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**Domestic and Honor-Based Violence, Forced Marriages, Underaged Kurds and
Law**

Bachelor's thesis

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I hereby declare that I have compiled the paper independently and all works, important standpoints and data by other authors have been properly referenced and the same paper has not been previously been presented for grading.

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Table of Contents

Abstract	4
Introduction	5
1. Historical Legal Overview of Kurds in Turkey	8
1.1. Framework of Legal History	8
1.2. Human Rights of the Kurds after 2000s	9
2. Cultural Impacts of Domestic Violence	11
2.1. Domestic Violence and Its Forms	11
2.2. Domestic Violence against Underaged Girls	14
3. Definition of Honour-Based Violence and Forced Child Marriage Among Kurds	15
3.1. Honor, Reputation, Shame	15
3.2. Forced Child Marriage	17
3.3 Differences and Similarities between Honor and Domestic Violence	19
4. Turkish Legislation on Domestic Violence	20
4.1. Article 29 of Turkish Penal Code: Unjust Provocation	20
4.2. Article 62 (2) of Turkish Penal Code: Discretionary Mitigation	22
4.3. The Implementation of International Legal Instruments	23
Conclusion	24
List of References	26
Appendix 1. Non-exclusive licence	31

Abstract

Domestic violence against women and children as a fundamental human rights violation is a phenomenon that has existed throughout history and continues to exist. Not to mention, domestic violence against women is a universal and common problem experienced by women and children of all races, languages, religions, and ethnic groups. This research will examine domestic violence and forced marriages against underaged Kurdish girls in Turkey's region. In Kurdish culture, honor-related violence and murders continue, especially in the Kurdish region in Turkey. In this study, the background is examined to shed light on who the Kurds are and to describe their culture, which has a significant impact on domestic and honor-based violence and forced marriages. Furthermore, domestic and honor-based violence has been justified *inter alia* by Article 29 and Article 62 (2) of the Turkish Penal Code in court judgments because of cultural beliefs. With this research, the gaps in the Turkish legislation will be investigated that cause justification for domestic and honor-based violence, and prefer a solution on how the legislation could be improved to prevent these forms of violence and forced marriages against underaged girls. Furthermore, the research question of this thesis is how could the legislation of Turkey be improved concerning honor-based violence and forced marriage against underaged Kurdish girls? This study uses qualitative research methods by mainly using scientific journals, and international legal instruments, such as the conventions of the United Nations and Istanbul Convention of the Council of Europe, Turkish legislation, and books on the subject. This thesis concludes that Kurds' human rights should be improved in Turkey to prevent domestic violence, honor-based violence, and early marriages among Kurds. Moreover, Articles 29 and 62 (2) of the Turkish Penal Code should be prohibited to use as a tool to justify perpetrators' crimes in honor cases. Although Turkey is a part of many international organizations, and the legislation has improved in protecting children's and women's rights, there is still a dire need for comprehensive legislation and mechanisms to deal with these issues.

Special thanks to my supervisor Kristi Joamets for supporting me throughout my research.

Keywords: Domestic violence, Honor-based violence, Forced marriages, Child marriage, Honor killing

Introduction

The aim of this thesis is to research the problem of honor-based and domestic violence, as well as forced marriages against underage Kurdish girls in the Turkish region being common. Furthermore, this thesis aims to propose solutions on how the Turkish legislation could be improved to prevent honor-based violence and forced marriage against underaged Kurdish girls. This thesis will use qualitative research methods utilizing data collected by scientific journals, and non-governmental organizations and explore the main factors behind these crimes, as there is no official data on forced marriages, and domestic and honor-based violence among Kurdish or Turkish girls in Turkey. In addition, this paper will use the conventions of the United Nations and the Istanbul Convention of the Council of Europe. Thus, the research will produce accurate and in-depth information on the topic. All forms of violence against women and children are prevalent in every community of the world. Furthermore, due to the focus on human rights in the contemporary era, the sensitive topic has come into the limelight. Due to rising awareness, western societies have moved toward gender equality and made progress in eliminating all kinds of discrimination against women. Nevertheless, in most Middle–Eastern societies, domestic violence against women and children, honor-based violence and killings, and forced marriages are still prevalent. Turkey is at the top among those countries where gender discrimination and domestic violence are still prevalent at a very high rate.¹ As this study examines Kurds living in Turkey, a bit of the history of Kurds is included in the first chapter of this paper for proper understanding. For thousands of years, the region of Mesopotamia has been waged wars, and it continues to this day. Wars have created a culture of violence that has dramatically left its mark on family life. The effects of the subjugating culture of the major population and states in the Middle East have been strongly reflected in men. Due to factors outside the family, men's use of force has increased in the family. The endless discrimination and violent actions toward the Kurdish community have deprived their fundamental human rights. Moreover, it has prevented them from having a proper education which has backfired in family life since women and children did not have a chance to protect themselves. Furthermore, in the second chapter, this thesis will explain the effect of the patriarchal society of Kurds that follows the strict norms of male domination, and the cultural impacts of the human rights violations will be delineated. Moreover, it will discuss Law No. 6284 of the Turkish legislation on preventing domestic

¹ Global Gender Gap Report 2021. (15.3.2022). Retrieved from: https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

violence. Domestic violence was mentioned in Law No. 4320 on the Protection of the Family for the first time in the Turkish legislation in January 1998. However, Law no. 4320 was causing difficulties in practice. As a result of the problems experienced, legal regulations with an effective implementation mechanism were started to be prepared as the first step of the effective fight against violence against women, especially by women's organizations. In line with the deficiencies and needs in practice, Law No. 6284 on Protection of the Family and Prevention of Violence against Women was expanded. In the third chapter of this study, the definition of honor-based violence and forced child marriage among Kurds will be discussed. Among Kurdish families, domestic and honor-based violence is the main reason behind early marriages. Early marriages increase women's inequality in society, cause women to decrease taking any life choices, and become "objects". Despite all these realities, early marriages are not considered a problem in societies shaped by traditional and patriarchal cultural codes; on the contrary, they are legitimized and normalized. The cases of child marriages and honor-based violence against women and children in Turkey are not followed efficiently and cannot be prevented despite the legal regulations and improvements in the legislation. The main reason for this is that these cases are not reported. According to international documents, every marriage under the age of eighteen is called "child marriage," and the girl who gets married is called a "child bride".² Within the Turkish Civil Code framework, it is possible to call a girl married at a younger age than the marriage age stipulated by the Law as a child bride. According to Article 124, "A man or woman shall not get married unless they turn eighteen. However, the judge may allow a man or woman having turned seventeen to get married under exceptional circumstances or for a very important reason. If possible, parents or guardians of the people in question shall be heard."³ Therefore, the Turkish Civil Code considers a girl who marries before eighteen (in some circumstances seventeen) to be a child bride. However, the Article 3 (a) of the Juvenile Protection Law defines a child as "an individual that has not yet completed age eighteen, regardless of whether they have reached full legal age earlier", and Article 3 (1) stated child as a "individual in need of protection".⁴ On the other hand, the Turkish Penal Code defines a girl

² Girls not brides. The law and child marriage. Retrieved from: <https://www.girlsnotbrides.org/about-child-marriage/law-and-child-marriage/> (25.3.2022)

³ Turkish Civil Code, Law No 4721. Retrieved from: <https://rm.coe.int/turkish-civil-code-family-law-book/1680a3bcd4> (25.3.2022)

⁴ Juvenile Protection Law. Retrieved from: <https://assets.hcch.net/docs/4d8123a6-2507-44e4-bfa4-01a39529e9b9.pdf> (25.3.2022)

under the age of fifteen as a child bride.⁵ In addition, Turkey has ratified the United Nations Convention on the Rights of the Child, which states that every individual under 18 is considered a child.⁶ This incompatibility between the laws renders all the struggles in fighting against forced marriages of girls at an early age.

The fourth chapter will discuss Article 29 of Unjust Provocation and Article 62 (2) of Discretionary Mitigation of the Turkish Penal Code, which protects the culprits of honor killings and reduce the intensity of the sentence. These Articles put the liability of the murder upon the victim so that the victim's behavior has resulted in her murder. Judges have also been lenient towards the culprits who have confessed their crimes and showed good conduct during the trial. This thesis will further discuss the implementation of international legal instruments and their effect on Turkish domestic law. The Istanbul Convention has had a huge positive impact on Turkish legislation; however, Turkey's withdrawal from the Convention in 2021 on the grounds that it threatens traditional family values has raised concerns about the current and future situation of women and children's legal protection. Turkey has ratified inter alia the European Convention on Human Rights, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Optional Protocol to the CEDAW, Declaration on the Elimination of Violence against Women (DEVAW), Convention on the Rights of the Child. According to Article 90 of the Turkish Constitution "International agreements duly put into effect have the force of law."⁷ However, the implementation of international legal instruments has been insufficient and criticized. To emphasize, the ECHR sentenced Turkey to compensation on the grounds that domestic violence and discrimination against women could not be prevented and that the measures to prevent violence against women were not implemented by the state, with its *Opuz v. Turkey* decision on 9 June 2009.⁸ Finally, this thesis will prefer effective reforms needed to combat domestic and honor-based violence, as well as forced marriages against underaged girls, to provide efficient support for the Kurdish minority, and present suggestions regarding the reforms that can be done in terms of educating the violence-prone mentality.

⁵ Turkish Penal Code, Article 103. Retrieved from: https://www.legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf (25.3.2022)

⁶ United Nations, Treaty Collection. Convention on the Rights of the Child. Retrieved from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=en (25.3.2022)

⁷ Constitution of The Republic of Turkey, Article 90. Retrieved from: https://global.tbmm.gov.tr/docs/constitution_en.pdf

⁸ *Opuz v. Turkey*. <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22003-2759276-3020932%22%7D>

1. Historical Overview of Kurds in Turkey

1.1. Framework of Legal History

The Kurds from the Middle East, with a population of approximately 35-40 million, are the world's largest stateless ethnic group. There is no certainty about the origin of the Kurds. According to studies, Kurds are descended from Indo-European tribes and have lived in Mesopotamia as well as the mountains of Zagros in northwestern Iran for two thousand years.⁹ The Kurds have their language called Kurdish which consists of main dialects and additional minor dialects. One of the unifying factors of the Kurds is the Kurdish language, which is divided into four different main dialects. The main dialects of the Kurdish language are Kurmanji, Sorani, Zaza, and Gorani.¹⁰ Kurds in Turkey speak mainly Kurmanji and Zazaki. According to a study conducted by Ser, "Kurdish culture is an ancient and communal culture, and due to the rich culture and nature, there was equality between women and men."¹¹ The societies of the Kurdish tribes and clans protect their own culture and language.¹² Kurdish culture is collective, solidarity is essential, and it is evident in the daily lives of the Kurds.¹³ However, in the collective culture, the individual has no decision-making power of his own.¹⁴ Moreover, the religion of Islam changed the position of the family of the Kurdish culture; the position of the man was strengthened, and this resulted in the subjugation of women and domestic violence.¹⁵ Ser states that "hierarchy of feudal culture and the subjugation of women currently exist in Turkey and elsewhere in the Kurdish regions."¹⁶

Kurds are also the largest ethnic group in Turkey, estimated to be 20 million people.¹⁷ As Turkey's most significant ethnic minority, they have been systematically discriminated against since Turkey became an independent republic after the 1923 Lausanne Treaty.¹⁸ After the fall of the Ottoman Empire, the Kurds began to demand sovereignty and an independent

⁹ Asatrian, G. (2009). Prolegomena to the Study of the Kurds. *Iran and the Caucasus*, 13(1), 1-57.

¹⁰ Tavadze, G. (2019). Spreading of the Kurdish Language Dialects and Writing Systems Used in the Middle East. *Bull. Georg. Natl. Acad. Sci*, 13(1), p. 170.

¹¹ Ser, K. (2017). " KURDINAINEN NYRKIN JA HELLAN VÄLISSÄ": Suomessa asuvien Turkin kurdinaisten kokema pari-ja lähisuhdeväkivalta, p. 17-18

¹² *Ibid.* p. 18

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.* p. 17

¹⁶ *Ibid.*

¹⁷ Koc, I., Hancioglu, A. & Cavlin, A. (2007) Demographic Differentials and Demographic Integration of Turkish and Kurdish Populations in Turkey. *Popul Res Policy Rev* 27, (2008), pp. 447-457, p. 449.

¹⁸ Robins, P. (1993). The overlord state: Turkish policy and the Kurdish issue. *International Affairs*, 69(4), 657-676, p. 660.

state.¹⁹ In 1920, the Ottoman Empire, representatives of the periphery, and the region of the First World War drafted the Sévres Peace Treaty, which dealt with Kurdistan's independence. The first president of the Republic of Turkey, Mustafa Kemal Atatürk had spoken promisingly about the right of the Kurds to self-government within the Turkish state.²⁰ Nevertheless, Mustafa Kemal Atatürk never ratified this agreement. The Lausanne Treaty was signed after three years in 1923, which omitted mention of Kurdistan. Zeydanlıoğlu explains in his research the political actions of the Turkish state which became radicalized with Turkish nationalism, or Kemalism.²¹ The goal of the idea was a holistic Turkish unity: “one language, one people, one flag.”²² Society was also developed in a western direction. Turkish nationalism led to the systematic assimilation of Kurds into Turkification. After the new Constitution in 1982, the assimilation practices were legalized.²³ The new Constitution stated that the existence of minorities could not be recognized: Turkish citizens were, without exception, classified as Turkish. Since the Turkish government considered that there were no minorities, no rights could be granted to non-existent affairs, such as the Kurds. Recognition of Kurdish could lead to imprisonment, and the Kurds began to be called "mountain Turks".²⁴ Moreover, Kurdish language and culture was banned until 1991 under the threat of imprisonment.²⁵

1.2 Human Rights of the Kurds After 2000s

Since the establishment of the Republic of Turkey, the Kurds have had rebel movements against forced assimilation, which the Turkish army has sought to suppress since they were established. The PKK (Partîya Karkerên Kurdistan) was founded in Turkey by Abdullah Öcalan to oppose forced assimilation and has fought guerrilla warfare against Turkey, especially in the 1980s. Consequently, after the conflicts between PKK and Turkey, approximately 2000 Kurdish villages were destroyed, and millions of Kurds were forced to flee their homes.²⁶ The organization was listed as a terrorist organization by the European

¹⁹ Ali, O. (1997). The Kurds and the Lausanne peace negotiations, 1922–23. *Middle Eastern Studies*, 33(3), 521-53, p. 521.

²⁰ Mango, A. (1999). Atatürk and the Kurds. *Middle Eastern Studies*, 35(4), 1-25, p. 5.

²¹ Zeydanlıoğlu, W. (2008). The white Turkish man's burden: Orientalism, Kemalism and the Kurds in Turkey. *Neo-colonial mentalities in contemporary Europe*, 4(2), 155-174, p. 1.

²² *Ibid.* p.8

²³ *Ibid.* p.7.

²⁴ *Ibid.* p.7.

²⁵ *Ibid.* p.7.

²⁶ *Ibid.* p.12.

Commission in 2004.²⁷ In 2019, about 17% of all prisoners in Turkey were political prisoners, a significant proportion of whom were members of the PKK.²⁸ In the 2000s, a ceasefire was declared on the Kurdish issue, when the AKP came to power in 2002. Since the arrest of PKK leader Abdullah Öcalan and the rise of the AKP, new opportunities were opened for dialogue between the Kurds and the Turks.²⁹ In particular, Turkey's effort to join the European Union needed significant steps towards resolving the Kurdish question, as it had to develop both human rights and freedom of expression. Between 2004 and 2008, the AKP significantly developed Kurdish minority rights and human rights.³⁰ According to Article 10 of the Turkish Constitution "Everyone is equal before the law without distinction as to language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such grounds."³¹ However, this provision has been ignored in practice and the violation of human rights and legal protection of Kurds is still a major issue in Turkey. Although the Kurds were again given the right to speak their language, Article 42 of the Turkish Constitution states that the only official language of Turkey is Turkish. Many Kurds in the Southeast, especially women, do not speak Turkish and, for this reason, have been deprived of fundamental rights such as education, health services, and assistance to defend their violated legal rights.³² Active discrimination against the Kurds, murders, imprisonment of the male population, and violations of other human rights caused a great deal of poverty. Thus, violence and discrimination against women increased as a result of poverty as well as political conflict.³³ Thus, violence and discrimination against women increased as a result of poverty as well as political conflict. This constant discrimination has clearly left its mark, especially on women and girls in the family.

²⁷ Council Decision (CFSP) 2019/1341 (2019). Available at:

<https://eur-lex.europa.eu/legal-content/en/TXT/HTML/?uri=CELEX:32019D1341&from=en> (28.03.2022)

²⁸ Lawyers on Trial: Abusive Prosecutions and Erosion of Fair Trial Rights in Turkey (2019) *Human Right Watch*. Retrieved from: <https://www.hrw.org/report/2019/04/10/lawyers-trial/abusive-prosecutions-and-erosion-fair-trial-rights-turkey> (30.3.2022)

²⁹ Kayhan, Pusane, Ö. (2014). Turkey's Kurdish opening: Long awaited achievements and failed expectations. *Turkish Studies*, 15(1), 81-99, p. 90

³⁰ Genc, E. (2012). The AKP's "closing" in relation to Kurdish minority rights in Turkey, p.115. Retrieved from: <https://yorkspace.library.yorku.ca/xmlui/handle/10315/31734>.

³¹ Constitution of The Republic of Turkey, Article 10. Retrieved from: https://global.tbmm.gov.tr/docs/constitution_en.pdf. (24.3.2022)

³² Turkey: End sexual violence against women in custody! Amnesty International. Retrieved from: <https://www.amnesty.org/en/wp-content/uploads/2021/06/eur440062003en.pdf>

³³ *Ibid.*

2. Cultural Impacts of Domestic Violence

2.1. Domestic Violence and Its Forms

Violence in any form or in any environment is a phenomenon that has existed since the beginning of humanity. *Domestic violence* is accepted as a public health problem.³⁴ It is seen as one of the most crucial problems in every region globally, which affects the family, society, and especially the victims of violence. Reasons which come from families, such as lack of communication, inconsistent discipline approach, exposure to witnessing domestic violence, and individual factors such as lack of social skills and conflict resolution skills, unemployment, poverty, alcoholism, cultural factors and mental problems can be counted among the causes of violence.³⁵ The concept of domestic violence against women is examined under five main headings: physical, sexual, emotional, and economic abuse.³⁶ *Physical abuse* is the most visible form of violence, and it is mainly directed towards the body and is based on physical force. This type of violence can occur in a wide range, from acts that cause minor injuries to murder. The adverse effects of physical violence on women manifest themselves as feeling worthless, losing self-esteem, and fear.³⁷ *Sexual abuse* is expressed as forcing a woman to have sexual intercourse without her consent, and it is usually seen together with physical violence. Sexual violence includes sexual harassment, rape, verbal and actual harassment against women's will. The phenomenon of sexual violence against women continues to exist as a type of violence that is difficult to emerge, especially in societies where female sexuality is taboo, and concepts such as honor are defined through female sexuality.³⁸ *Emotional abuse* occurs in shouting, humiliating, blaming incompetence, jealousy, intimidation, and disbelief. It can be defined as despising women, making accusations that they cannot succeed, and ignoring their personalities and ideas. Moreover, yelling, constantly criticizing their behavior, shouting, ordering, sulking, constantly controlling their behavior and what they do in business and social life, and restricting, such as hindering the opportunities a woman faces in life.³⁹ *Economic abuse* is another type of domestic violence against women. Economic abuse can occur by forcing or preventing them from working against a woman's will, controlling money, and preventing from getting an

³⁴ Domestic Violence: A Public Health Priority.

<https://www.gih.org/publication/domestic-violence-a-public-health-priority/>

³⁵ Marriage. com. 10 Most Common Causes of Domestic Violence in Relationship. Retrieved from:

<https://www.marriage.com/advice/domestic-violence-and-abuse/causes-of-domestic-violence/>

³⁶ Types of violence against women and girls, UN Women. Retrieved from:

<https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence>

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

education.⁴⁰ *Psychological abuse* occurs in humiliation, intimidation, belittling, or coldness towards a child or adult or other psychological threat that endangers well-being, mental balance, and development.⁴¹ Domestic violence against women is a social problem that threatens women's lives and prevents their participation in social life. During the socialization process, men's growth by learning that he has the right to use violence, and the woman's growth by learning that the man's use of violence is a normal behavior paves the way for the typical perception of domestic violence in social life. Furthermore, the history of generational domestic violence increases the probability of suffering from it in the future. For instance, according to a study, if a mother is beaten by her father, her daughter will be more likely to experience domestic violence by her spouse.⁴² Abdul Hadi argues that "Gender-based violence is an expression and symptom of a patriarchal social system."⁴³ The superior position of men over women stemming from the patriarchal traditions of the society, the fact that women serve men, and that men have a more significant say than women in domestic decisions are among the most important factors that feed violence. In addition, women's acceptance and tolerance of violence, are also considered to be among the critical factors that lead to the increasing prevalence of domestic violence.⁴⁴ Honor killings, which appear as the strictest expression of violence, stem from the patriarchal social structure. The concept of honor is vital in the Kurdish family structure in Turkey.⁴⁵ Honor is perceived as female sexuality, and honor is expected to be protected by men of the family. Society may discriminate against a man who cannot protect his honor, and all necessary rights (violence, murder) can be given to the man to get rid of this situation. Therefore, men can use violence when necessary to protect the honor of women, and this situation can be seen as a just cause by women living in traditional Kurdish society. The content of the concept of honor originates from the customs and traditions of sexual behavior, which appear in the form of stringent rules. The first rule in this area is sexual purity and avoidance. Maintaining sexual cleanliness is a woman's obligation, and her honor is ensured by protecting her purity against everyone before marriage and presenting her sexuality only to her husband after marriage.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² Amir-ud-Din, R., Fatima, S., & Aziz, S. (2021). Is attitudinal acceptance of violence a risk factor? An analysis of domestic violence against women in Pakistan. *Journal of interpersonal violence*, 36(7-8), NP4528.

⁴³ Hadi, A. (2017). Patriarchy and gender-based violence in Pakistan. *European Journal of Social Science Education and Research*, 4(4), 289-296, p. 290.

⁴⁴ Amir-ud-Din, R., Fatima, S., & Aziz, S. (2021). Is attitudinal acceptance of violence a risk factor? An analysis of domestic violence against women in Pakistan. *Journal of interpersonal violence*, 36(7-8), NP4514-NP4541, NP4534.

⁴⁵ Ahmetbeyzade, C. I. H. (2008). Gendering necropolitics: The juridical-political sociality of honor killings in Turkey. *Journal of Human Rights*, 7(3), 187-206.

Any other sexual act is dishonest.⁴⁶ In the old Turkish Penal Code, a reduction in sentence was applied to killing with the motive of custom and honor. However, with the new Turkish Penal Code, murders committed with the motive of honor are included in the scope of willful killing in Article 81, and there is no separate article for honor killings.

The first law to prevent domestic violence in Turkey is Law No. 4320 on the Protection of the Family, which came into force in 1998. The process prior to this law began with the signing of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1985.⁴⁷ The law was criticized because it protects the family, not e.g., unmarried women, and is not capable of preventing domestic violence.⁴⁸ The criticism stems from the fact that the legal regulations in question do not protect women's human rights. To eliminate the deficiencies in Law No. 4320 and fulfill the obligations arising from the Istanbul Convention, Law No. 6284 on the Protection of the Family and the Prevention of Violence Against Women came into force in 2012.⁴⁹ With the influence of the experiences, Law No. 6284 was regulated more comprehensively compared to Law No. 4320. Law No. 4320 brings prohibitive provisions to those who commit violence but does not foresee preventive and protective measures for the victim. It imposes negative obligations on the perpetrator, and the obligations that may be positive for the victim are not included in the law. These deficiencies were eliminated in Law No. 6284, and it was imposed on public institutions and organizations to take the following measures for the victim. The new law has been a victim-oriented law, which has been prepared by taking into account the needs of the victim.⁵⁰ The positive aspects are inter alia that no court costs are charged, support from authorities is provided in any place that will make the fastest decision accepting the application, and there are economically relaxing arrangements such as financial and nursery aid. Of course, it is a matter of separate debate whether these are fulfilled in practice.

⁴⁶ ERGİL, Doğu (1980), Türkiye’de Terör ve Şiddet Yapısal ve Kültürel Kaynakları, Ankara: Turhan Kitabevi Yayınları, 1. Baskı. p. 188-189.

⁴⁷ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=179&Lang=EN

⁴⁸ Sarihan, B. B. (2015). Violence Against Women in the Code Numbered 6284. *The Macrotheme Review* 4(8), Special Issue IV, pp. 40-55. P. 40.

⁴⁹ Act No. 6284 dated 8 March 2012 to Protect Family and Prevent Violence against Women. Retrieved from: <https://ilo.org/dyn/natlex/docs/SERIAL/91822/106656/F-1918776246/Non-official%20translation%20-%20Law%20to%20protect%20famil.pdf>

⁵⁰ Gunes, A. (2021). Legal implications of Turkey’s accessions to the Istanbul Convention by enacting and refining its laws on violence against women. *Women & Criminal Justice*, 31(3), 210-224, p. 211.

2.2 Domestic Violence against Underaged Girls

Children are often the closest and sometimes the only witnesses at homes where violence is experienced. According to the researches, it has been determined that children are highly affected by the violence they have heard, witnessed, or personally experienced. Children then express their emotions and behaviors such as violence, fear, sadness, anxiety, guilt, and stress. Violence inevitably affects children's self-confidence, health, educational achievement, ability to make friends, and participation in social activities.⁵¹ The most significant impact of domestic violence on children is that children believe that this is how things work in the family. Witnessing their father's use of violence against his mother, the boy will learn that violence against women is normal behavior.

David Ghanim lists the most extensive forms of violence against girls in the patriarchal structures as “physical violence; psychological violence; cultural and religious sanctioning of women’s obedience; sexual violence in the form of rape (including marital rape); honor based violence and killing; forced, early, and child marriages; forced pregnancies; forced veiling; polygamy; suppression of freedom of expression; deprivation of basic rights; gender-based discrimination; and rigid restrictions on the mobility of women.”⁵² Accordingly, the honor of a man is determined by the actions of the woman and her children. Ciftci argues that in the traditional Kurdish community, mothers are responsible for teaching the honor codes to daughters.⁵³ Femininity is experienced entirely in the private sphere under the name of protecting honor in Kurdish society. While girls are growing up, rebellion and dominance are attributed to men, while obedience, patience, and showing love are attributed to women. Since girls often do not go through any education to gain qualifications, they cannot go out of their parents' or husbands' word. The surveillance and control effort on girls rarely ends since their every move is constantly watched and questioned.⁵⁴ This situation leads girls to constantly keep themselves and their bodies under control. In most cases, parents are not even aware that they are discriminating between boys and girls because it comes naturally to them. Thus, the parents once again solidify the foundations of the sexist regime. Honor is the most

⁵¹ Alokun, F. B. (2013). Domestic violence against women: A family menace. *European Scientific Journal*, 9(19).

⁵² Ghanim, D. (2013). ‘Gender-based violence in the Middle East and North Africa: A ubiquitous phenomenon,’ in *Gender and Violence in Islamic Societies: Patriarchy, Islamism and Politics in the Middle East and North Africa*. Zahia Salhi, ed., London: I. B. Tauris, 43-61, p. 44.

⁵³ Tas Ciftci, F. (2019). Conceptualisation of honour codes amongst Turkish-Kurdish mothers and daughters living in London. *Journal of international women's studies*, p. 10.

⁵⁴ *Ibid*, p. 26

essential element that creates all these rules. The issue of honor is mainly expressed concerning the sexuality of girls.⁵⁵ Because “honor is lost once,” and parents exist “for the honor” of their daughters. That is why girls cannot escape surveillance. Therefore, “girls need to be protected”; that is why they are taught to protect honor from an early age. The socio-cultural position of females is weak in the patriarchal society of Kurds.⁵⁶ So from infancy, they are subjected to physical, emotional, economic, and sexual violence. In Kurdish society, power is associated with the male gender, and the female gender is perceived as weak and subservient to the male gender.

Despite the enactment of Law No. 6284, incidents of violence continue to increase. The state’s awareness of the violence after it has ended or the law enforcement’s incapacity to accurately estimate the risk in a concrete case may pose an obstacle to the implementation of the law. However, the key issue is that the country has a gender-discriminatory majority mentality, and the state cannot act together with all its institutions. Therefore, no matter how perfect the legislation on preventing violence is, it is not possible to fight violence against women without regulating education provisions with awareness-raising activities that will cause a social mentality change. Instead of 'external' criticism against the attitudes, behaviors, and values that are desired to be destroyed, 'internal' criticism built by social values may be more effective.

3. Definition of Honor-Based Violence and Forced Child Marriage Among Kurds

3.1 Honor, Reputation, Shame

Honor takes the form of community norms, social boundaries, collective decisions, and punishments. Honor is guarded and defended, for example, by restricting movement, conversations, friendships, and freedom of choice, for example, in choosing a spouse by using physical violence. *Honor-based violence* has been used as a general term for violence defined by the cause of the violence, i.e., honor, rather than the perpetrator or manifestation. It is simply a planned violent response by a family or relatives to an activity that threatens the family's honor. The main aim of honor-based violence or killing is to restore honor. The

⁵⁵ *Ibid.* p.26.

⁵⁶ Alkan, H. (2018). The Sexual Politics of War: Reading the Kurdish Conflict Through Images of Women. *Les cahiers du CEDREF. Centre d'enseignement, d'études et de recherches pour les études féministes*, (22), pp. 68-92, p. 69-70.

concept of honor is in the foreground. It is considered a relation between the individual and the society, which depicts the quality of life and respect. Moreover, it is rooted in such a social system that imposes a specific code of conduct on the girls and women of that society. The place where the concept of honor manifests itself concretely is the woman's body, especially her virginity.⁵⁷

Töre is a Turkish word for custom, which means; rules, morals, law, and ethics, ways of life that are internalized and settled in a community.⁵⁸ It is the cruelest type of violence directed against girls and women who are assumed to go beyond the moral norms that change according to society, region and time. The most important of the functions of *töre* is the attitude towards the "fact of honor". The concept of "honor" comes to the fore in the issue of male-female relations, which are not accepted by society. If the female cannot fulfill this responsibility, social pressure and provocation lead the men of the family to clean their honor by killing the woman. Honor killing implies the killing of the female member of the family by the close relatives to save the honor of the family as the behavior of the female member has brought disgrace to the family. The culprit justifies the act by doing so; he has restored the honor of the family. It is pertinent to chase the victim and kill her; otherwise, the whole family must pass life in permanent shame and disgrace. Murders committed with the motive of honor have been regulated in Article 82 (k) of the Turkish Penal Code, which states that crimes of willful killing committed with the motive of tradition are punished with aggravated life imprisonment.⁵⁹ Not to mention, honor-based violence and killings are often associated with Kurdish culture in Turkey, which further increases discrimination against the Kurds. Honor killings are not the result of the ethnic characteristics of the Kurds but the economic and social backwardness of the region. The most significant indicator of this backwardness is the tribal structure that dominates the area and the state's conscious and discriminative policies against the Kurds. Therefore, it is essential to see the issue of honor-based violence and killings not from the blaming but preventing point of view.

⁵⁷ Sev'er, A., & Yurdakul, G. (2001). Culture of honor, culture of change: A feminist analysis of honor killings in rural Turkey. *Violence against women*, 7(9), pp. 964-998, p. 975.

⁵⁸ Arin, C. (2001). Femicide in the name of honor in Turkey. *Violence against women*, 7(7), pp.821-825, p. 822.

⁵⁹ Penal Code of Turkey. European Commission For Democracy Through Law. (2016). Retrieved from: https://www.legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf (28.03.2022)

Once a female's reputation is lost in society, it cannot be redeemed. Women who act outside the rules determined by the family are considered shameful, and the woman's behavior and the honor of the family show parallelism in this sense. In this respect, honor emerges as a phenomenon that represents the value and reputation of the family in society.⁶⁰ The protection of the family's values and reputation by men is provided by controlling women's sexual behavior.⁶¹ While the dishonor of the man (loss of reputation) can be tolerated, the dishonor of the woman (loss of sexual purity and loyalty) can result in death.

In Kurdish culture, both men and women are sensitive to issues of shame in order to protect their social image and gain respect from others. Furthermore, shame is highly associated with the social image and the preservation of honor. It can also reflect emotions such as shyness and respect-based obedience. Shame with these features is something more feminine. The obedience and shyness of women to male family members help them maintain their chastity.⁶² Honor is conceived as a pair of concepts of shame and has a significant social value.

3.2 Forced Child Marriage

Child marriage is a crime against human dignity. It is the root cause of sexual, emotional, physical, and economic violence. Beyond being the most blatant violation of human rights for the child, child marriages mean the disregard of the individual's childhood and freedom. Forced marriage or marrying without the free will of one or both spouses is regulated in Article 151 of the Turkish Civil Code.⁶³ Apart from this, there is no special legal regulation for abolishing forced marriages in Civil Code. While Article 103 of the Turkish Penal Code considers all kinds of sexual acts directed at under 15 years old children to be sexual abuse, for over 15-year-old children, sexual acts with coercion or threat are considered sexual abuse.⁶⁴ In other words, if the child does not resist or fill in a complaint, it can be considered as consent. However, any sexual intercourse with a child should be prosecuted since no consent makes the action lawful. Girls who are married at an early age, in other words,

⁶⁰ Raza, S. H., & Liaqat, M. (2016). Honor killing of women: A comparative study of the Pakistani print media. *VFAST Transactions on Education and Social Sciences*, 10(1), pp. 33-38, p. 34.

⁶¹ Mosquera, P. M. R. (2013). In the name of honor: On virtue, reputation and violence. *Group Processes & Intergroup Relations*, 16(3), 271-278.

⁶² Moxnes, H. (2001). Honor and Shame. *The Social Sciences and New Testament Interpretation*, p. 20.

⁶³ Turkish Civil Code. Article 151. Retrieved from: <https://rm.coe.int/turkish-civil-code-family-law-book/1680a3bcd4> (28.3.2022)

⁶⁴ Turkish Penal Code. Article 103. Retrieved from: https://www.legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf (28.3.2022)

childbrides, remain vulnerable to violence and sexual abuse.⁶⁵ From this point of view, the reality of child brides continues to maintain its place as a fundamental reality in the world.

There are different reasons why children are married off at an early age. One of these is socio-economic reasons.⁶⁶ In particular, the fact that girls are seen as a “burden” for the family, and in some regions, the bride price is received during the marriage of girls, further reinforces the idea that early marriage of girls provides economic gain. Early marriages, which bring the sudden transition from childhood to adolescence, prevent individuals from living their childhood and completing their education.⁶⁷ They are forced to have a family and children by taking significant responsibilities, deprived of fundamental human rights and of getting an education and any social status. Moreover, Tenkorang states that early marriage, which is a violation of children's rights, women's rights, and human rights, causes girls to be exposed to inter alia unwanted pregnancies and sexual diseases as HIV/ AIDS.⁶⁸

Over 50% of girls are married before the age of 18 in the Southeastern region of Turkey.⁶⁹ Gök in her study has listed the main reasons for child marriage, which are, e.g., socio-economic causes (poverty, welfare level), low education level, cultural structures (traditions, customs, and religious beliefs), domestic violence.⁷⁰ Furthermore, consanguineous marriages occur intensively in Kurdish societies.⁷¹ The tribes include people who are related by blood and kinship, and it continues its existence through consanguineous marriage. Consanguineous marriages are desired so that the name, honor, reputation, and property remain in the family.⁷² Common types of forced marriage in Turkey are, e.g., blood money marriage, marriage for revenge, and child marriage.⁷³ One of the other pertinent causes of

⁶⁵ Yüksel, F., & Koçtürk, N. (2021). Investigation of factors associated with the child marriage in Turkey. *Journal of child sexual abuse*, 30(6), 653-666, pp. 660.

⁶⁶ *Ibid*, pp. 655.

⁶⁷ Ending child marriage and adolescent empowerment, Unicef For Every Child. <https://www.unicef.org/india/what-we-do/end-child-marriage> (29.3.2022)

⁶⁸ Tenkorang EY. (2019). Explaining the links between child marriage and intimate partner violence: Evidence from Ghana, *Child Abuse & Neglect*. Volume 89, 2019, 48-57, pp. 49.

⁶⁹ Ertem M, Koçtürk T. Opinions on early-age marriage and marriage customs among Kurdish-speaking women in southeast Turkey. *BMJ Sexual & Reproductive Health* 2008;34:147-152, p. 147.

⁷⁰ Gök, M. (2016). Child marriages in Turkey with different aspects. *Journal of Human Sciences*, 13(1), 2222-2231, pp. 2224.

⁷¹ Hosseini, H., Erfani, A (2019). Ethnic Differences in the Attitudes and Practice of Consanguineous Marriage among Kurds and Turks in Uromiyeh District, Iran, *Journal of Comparative Family Studies*, Summer 2014, Vol.45, No. 3, pp. 389-403, pp. 400.

⁷² *Ibid*, pp. 392.

⁷³ Reva, Z., Polat, O. (2019). Forced marriages as human rights violation. *International Journal of Social Sciences and Education Research*, 5(1), 69-77, pp. 71.

child marriage among Kurdish communities in Turkey is *berdel* marriage.⁷⁴ Berdel takes place in the form of two men who will marry, changing their sisters or relatives who are considered at the age of marriage. The main aim of berdel marriage is to minimize the economic obligations of the bride's family or protect the family's honor.⁷⁵ In *berdel* marriages, while the woman is accepted as a passive participant they are generally obliged to abide by the decisions taken. The man has the right to take his sister-in-law in the event of his wife's death and the right to demand the bride price from his wife's family.

The first step for preventing early marriages is that the age-based discrepancy between the Child Protection Law, the Civil Code, and the Turkish Penal Code should be resolved, and Girls under the age of 18 should not be allowed to marry. The relevant laws should be amended to impose heavy sentences on those who do not comply with the provisions. Moreover, the most basic condition in the fight against early marriages is to ensure inter-institutional coordination. Cooperation with all authorities of the state should be done, ambiguities in the law should be eliminated, and the implementation of existing sentences should be supervised. In addition, regular training seminars on the Turkish Civil Code, Child Protection Law, and the Turkish Penal Code should be given to local authorities.

3.3. Differences and Similarities between Honor and Domestic Violence

Undoubtedly, domestic and honor-based violence are connected in Kurdish society. While domestic violence can occur worldwide in every family and culture, honor-based violence is commonly seen in particular patriarchal cultures. However, it is essential to mention that honor-based violence is prevalent also in Western societies and, in some cases, the reason behind family killings.⁷⁶ Honor-based violence is not a separate phenomenon from domestic violence, but it is a parallel form of domestic violence. Honor-based violence usually involves several people, unlike domestic violence. In her book, Satu Lidman agrees with “a significant difference in honor-based violence is that it is based on the social pressure exerted by the community or family to resolve the situation through violence.”⁷⁷ Loss of honor affects the whole family or family, so the restoration of honor through violence is justified within the

⁷⁴ Ertem M, Koçturk, T. (2008). Opinions on early-age marriage and marriage customs among Kurdish-speaking women in southeast Turkey. *BMJ Sexual & Reproductive Health* 2008;34:147-152, pp. 147.

⁷⁵ *Ibid*, pp. 151

⁷⁶ Shier, A., & Shor, E. (2016). “Shades of Foreign Evil” “Honor Killings” and “Family Murders” in the Canadian Press. *Violence Against Women*, 22(10), 1163-1188, pp. 1165.

⁷⁷ Lidman, Satu. (2015). *The Legacy of Violent Culture: Gender, Attitudes and History*. Helsinki: Gaudeamus. P.201

family.⁷⁸ The significant similarity between the terms is men's controlling, violent, coercive, and violently threatening behavior against their intimate partners or daughters. Honor-based violence is a phenomenon based on honor thinking. Honor-based thinking is an ancient system that has prevailed worldwide to keep society in order. Power is central to honor-based thinking; women and children are a man's property. The daughter first belongs to the father after getting married to her husband. Honor-based thinking is not a well-known phenomenon in all societies in the world. Therefore, it would be worthwhile to bring awareness and identify honor-based violence when combating domestic violence since it occurs worldwide, e.g., among immigrants. Recognition of honor-based violence is also necessary to protect the victim so that they can be referred to the right authorities.

4. Turkish Legislation on Domestic Violence

4.1 Article 29 of Turkish Penal Code: Unjust Provocation

Article 29 (1) states “Any person who commits an offence in a state of anger or severe distress caused by an unjust act shall be sentenced to a penalty of imprisonment for a term of eighteen to twenty-four years where the offence committed requires a penalty of aggravated life imprisonment and to a penalty of imprisonment for a term of twelve to eighteen years where the offence committed requires a penalty of life imprisonment. Otherwise, the penalty to be imposed shall be reduced by one-quarter to three-quarters.”⁷⁹ Unjust provocation is considered as the primary reason to be taken into account when deciding on reducing penalties that seek to minimize the degree of criminal liabilities in the events where individuals commit crimes under the influence of anger or severe sufferings triggered by unjust actions. The article has been handled to indicate the psychological states in question. Since the unjust act of unjust provocation causes anger and severe distress to the perpetrator and the perpetrator is under the influence of this situation when the crime is committed. Unjust provocation is defined as an act where the provocation must have taken place and been found unjust. The perpetrator must have experienced anger or severe distress due to the tortious act, and the crime must be committed under the influence of anger or severe distress.

⁷⁸ Kulczycki, A., & Windle, S. (2011). Honor killings in the Middle East and North Africa: A systematic review of the literature. *Violence against women*, 17(11), 1442-1464, p. 1142.

⁷⁹ Turkish Penal Code. Article 29 (1). Retrieved from: https://www.legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf (23.4.2022)

According to Article 82 (k) of the Turkish Penal Code, if the crime of intentional killing is committed on the grounds of custom, the person is sentenced to aggravated life imprisonment.⁸⁰ However, it is seen that the punishment can be reduced due to unjust provocation in murders committed out of honor.⁸¹ Hamzaoglu and Konuralp argue in their research that despite the regulations aimed at preventing honor killings committed with the motive of benefiting from the reduction of ‘unjust provocation,’ the problem has not been fully resolved in practice. Since the concept of honor killings is not fully explained in Article 82, hesitations arise at the trial stage. A gray area occurs as to whether or not the murders committed with the motive of honor can be counted as honor killings.⁸² Moreover, it is emphasized that the judiciary has the duty of interpretation to establish a relationship between Article 82 and Article 29 in the Turkish Penal Code. Although the regulation is thought to have achieved its goal in terms of honor killings, if the judiciary does not revise its previous interpretations regarding social values, the provisions of unjust provocation against honor killings can be applied in practice.⁸³

What is implicitly said in this justification is that any life choice that does an action that will anger the perpetrator but that does not constitute a wrongful act in the sense of criminal law can be subject to an unjust provocation discount. The murder of children or women, who have their own will in sexuality and lifestyle, is “tolerated” by reducing the penalty with unjust provocation due to the patriarchal structure of the law. Implementing the unjust provocation and reducing the perpetrator’s punishment in honor killings is against the law and compromises the existence of unlawful customs. Therefore, the judge should investigate the perpetrator’s motive for committing a crime and, as a result of his/her evaluation, should apply the unfair provocation discount if he/she concludes that the emotions that lead the perpetrator to commit a crime are threatening behaviors originating from the victim.

⁸⁰ Turkish Penal Code. Article 82. Retrieved from:

https://www.legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf (23.4.2022)

⁸¹ HAMZAOĞLU, M., & KONURALP, E. (2018). TÜRK HUKUK SİSTEMİNİN ‘NAMUS’LA İMTİHANI: ULUSAL MEVZUAT VE ULUSLARARASI DÜZENLEMELER AÇISINDAN NAMUS CİNAYETLERİ. *Marmara Üniversitesi Kadın ve Toplumsal Cinsiyet Araştırmaları Dergisi*, 2(2), 67-83.

⁸² *Ibid.* p. 74.

⁸³ *Ibid.* p.74

4.2 Article 62 (2) of Turkish Penal Code: Discretionary Mitigation

Article 62 (2) states that “In the evaluation of discretionary mitigation the following matters shall be taken into account: background, social relations, the behavior of the offender after the commission of the offense and during the trial period, and the potential effects of the penalty on the future of the offender. The reasons for any discretionary mitigation are to be stated in the judgment.”⁸⁴ In other words, discretionary mitigation reduction is the reduction of the punishment to be given by the court due to the perpetrator’s past, social relations, and behavior during the trial process after the act. This discount is often used when the perpetrator regrets their actions. When the perpetrator shows regret by seeking help for the victim after the murder attempt or the murder or reports himself to the police after the murder, the judge may apply the discretionary mitigation reduction.⁸⁵ It is not obligatory to make a reduction in every sentence, the judges who conduct the trial may or may not reduce it by taking into account the state and attitudes of the accused at the hearing. The most crucial point to be considered here is that although this reduction is at the judge’s discretion, the judge cannot arbitrarily use his discretion; the judge must act under the law despite personal judgment.

With Article 62 (2) applied in femicides in Turkey, a reduction in good behavior has been regulated, and in the case of “discretionary” reasons that will mitigate the punishment for the perpetrator’s benefit, it is stipulated to reduce the sentence. While the reduction of good behavior is legally regulated in the Turkish Penal Code, it has become a tool for legitimizing the murder of women and carrying out the policy of impunity. Even if there is a legal guarantee, it increases the continuation of femicide with the reduced sentences. Discretionary mitigation reductions are often applied in honor killings.⁸⁶ Discretionary mitigation reduction in violence attempted murders, and murders of women and children violate the community’s

⁸⁴ Turkish Penal Code. Article 62 (2). Retrieved from:

https://www.legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf (23.4.2022)

⁸⁵ Malatya Pencere. Kadın Cinayetlerinde İyi Hal İndirimi. Available at:

<https://malatyapencere.com/kadin-cinayetlerinde-iyi-hal-indirimi/> (4.5.2022)

⁸⁶ Elhan, S. (2022). KADIN CİNAYETLERİ: KAVRAMSALLAŞTIRILMASI VE NAMUS CİNAYETLERİ ÖZELİNDE “RASYONELLEŞTİRİLMESİ”. *Hitit Journal of Economics and Politics*, pp. 81-88, p. 86.

trust in justice. Therefore, the application of discretionary mitigation reductions should be prohibited in murders as well as attempted murders.

4.3 The Implementation of International Legal Instruments

CEDAW and the Istanbul Convention are the primary legal instruments that have significantly affected and improved domestic legislation fighting violence against women and children in Turkey. Turkey signed CEDAW in 1980 and ratified it in 1985.⁸⁷ The signing of the convention obliges the parties, including Turkey, to take concrete steps to eliminate discrimination against women and report regularly and present state practices in the country in promoting women's human rights to the CEDAW Committee.⁸⁸ The second crucial international instrument on this subject is the Council of Europe Convention on the Prevention and Combating of Violence Against Women and Domestic Violence (Istanbul Convention), signed and ratified in Istanbul in 2011 and entered into force in Turkey 2014.⁸⁹ According to the Istanbul Convention, the states parties are obliged to take the necessary measures to change the social and cultural behavior patterns of women and men in order to eliminate prejudices, customs/traditions, and all kinds of practices based on the idea that women are inferior sex or that there are conventional roles for men and women.⁹⁰ The scope of the Istanbul Convention is different from CEDAW. Istanbul Convention aims to end gender inequality and violence against women and children, whereas CEDAW is a convention aimed at preventing discrimination against women.

It is seen that some essential regulations on women's rights have been made at the constitutional and legal levels in Turkey. Following the requirements of international legal instruments, the Turkish Penal Code was reformed in 2005, removing clauses of discrimination against women. One of the most important reforms was the imposition of a sentencing sentence of aggravated life imprisonment for “intentional killing.” Not to mention, Istanbul Convention also protects against early marriages as well as forced marriages, and

⁸⁷ Mello, B., & Strausz, M. (2011). International norms and Women's Rights in Turkey and Japan. *Journal of Women, Politics & Policy*, 32(4), 333-362, p. 343-344.

⁸⁸ UN, Committee on the Elimination of Discrimination against Women. Available at: <https://www.un.org/womenwatch/daw/cedaw/committee.htm> (3.5.2022)

⁸⁹ Council Of Europe Portal, Council of Europe Convention on preventing and combating violence against women and domestic violence. Available at: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatyenum=210> (3.5.2022)

⁹⁰ Güneş, A., & Ezikoğlu, Ç. (2022). Legal and Political Challenges of Gender Equality and Crimes Against Women in Turkey: The Question of Istanbul Convention. *Women & Criminal Justice*, pp. 1-14, p. 8.

honor-based violence When the regulations enacted in recent years regarding women are considered holistically, it is possible to determine that women's human rights standards have increased. However, it is a fact that the developments in this area are mostly influenced by international law, e.g., with CEDAW and Istanbul Convention. Although women and men are equal in direction, inequality continues, especially after Turkey's withdrawal from the IC in 2021. International agreements have the force of law according to the Constitution. The withdrawal from the IC affects Turkey, all Council of Europe member states, and even the international community. It was a shocking move against the legitimacy and applicability of the convention in the international arena and an "exemplary position" for many countries where human rights are declining. Due to its scope, the IC was counted as a guarantee of the human rights of women and children, civil law, criminal law, and all other legal areas in Turkey. The IC demanded that existing legislation should continuously be developed for the benefit of women and children within the principle of equality. Despite new provisions to promote the rights of women and children, it cannot be considered sufficient, as domestic violence, honor killings, and honor-based violence continues significantly. It can be said that in the Turkish state, ruled by violence and poverty, it is challenging to improve the human rights of women and children, mainly because of the patriarchal social structure. Evidently, the gaps in legislation are being exploited to protect the patriarchal social structure.

Conclusion

This thesis has aimed to look at the experience of Kurdish girls regarding domestic, honor-based violence, forced marriages, and the loopholes in the Turkish legislation. Turkey's long history of human rights violations against Kurds, women, and children has continued due to inadequate legislation. As a result of the wrong policy implemented in the Kurdish area, the Kurds have been discriminated against and lagging behind both economically and culturally. Therefore, Kurds have been living in a culture of violence, which has increased the number of victims of domestic and honor-based violence. Moreover, associating honor-based violence and honor killings with only Kurdish culture increases bias and discrimination among Turks. Although human rights have developed over time in the world and Turkey, it cannot be said that this process has been completed. When Turkey's negotiations to join the European Union started, Turkey had to improve the human rights of the Kurds, however, they

still remain subject to intense discrimination. Therefore, to prevent discrimination Kurds and Turks should be equal before the law.

The most significant gaps in Turkish legislation, Articles 29 and 62 (2) of the Turkish Penal Code, have given the courage to violence for perpetrators. In Turkey, prison sentences are long, yet the reductions of Articles 29 and 62 (2) have a significant role in the length of sentences. Not to mention, honor-based violence cases are justified with these provisions. In addition, harmonization of the different definitions of childhood age between the Turkish Penal Code, the Civil Code, and the Child Protection Law are among the critical considerations. Early marriages justification with expressions of "extraordinary circumstances" and "for a crucial reason" should be re-evaluated. Thus, this thesis concludes that legal regulations alone cannot be sufficient to eliminate domestic-and honor-based violence and early marriages. Patriarchal culture has deprived women of human rights, as all decisions concerning children and women are in the hands of men. Honor and forced marriages stem from a patriarchal mentality that can be changed over time through education. It should be ensured that concepts such as women, sexuality, honor, and customs are defined correctly by society. To prevent inequality, society as a whole should gain the habit of egalitarian attitude and behavior. For this, the education level of especially girls should be increased. Especially in the Southeastern region of Turkey, women and children should have easy access to help from the authorities regarding honor violence as well as forced marriages. The state has a duty to give trust to citizens; therefore, when children or women seek justice from state authorities, they must have faith that they will receive the help needed. In order to improve women's fundamental rights, decisions in the male value judgments and interests of family, society, legislation, and judiciary should come to an end. The struggle in this direction should be waged not only by women's organizations but also by men who believe in justice and equality. The human rights violations of women and children are a problem for social development and progress. Equality between men and women ensures political, social, economic, and cultural security. It is the only way to build a sustainable, just, and developed society.

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