be higher. In this case, the alleged smirch on Çakan's honour was the fact that his wife had been raped by his brother. Pesen's father also reported that hours before she was killed he had witnessed her being beaten by Çakan.¹³ From the repeated testimony, it became clear to the mission that Pesen was a repeat victim of gender-based violence which she felt powerless to prevent or to report to any authorities.

Honour killings constitute discrimination against women in violation of Article 1 of United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and therefore the indictment should have charged Çakan with aggravated homicide. In its General Recommendation No. 19 the CEDAW Committee stated that:

¹² FFM interview with WRC, Van, 27 August 2009 and FFM interview Kemal Çelik, Director of the Social Services and Child Protection of Van, 28 August 2009.

¹³ FFM interview with Necmettin Pesen, father of Eylem Pesen, Van, 26 August 2009.

gender-based violence, which impairs or nullifies the enjoyment by women of human rights conventions, is discrimination within the meaning of Article 1 of the Convention.

Incidents of gender-based violence therefore create a duty on states to take all necessary measures to protect women from all types of violence.

Nonetheless the indictment did not take into account that this was an honour killing. By so doing, the provisions of the Penal Code requiring the charge to be one of aggravated homicide, and the application of more severe sentencing in this case, too have been negated. It would thus appear that Turkey is falling short on appropriately enforcing its own domestic law, given its failure to acknowledge the issue at the heart of this case and what distinguishes an honour killing from a common murder.

b. Identification of Root Causes of Violence against Women

That Pesen would have been brought up and conditioned not to tell anyone that she was being subjected to threats and violence, was a key point stressed by VAKAD. They believe the education system also contributes to this conditioning because women are taught to be obedient to their parents' will, not to break from the values of society and not to object to anything. By popularising this image of women, the mass media also plays a significant role in perpetuating this role for women. Commenting on the position of young girls and women in the Van district of south-east Turkey, VAKAD stated that:

education is thoroughly gendered. Education, textbooks all contribute to gendered roles. The State is patriarchal with no interest in advancing any real change. Even if women are taken to shelters, this is a form of prison, the male perpetrators remain at home.¹⁴

Under Article 10(c) of CEDAW, Turkey is obliged to take all appropriate measures to eliminate discrimination against women, in order to ensure to them equal rights with men in the field of education:

The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods.

14 FFM interview with VAKAD, Van, 26 August 2009.

c. Response of Police to Afford Women Protection

The WRC noted that while the EU accession process has led to positive changes in the national legal regime, law enforcement agencies continue to lack the capacity, information, or training necessary to effectively implement the State's responsibility towards the prevention of violence against women.¹⁵

Indeed, regarding the role of the police in the immediate case, Pesen's father asserted that their daughter's body was going to be buried and that the police had failed to inform the family of the killing. He claimed that the family only heard of her death because a cousin of the defendant had called Pesen's uncle (the mother's brother) in Bodrum, who then called Pesen's mother to inform them that their daughter was in hospital, but not that she was dead. They then themselves had to find out which hospital their daughter was in as the police had not provided them with any information.¹⁶ The total sum of their dealings with the police came one week later when they were called to the local police station to give their statement to the police and to the prosecutor.

The WRC stated that the situation is an improvement on the past, insofar as women are more willing to actually make official complaints to the police. Nonetheless, they also highlighted that cases continue to arise where, even after women have complained that their lives are under threat, the police tend to ignore them.¹⁷ Indeed, as was clearly expressed by Mazlum-Der representatives, the protections available for women in Turkey are not sufficient. They stated that this is not only illustrated by the lack of adequate shelters available for victims of domestic violence, but also by the fact that the police see themselves as mediators when threats to women are made by family members, rather than as being under a duty to actively protect the women under threat.

In a less constructive vein the representative at the Ministry of Social Affairs, who unlike his colleague at the Ministry of Education was willing to sit with the mission, was of the view that while the current situation may not be perfect, life and personal freedoms in the villages were better today than they had been in the past.¹⁸ Unfortunately he vacillated on the question of whether enough was being done; leaving the impression that he did not feel he had the authority to speak with the mission frankly.

15 FFM interview with WRC, Van, 27 August 2009.

16 FFM interview with Necmettin Pesen, father of Eylem Pesen, Van, 26 August 2009.

17 FFM interview with Van Bar Association Women's Rights Committee, Van, 27 August 2009

18 FFM interview with Kemal Çelik. Director of the Social Services and Child Protection of Van, 28 August 2009.

d. Dominance of Patriarchal Standards in the Kurdish Region

As a child Pesen had been forced to marry Çakan by her family and to withdraw from school. She had not wanted to marry and wanted to continue studying. Her father did not have any financial resources, so he gave permission for the marriage on the condition that she would be allowed to continue her education. Although she was withdrawn from school, she carried on studying for a high school diploma from home.¹⁹

Turkey's failure to act to effectively prevent such forced marriages is a major contribution to the prevalence of violence against women and is contrary to Article 16 (1) of CEDAW. This article obliges States Parties to take all appropriate measures to eliminate discrimination against women, in all matters relating to marriage and family relations including, in paragraph (1)b: 'The same right freely to choose a spouse and to enter into marriage only with their free and full consent.'

Religious-only marriage ceremonies

Though Article 143 of the Civil Code states that a religious marriage ceremony can only be held after a civil ceremony, this is most often not the case in situations of forced marriage in the Kurdish region. VAKAD complained that Imams who conduct religious marriage ceremonies often do not meet the requirements of the law under Article 230 of the Turkish Penal Code, which makes it necessary for a person who conducts a religious ceremony to do so with documentary proof that a civil service has been completed. They are not prosecuted despite this law.

In practice this is often because people do not make official complaints and so Imams are not investigated by officials.²⁰ Even in cases where a couple are prosecuted for failing to have obtained an official marriage certificate through a civil wedding, most of the time the courts do not ask for the name of the Imam who conducted the religious ceremony. In the case under review, neither the Prosecutor nor the court has asked who the Imam was that married Pesen and Çakan, even though it is illegal under Turkish law.

Social and religious perceptions play a big part in the issue. VAKAD noted how Imams preach that if a man is able to marry off seven daughters he will go to heaven. Consent of daughters is not considered, rather, the focus of fathers is to marry them off, while the Imams responsible for failing to ensure civil marriage ceremonies are never prosecuted. Such weddings benefit men by facilitating the practice of polygamy and the purchase of women for wives. VAKAD representatives referred

19 FFM interview with Necmettin Pesen, father of Eylem Pesen, Van, 26 August 2009.

20 FFM interview with VAKAD, Van, 4 December 2009.

to personal experience to show that women who reject such weddings are subject to various types of pressure.²¹

Forced divorce is also an issue. VAKAD highlighted a case where a woman who was forced to marry her cousin at the age of 16, was subsequently forced to divorce him a few years later.²² The family brought the same Imam for the divorcing ceremony as the marriage ceremony, who happened to be a relative of the woman's husband. With the help of VAKAD, on 22 April 2009 the woman submitted a complaint to the Public Prosecutor against the Imam, her former husband, her uncle and her father, for violence and the forced religious ceremony. Her husband's family offered her 35,000 Turkish Lira to withdraw her complaint. A case has been opened.

Women who report domestic violence

Even after filing a complaint, women have few options as to what to do next, and end up returning to their husbands despite the abuse. VAKAD recanted the story of one woman, who applied to the Gendarmes station twice because of violence from her husband.²³ On 25 September 2009 he beat her brutally, cut her ear and injured her and she was sent to a guesthouse. Her husband was made to leave their marital home under the Family Protection Law. Her family refused to take her and her children in, and she could not get any other social support. The Social Services and Child Protection Directorate gave her two options: to return to her husband or to her family, and so she returned to her husband. VAKAD have said this is often the case, and guesthouses persuade women to go back to their spouses.

Women's rights to education

Several of the respondents claimed that the failure to enforce existing laws also applies to the sphere of education. Women's rights to education are not on a par with men and whilst eight years of education is mandatory for all children, this legal obligation remains unenforced. Those who do not attend school, particularly girls, are unlikely to receive any sanctions. The mission's efforts to discuss these points with the representatives from the Directorates of Education and of Social Affairs proved unhelpful, with little analysis or discussion of such issues. Several KHRP reports note that in the Kurdish region of Turkey, the quality of education is sorely inadequate due to the destruction of many schools from military operations during the state of emergency; a factor compounded by a continuing lack of qualified

21 FFM interview with VAKAD, Van, 26 August 2009.

22 FFM interview with VAKAD, Van, 4 December 2009.

23 FFM interview with VAKAD, Van, 4 December 2009.

teachers.²⁴ Nonetheless, throughout the mission to Van, KHRP was repeatedly told that a progressive education system was a vital component, along with the effective enforcement of the law, in affecting a significant and meaningful change in societal attitudes towards discrimination and in particular, to honour crimes. The WRC said not enough was being done by the State in this regard. Though the efforts of TV campaigns are welcome, they are not sufficient in that they fail to get to the root of the problem, merely highlighting the issues rather than actually tackling them.²⁵

Double discrimination in Kurdish society

In one of the final meetings of the mission, Mazlum-der representatives reflected upon what was at issue from a holistic perspective, combining the frustrations and experiences of each of the groups with whom KHRP had met in Van with the mission's own experiences with Pesen's family, and as observers of the trial. Mazlum-der asserted clearly that there was no such concept of an honour killing under Islamic law but that such a phenomenon was a societal creation.²⁶ Such opinions were forcefully expressed by participants at a CEDAW training workshop held by KHRP with local women's rights organisations in Van. They identified a double form of discrimination at play in that they were Kurdish, and female, with others suffering further discrimination on the basis of their Islamic beliefs.²⁷

That Kurdish women are particularly vulnerable to honour crimes was also demonstrated in a report on the subject by the Kurdish Women's Rights Watch in 2006. The report found that honour killings were more frequent in the western urban part of Turkey, contrary to received opinion. However the south-eastern origins of the victims and perpetrators suggests that the individuals involved were predominantly Kurds, who in the transition from rural to urban areas were reacting with violence against cultural shifts, using force to maintain traditional practices.²⁸

Meanwhile, the Chair of DTP party, Van Branch, suggested that failure to protect women's rights in the Kurdish regions was part of the State's policy of weakening the Kurdish movement more generally.²⁹ Such views can be well understood in light

24 See 'The Situation of Kurdish Children in Turkey: Fact-finding Mission and Research Report'; KHRP, London, December 2009.

25 FFM interview with Van Bar Association Women's Rights Committee, Van, 27 August 2009.

26 FFM interview with Mazlum-Der representatives, Van, 28 August 2009.

27 KHRP/VAKAD workshop 'The Protection of Women's Rights under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): the Shadow Report System,' Van, 29 August 2009.

28 Kurdish Women's Human Rights Watch, Turkey: Honour Killings, 2006.

29 FFM interview with Mehmet Kerim Ertuğ, Chair, DTP Van Branch, Van, 28 August 2009.

of the failure of any of the municipal and regional representatives from either the Directorates of Health and Education, or the Vice-Governor, to provide the mission with comments or insight of any significance on the topic of violence against women. They instead either refused to engage in discussion, or else merely provided general, polite, but ultimately irrelevant information.

Need for educational and social awareness campaigns

Given the findings of this mission and the 2006 report ‘Custom and Honour Crimes’ published by KA-MER (which emphasises the link between illiteracy and lack of education and the commission of honour crimes within Kurdish society), it is the view of this mission that it is essential that Turkey take specific measures to address challenges which predominantly affect women in the Kurdish community. In particular, these should focus on women who lack formal education and who are illiterate, through educational literature or broadcasts in Kurdish. Such measures - in conjunction with legal reforms - should include social awareness campaigns on women’s rights to education, health, and marriage, and should be offered in Kurdish as well as Turkish in order to target the relevant constituencies. In addition there needs to be training for law enforcement officers and judges on identifying and prosecuting for such crimes, and support programmes for vulnerable women. Until this is done, the Government will have failed to comply with its obligations under CEDAW to protect women in Turkey from such harm.

e. Turkish Judiciary’s Implementation of the 2005 Penal Code

There are progressive and welcome changes in the 2005 Penal Code, such as the provision of the severest punishment for perpetrators of honour killings, and as commended by Mazlum-Der, the removal of the possibility of reduced sentences in cases where perceived ‘stains to honour’ could be shown to have provoked the crime in question, and for preventing those responsible for rape to avoid criminal sanctions by marrying the victim. The removal of the crime of adultery for women from the statute books has also been similarly praised.³⁰

As for the effects of the 2005 Penal Code in the immediate case however, it is clear that there remains an unacceptable gap between its progressive implementation and the practical effects in the Van district. Article 51 continues to allow for ‘unjust provocation’ to be considered as a mitigating factor in sentencing. The significance of such a deficiency in the Penal Code was demonstrated in the Public Prosecutor’s indictment, which referred to the lack of ‘provocation’ and ‘mitigating circumstances.’ This creates a situation that clearly facilitates further discrimination against

30 FFM interview with Mazlum-Der representatives, Van, 28 August 2009.

women contrary to Article 2(g) of CEDAW, which requires states to pursue by all appropriate means and without delay, a policy ‘to repeal all national penal provisions which constitute discrimination against women.’ As noted above, the indictment did not take into account the fact that this was an honour killing, which under the provisions of the Penal Code would require a charge of aggravated homicide and the accompanying sentencing. This would allow for a more severe punishment than can be applied in this case.

While the Public Prosecutor was broadly supportive of the recent changes in the Turkish Penal Code, he also stressed that, given the impoverishment of society in the Kurdish region of Turkey, the scope and possibility for positive change provided by the Turkish legal system alone was limited, particularly in light of a widespread inadequacy of education levels in the region.³¹ Thus while in his view, focused and specific training of the police was generally important, educating society in general was of greater importance. Almost every individual and group with whom the mission met expressed similar viewpoints.

The defence lawyer also welcomed the positive changes in the Penal Code but nevertheless held them to be of limited significance, in so far as the necessary changes to ensure respect for the human rights of women rely on far-reaching changes in society, beyond the capacity of what the Turkish legal system could, or would achieve.³² Meanwhile, the WRC was quite critical of the 2005 changes to the Penal Code, stating that little if any tangible improvements had resulted. This was not because of any particular limitation of the legislation itself, but rather due to a lack of political will to ensure its enforcement, and the failure of the Turkish legal system, particularly the police and prosecutor, to adopt fuller efforts at identifying and prosecuting all those responsible for honour killings.³³ Of additional significance in south-east Turkey was the overlap in policing between the Gendarmes and the civil police, a factor which was unhelpful in ensuring effective police practice.

f. Culpability of Other Family Members

Given the structure of society, notably in the Kurdish region, it is not uncommon for families to make collective decisions to carry out honour killings.³⁴ KHRP has previously reported on the phenomenon of ‘honour suicides’ among Kurdish women in Turkey, which usually consist of the woman’s family locking her in a room with various methods to kill herself, such as a noose, pistol, or rat poison. The woman

31 FFM interview with Burak Gürtuğ Güney, Van, 26 August 2009.

32 FFM interview with Burhan Buğday, Van, 26 August 2009.

33 FFM interview with WRC, Van, 27 August 2009.

34 FFM interview with WRC, Van, 27 August 2009.

would be kept in the room until she had committed suicide.³⁵ The WRC noted how it was frequently the case in such scenarios that the youngest child in a family could be made to commit the actual act of murder, thus sparing adults prison sentences.

Nonetheless, in almost all cases of honour killings the investigations remained focused narrowly on the individual who had committed the actual act of murder, while other family members avoided being investigated and/or called as witnesses.³⁶ In the immediate case in question, similar charges were raised by Pesen's parents who believe that not only Çakan, but other members of his family were involved in the planning and killing of their daughter. The indictment however, ruled out the involvement of others and asserted that Çakan acted alone. However the mission was pleased to see that the judge at the first hearing did respond to the parents' claims by calling members of the defendant's family as witnesses to the second hearing.

The WRC also suggested to the mission that the general feeling of the legal establishment was that to conduct a full investigation and to prosecute and sentence an entire family was too serious and grave a sanction, particularly since there is a degree of acceptance that some incidents of honour killings are somehow inevitable.³⁷

Indeed, several organisations interviewed during the mission also relayed their thoughts on why the trial hearing may have seemed to have been cursory. Ayhan Çabuk, Chair of the Van Bar Association, believes that the court was probably composed of temporary judges because of the judicial holiday and so they did not deal with the case in detail. This led to a delay in the determination of evidence and facts. For example, during the trial hearing, Pesen's father asked the court to investigate a phone conversation between the Accused and his cousin. It is alleged that during the conversation, which took place after the murder, Çakan told his cousin that he had 'cleared their honour,' thus implying that others were involved in the victim's death. Pesen's father also asked the court to find out whether the car belonged to the Accused or his brother. Neither of these points was investigated further by the court. Similarly, Mazlum-der suggested that it should probably be unsurprising if the trial was a rather perfunctory proceeding and if the court was uninterested in going into any significant depth or detail. Their view was that given the first hearing took place in a temporary court, and since the circumstances pointed to an obvious case of murder, the court probably felt that the trial did not merit delving further

35 KHRP European Parliament Project, *'The Increase in Kurdish Women Committing Suicide'*, KHRP, London, October 2007.

36 FFM interview with WRC, Van, 27 August 2009.

37 FFM interview with WRC, Van, 27 August 2009.

through the family members' phone records which would require a warrant and more technical expertise.³⁸

Representatives of womens' rights organisations also expressed their impression of the court treating this case cursorily, as it had not fully taken into account the complainant's claims and had not carried out further factual investigations. For example, they stated that in the first hearing the Accused's brother described the dispute over the properties but he did not explain how this related to Pesen's murder. The court did not probe this further to try to find out about the correlation and only asked questions related to the property disputes. The YAKA Women Cooperative also referred to another honour killing case where the judge asked the Accused whether his wife was 'grumpy'.³⁹

These views point to the failures inherent in the legal system wherein honour killings are not fully investigated and are not afforded the added measures needed to treat and investigate the cases accordingly, be it due to inertia, lack of resources or as highlighted earlier, a failure to recognise cases of honour crimes from common murder. The Turkish government must ensure that courts, prosecutors, and police strictly adhere to the Penal Code and adopt a proactive attitude towards cases involving honour killings, such as in the recent case where a Turkish court sentenced five family members who were responsible for a sixteen-year-old girl's honour killing to life imprisonment.⁴⁰

38 FFM interview with Mazlum-Der representatives, Van, 28 August 2009.

39 Gülmay Ertunç, YAKA Women Cooperative, 28 August 2009.

40 Agence France Press, *'Daughter pregnant by rape, killed by family'* 13 January 2009. See <http://www.brisbanetimes.com.au/news/world/daughter-pregnant-by-rape-killed-by-family/2009/01/13/1231608651606.html> (last accessed 14 November 2009).

IV. CONCLUSION

From the evidence gathered during KHRP's August 2009 mission to Van, it is clear that many Kurdish women face unique barriers and challenges in ensuring respect for their human rights. It is incumbent upon Turkey that it recognises that Kurdish women belong to a minority community and any violations they may face is accentuated by the particular circumstances of Kurdish women who are subject to a harsh economic, social, and cultural environment.

It is submitted that in the Kurdish areas the Turkish State is failing to implement a sound policy to tackle violence against women, causing it to be in contravention of its international and domestic obligations. Overall there seems to be little, if any, coherent State policy of addressing threats of honour crimes or of violence against women generally. The prevailing mood seems to be one of frustration or of resigned acceptance that given the socio-economic and political deprivation of the region, these things will continue to happen. The potential role of law, the police and the courts was considered by many to be of limited significance in an environment where it appears much of life is played out on the fringes of the State, with little active participation of the social services in daily life. Thus there is not only a discord between the Turkish legal system and the people of south-east Turkey, but there is also little suggestion of an effective or efficient system of social services in the areas of health and education.

A recurring theme that was identified by the mission is of the failure of the local civil and legal authorities to implement and enforce existing legislation. The CEDAW is clear that in order to give effect to provisions for the elimination of discrimination against women, Turkey is obliged not only to take legislative measures, but also in accordance with Article 5(1):

States Parties shall take all appropriate measures: a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

It remains the case that not enough is being done to effect changes in societal mentality through education, and that the impact of TV awareness campaigns, while welcome, are far from sufficient in effecting real social change. Fundamentally, the

underlying issues of poverty and unemployment mean that little improvement can be expected in the short-term without active State efforts to protect the rights of women.

Honour crimes and crimes of violence against women are occurring with too high a degree of impunity due to a number of political factors: the poverty in the south-east of Turkey, lack of popular participation in the political process, the military/gendarmerie presence, and the overall lack of development of the economy and of social institutions. The oppression of women in the region is of grave concern, and if Turkey is to satisfy its obligations under international law it will have to address not just the contents of its Penal Code, but the cumulative effect of its economic, social, cultural, and legal policies and practices in the Southeast.

V. RECOMMENDATIONS

This report urges the Turkish Judiciary to:

- Acknowledge that it is obliged under international law to refrain from engaging in any act or practice of discrimination against women, including gender-based violence.
- Abide to the binding terms of the European Convention on Human Rights (ECHR), which Turkey ratified with certain reservations on 18 May 1954, namely Article 14 of the ECHR that prohibits discrimination on grounds of sex.
- Abide to Articles 2 & 7 of the Universal Declaration on Human Rights (UDHR), which was adopted by the UN General Assembly in 1948, and forms the foundation of contemporary international human rights law, prohibiting all forms of discrimination against women.
- In order to avoid cases of domestic violence, enforce obligations which are at the origin of these violations, for example that marriages be registered before the civil administration, and that every child must complete a mandatory minimum of eight years of schooling.
- Since the family members of victims are frequently complicit to the honour killings, ensure that the investigations are not restricted to the direct perpetrator of the murder, but to other family members and witnesses.
- Convince the police of the need to adopt proactive measures in the protection of women in south-east Turkey, and recognise the failure of the local civil and legal authorities to implement and enforce existing legislation.

This report urges the Turkish government to:

- Address the alienation of its Southeast region, where lack of popular participation in the political process, of the police force, of economical and social development, and poverty are rendering the prospect of abolishing acts of discrimination against women very unlikely.

- Ensure that public authorities and institutions act in conformity with that obligation. Its adherence to international standards in this regard represents a key step in the country's progress towards EU accession.
- Not only implement the 2005 Turkish Penal Code, but extend its responsibilities to broader matters of the State, such as the promotion of women's rights in the economic, social, educational and cultural spheres, particularly amongst the Kurdish community.
- Act swiftly and effectively to ensure the prevention of honour crimes in Turkey as obligated under international and domestic law.

This report urges the European Union to:

- Continue to closely monitor the cases of human rights violations in south-east Turkey, especially against women, within the objective of its accession process.
- Continue to exert its considerable influence on Turkey to address women's rights violations from a social and educational perspective.

This report urges local NGOs, human rights organisations and civil society groups to:

- Raise the quantity and quality of media awareness campaigns.
- Disseminate CEDAW's message that Turkey needs to take all appropriate measures to eliminate discrimination against women in order to afford to women equal rights with men in education.
- Continue training workshops on CEDAW in Van in order to raise awareness about and help forge the opinions of women's rights organisations on the use of human rights mechanisms as a solution to human rights abuses, when domestic law is exhausted or is unable to respond.
- Continue to provide assistance and legal advice to victims of human rights abuses, and ensure that fairness is maintained in trials.

APPENDIX: VIOLENCE AGAINST WOMEN AND HONOUR KILLINGS IN TURKEY: INTERNATIONAL AND DOMESTIC LEGAL FRAMEWORK

a. International Legal Framework

Turkey is obliged under international law to refrain from engaging in any act or practice of discrimination against women, including gender-based violence, and to ensure that public authorities and institutions act in conformity with that obligation. Turkey's adherence to international standards in this regard represents a key step in the country's progress towards EU accession. The remainder of this section explores some of the key international documents relevant to Turkey's obligations in relation to discrimination against women and honour killings.

i. Universal Declaration on Human Rights

Articles 2 and 7 of the Universal Declaration on Human Rights (UDHR), which was adopted by the UN General Assembly in 1948 and forms the foundation of contemporary international human rights law, prohibit all forms of discrimination against women:

Article 2 UDHR states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 7 UDHR states:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 16(2) UDHR states:

Marriage shall be entered into only with the free and full consent of the intending spouses.

ii. International Covenant on Civil and Political Rights & International Covenant on Economic, Social and Cultural Rights

The prohibition of discrimination on grounds of sex is reaffirmed in the International Bill of Rights. Article 3 of both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides that the States Parties to the Covenants undertake to ensure the equal right of men and women to the enjoyment of all rights set forth therein.

iii. Convention on the Elimination of All Discrimination against Women

The Convention entered into force on 3 September 1981, and was ratified by Turkey on 19 January, 1986. Turkey ratified the Optional Protocol allowing for individual petitions to the Committee on the Elimination of All Discrimination Against Women (CEDAW) on 29 October, 2002. Part 1 of the Convention provides that:

Article 1 states:

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2 states:

States 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 realisation 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 an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (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, organisation 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.

Article 3 states:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4 states:

- (a) Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
- (b) Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5 states:

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

iv. Declaration on the Elimination of Violence against Women

The Declaration, as adopted by United Nations General Assembly Resolution 48/104 (1993) provides inter alia that:

Article 1 states:

For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2 states:

Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence (occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual harassment, and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

- (c) Physical, sexual and psychological violence perpetuated or condoned by the State, wherever it occurs.

v. European Convention on Human Rights

Turkey ratified the European Convention on Human Rights (ECHR) with certain reservations on 18 May 1954. Article 14 of the ECHR prohibits discrimination on grounds of sex:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 13 of the ECHR provides for the right of all to an effective remedy:

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

In its 2009 judgment in the case of *Opuz v Turkey* (App no 33401/02, para 192) the European Court of Human Rights held that although not clearly explicated in Article 2 of CEDAW, gender-based violence is a form of discrimination that is in violation of CEDAW.

b. Domestic Legal Framework

In 2005, a new Penal Code (Law No. 5237) and Criminal Procedure Code (Law No. 5271) were introduced in Turkey. In its sixth periodic report to the CEDAW Committee, Turkey stated that one of the primary amendments to the old Penal Code effectuated in respect of violence against women was that:

With the addition of the expression “in the name of honour” to the article that regulates the major forms of felonious homicide, which require penal servitude for life, it has been resolved that perpetrators of honour and custom killings be punished with the severest sentence.⁴¹

Nonetheless, as found by the ECtHR in *Opuz*, mitigation of sentences for honour crimes does still exist under the Turkish Penal Code as the perpetrator of an honour

⁴¹ CEDAW/C/TUR/6, p 10.

crime may still invoke Article 51 which allows discretionary mitigation of punishments if a crime was committed due to an 'unjust provocation' by the victim.

In the immediate case the defendant was charged inter alia under the following articles:

Article 81:

Intentional Killing

Any person who intentionally kills another shall be sentenced to life imprisonment

Article 82:

Qualified Cases

If the act of intentional killing is committed:

- (a) with premeditation;
- (e) Against a child or against somebody who can not protect himself physically or mentally;
- (f) Against a pregnant woman, in knowledge of such pregnancy.

Turkey amended Article 10 of its Constitution in 2004 to include a provision concerning equality between men and women, thereby creating a duty for the government to create equality between the genders.

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