

Universal Periodic Review of Turkey

21st Session

January & February 2015

Joint submission by:

Women for Women's Human Rights – New Ways (WWHR)

www.wwhr.org

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&

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Key Words: Right to safe abortion, access to safe abortion, abortion information and services, access to sexual and reproductive health information and services, reproductive rights, sexual rights.

Executive summary:

1. This report is submitted by Women for Women’s Human Rights – New Ways (WWHR – New Ways)¹ and the Sexual Rights Initiative (SRI).² It focuses on the human rights violations of women and girls living in Turkey who face barriers to their access to safe abortion services.
2. Since 1983, abortion is legal until the end of the tenth week of pregnancy. For cases which exceed ten weeks, abortion may only take place with the objective professional opinion of a relevant maternal health expert on whether the continuation of the pregnancy will endanger the life of the mother, or present conditions which may cause disability or other related health problems for the child and future generations (Planned Population Law 557).
3. In May 2012, the Prime Minister of Turkey, Recep Tayyip Erdoğan, called abortion “murder” at the closing session of the International Parliamentarians Conference on the Implementation of the International Conference on Population and Development (ICPD) Program Plan of Action (IPCI). This set in motion debates, which have resulted in effectively banning of what is legally still permissible, that is to access abortion services until the tenth week of pregnancy. Following the Prime Ministers’ speech, public debates on the issue of abortion began. At the same time, the Minister of Health, Recep Akdağ announced that new regulations would be put in place regarding this issue. Through June and July 2012 the issue was discussed in great detail within society and throughout the media. Debates centered on the time limit for legal abortion, rape victims’ right to abortion, whether or not abortion is a sin, among other issues. The Prime Minister’s denunciation of women who have abortions as “murderers” perpetuated social stigma towards women wanting to access abortion services.
4. While the extensive and intense campaigns and lobbying conducted by women’s organizations resulted in safeguarding women’s right to legally access abortion services, political actors and the media have created and perpetuated the perception that “abortion has been banned”.

Relevant recommendations received during 1st cycle of the UPR

5. During Turkey’s review during the first cycle of the Universal Periodic Review process, in 2010, Turkey received 44 recommendations related to sexual and reproductive health and rights, of which

¹ Women for Women’s Human Rights (WWHR) – New Ways, an independent women’s NGO, was founded in 1993 with the aim of promoting women’s human rights in Turkey and on the international level. Since its foundation, WWHR has become a widely renowned non-governmental organization around the globe. Through a decade of activism and advocacy, WWHR –New Ways has contributed significantly to various legal reforms in Turkey, networking in Muslim societies and promotion of women’s human rights at the United Nations (UN) level. Since 2005, WWHR - New Ways has consultative status with the Economic & Social Council (ECOSOC) of the UN. On the international level, WWHR – New Ways has successfully worked to initiate a network of academicians and NGOs advocating for women’s human rights in Muslim societies. It has initiated “The Coalition for Sexual and Bodily Rights in Muslim Societies (CSBR)”, the first active solidarity network in Muslim Societies for the promotion of sexual and reproductive health and rights as human rights.

² The Sexual Rights Initiative is a coalition including: Action Canada for Population and Development (Canada); Coalition of African Lesbians (Africa), Creating Resources for Empowerment and Action (India), AKAHATA (Latin America), Egyptian Initiative for Personal Rights (Egypt), Federation for Women and Family Planning (Poland), and others (www.sexualrightsinitiative.com).

eight are related to the issue of abortion. The eight related recommendations were accepted. They include:

- Increase access to health establishments and care by trained personnel, in particular in rural areas and regarding post-natal care.
 - Continue to provide health care services, focusing particularly on maternal and child health in the remote and rural areas.
 - Continue its efforts aimed at promoting and protecting all human rights and to continue its cooperation with human rights mechanisms, and to work towards the establishment of the national human rights institution and the implementation of national actions plans, in particular regarding equality between the two sexes.
 - Continue its efforts in promoting women's and children's rights, in particular combating child labour and violence against both women and children.
 - Further improve the human rights situation of women and girls.
 - Continue to further promote women's rights and increase their participation in all fields of society.
 - Continue and strengthen its efforts, including through the allocation of sufficient resources, to tackle remaining challenges in the field of women's rights.
 - Adopt measures to eliminate all forms of violence and discrimination against women.
 - Reinforce measures aimed at eradicating gender-based violence and labour discrimination against women.
6. The Turkish Government therefore has the responsibility to implement the above recommendations, in line with women's right to legally obtain safe abortion services, as part of a comprehensive package of sexual and reproductive health services.

Legal context:

7. The following laws regulate legal abortion and pregnancy termination procedures and principles in Turkey: Planned Population Law 557:
- Article 5: A termination with consent may take place until the end of the 10th week of pregnancy, as long as there is no danger to the health of the mother. For cases which exceed ten weeks, a termination may only take place with the objective professional opinion of a relevant maternal health expert on whether the continuation of the pregnancy will endanger the life of the mother, or present conditions which may cause disability or other related health problems for the child and future generations.
 - Article 6: For the intervention under the circumstances named in Article 5 the consent of the following are necessary: The pregnant woman; if the person in question is underage, then their and their guardians; in cases of underage or mentally challenged wards, the magistrate, together with the guardian and the underage person. If the woman in need of a termination is mentally unstable, then her consent is not necessary. In cases mentioned in the first clause of Article 5, if the person whose consent is necessary is married, then the consent of the husband is also necessary.

8. Turkish Penal Code:

- Article 99 (6): In case a woman gets pregnant as a result of an offense, no punishment is imposed on the person who carries out the abortion provided that the pregnancy period does not exceed twenty weeks and the consent of the woman is obtained. In such cases, specialist physicians in a hospital environment should carry out the termination.
- Article 468: Anyone who terminates a pregnancy without the consent of the woman will receive a prison sentence of 7-12 years. A person who aborts at later than 10 weeks with the consent of the woman and no medical necessity will receive a prison sentence of 2-5 years. The woman who consented will also receive the same penalty.
- Article 470: If a person who is not authorized to carry out termination procedures does so at less than 10 weeks with the consent of the woman, they will receive a penalty of 2-4 years. If the deed has resulted in the death of the woman or any other physical damage, the perpetrator will also be charged under articles 452 and 456. If the unauthorized perpetrator has committed any of clauses in article 468, their penalty will increase by one third.

Social and political context

9. Clause 16.1.e of the Convention on the Elimination of all Forms of Discrimination against Women which Turkey is a proud signatory of, declares: "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: "The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights."" Prohibiting women's access to safe and legal abortion services is the manifestation of conservative and neo-liberal population policies being constructed over women's bodies, and a direct violation of women's human rights. Specifically, denying women's right to access safe and legal abortion denies women their rights to possess their own bodies. It also attempts to limit women's existence to primarily be about the continuation of the human race. As things stand, in Turkey women are faced with the denial of their human rights, which in the case of access to abortion services, is a services protected by law.
10. When we examine the development of abortion laws in Turkey since the founding of the Republic, three shifts occurred, resulting in the service being legally permissible within the first 10 weeks. In the early years of the Republic demographic pressures led to policies to increase the birth rate which resulted in the legal prohibition of abortion until 1965. Attitudes towards abortion began to change when the negative consequences of population growth kicked in leading to steps towards a planned economy. In 1965 the Planned Population Law 557 and its affiliated regulations removed abortion from the list of 'crimes against race' category and listed circumstances under which abortion could be carried out, which included endangerment to the life of the mother. The legalization of abortion within the first 10 weeks of pregnancy in 1983 followed this intermediary phase. As in the rest of the world, one of the influential factors that has affected Turkey's stance on abortion have been neoliberal policies. In times of economic and labour force decline, especially following wars, women's role within society has been defined through motherhood, bearing and raising children. In the current case of Turkey, where there is a focus on increasing access to a cheap labour supply, the youth population becomes prioritized at the expense of women. As a result, women's space is

limited to being a family member, a mother or a wife. The current economic situation, which fuels these negative stereotypes of women's role in society, shapes the public's stance on abortion.

11. The legalization of the termination of unwanted pregnancies has led to the lowering of maternal deaths from 250 out of every 100,000 live births in the 1970s, to 20 out of every 100,000 live births in 2013.³ There is no evidence to say abortion rates in Turkey have increased. To the contrary, in 1993 18 out of 100 pregnancies were aborted, whereas in 2008, this figure dropped to 10%.⁴
12. According to age group data from the Turkish Demographic and Health Survey 2008, the most common age/demographic group for abortion was 45-49 year old married women. The percentage of married women who had abortions varied depending on the number of children they already had. Six per cent of women without children chose to access abortion services, while the abortion rate among women with 5 or more children was the highest rate at 29%. The rate of abortion among women living in rural areas is 10.8% whereas the rate is 7.8% among women living in the cities. When we look at the geographical distribution, we see that the percentage of women having abortions in the western and northern Anatolia is greater than the percentage of women in other geographical areas. This situation can be associated with Kurdish women lacking access to services in their language, causing women in those areas to not be able to reach safe abortion, and other sexual and reproductive health informative and services. Unfortunately, due to a lack of monitoring mechanisms and the availability of correct data on the subject there is no abortion related information or resource post-2008.
13. Forty-six per cent of women in Turkey use modern birth control methods such as the condom and the birth control pill, 54% of women either are not using any form of birth control or are using unreliable traditional methods such as calendar method or the withdrawal method. The most widely used birth control method is the IUD (intrauterine devices) with 15 – 20% women reporting using this method. The prevalence of condom use is 14%. The birth control pill usage is prevalent around 5%. Tubal ligation method is used by 8% of women. There is an increase in the use of birth control methods compared to the past. This increase is consistent with the decrease of abortion rates over time.

Political and public discourse

14. Despite the fact that a woman's right to abortion is well protected and regulated by law, following the debates which ensued after Prime Minister Erdoğan's "I see abortion as murder" comment, any woman who has since attempted to exercise her legal right to access abortion has been branded a "murderer" by certain media organs and government officials. Thus, social pressure is being used to prevent women from exercising their legal rights.⁵
15. Following the IPCI Conference, on 12th May 2012 Prime Minister Erdoğan stated that the government would begin preparing a new "abortion law". This was accompanied by a statement by the Minister

³ WHO, UNFPA, UNICEF, The World Bank and the UN Population Division. 2014. Trends in Maternal Mortality: 1990-2013.

http://apps.who.int/iris/bitstream/10665/112682/2/9789241507226_eng.pdf?ua=1

⁴ Turkey Demographic and Health Survey, 2008.

⁵ <http://www.hurriyetdailynews.com/abortion-is-murder-says-turkeys-pm.aspx?pageID=238&nID=21665&NewsCatID=338>

of Health saying that the government would begin the process of preparing a report on abortion which would inform the new laws surrounding abortion. At this time, government statements suggested that the ten-week limit on access to abortion would be restricted to four weeks, which would in effect have meant the banning of abortion. This proposal was withdrawn as a result of a powerful campaign instigated and waged by the women's movement.⁶

16. Public debates on the issue of abortion also brought with them debates about surrounding rape. The right to abortion until the twentieth week in cases of rape was suddenly opened up for discussion with some government officials going as far as to say abortion should be banned in rape cases, and that the state would take care of babies born out of rape.⁷ Such statements have resulted in indirectly affected court rulings. Since 2012, in court rulings on rape cases have infrequently granted survivors of sexual violence permission to obtain an abortion after the twenty week limitation period. This is despite the reality that in many cases, the victim has to wait for a final ruling of her case before she is permitted to obtain an abortion which typically takes more than twenty weeks.⁸ In such cases, survivors of sexual violence are therefore doubly discriminated against, in that they not only have their right to access safe abortion services denied, but also their right to live free from all forms of stigma, discrimination and violence.

Access to a comprehensive package of sexual and reproductive health services and information

17. The World Health Organization's (WHO) 2000 World Health Report states that health systems must be accessible, sustainable, fair (equitable) and of a good quality.⁹ With this in mind in 2002-2003 the 58th and 59th governments prepared the "Health Transformation Program" (HTP) as part of the Urgent Action Plan. Both WHO recommendations and the existing problems within the Turkish health system were drivers in the Health Minister's decision to implement HTP. The HTP was a progression of the "privatization of health services" which began in the 1980s, and has resulted in the commodification of health services, at the expense of individuals' basic human rights to access health services and the responsibility of the state to guarantee this human right. Since the introduction of the HTP, and the corresponding structural transformation in the health system, the health system has remained very limited. One example is in access to a range of modern methods of contraception. Specifically, birth control units at state hospitals are being shut down one by one or left understaffed which results in limited to no access to free family planning services. With limited access to family planning, women are at greater risk of experiencing unplanned pregnancies. This results in increased demand for abortion services, which also remain limited given the current governments' refusal to publically clarify the circumstances under which women can legally obtain abortion services.
18. Thirty percent of abortions are performed in state hospitals, while 70% are performed in private clinics.¹⁰ While the 2012 political statements and public debates did not result in legislative amendments to ban abortion, the social perception that "abortion has been banned" was generated.

⁶ <http://www.bbc.com/news/world-europe-18297760>

⁷ <http://www.hurriyet.com.tr/gundem/20661267.asp>

⁸ <http://www.haberturk.com/polemik/haber/922794-bu-cocuk-o-cocugu-doguracak->

⁹ WHO 2000. World Health Report.

¹⁰ Turkey Demographic and Health Survey, 2008

Abortion services are provided free of charge in state hospitals. Women seeking services in private hospitals (contacted by the government) and clinics must pay varying fees. State hospitals added to the confusion by telling women who applied for abortions that abortion had been banned. Whereas private clinics performing abortions have had to become warier since private clinics are facing new regulations which aim to further restrict the provision of abortion services.

19. As a result of structural changes in the health system, Health Centres (FHC) replaced previous Community Health Centres, which do not function in the way they were meant to, in part because they are unable to respond to demand. Because family GPs, who are operating in FHCs, have a new semi private practice/semi state employee status, they are free to act arbitrarily in cases they feel do not make it financially worth their while, or they are opposed to providing the service. Regarding the points system for doctors which the health ministry put into force as a part of HTP, every medical practice has its own point which the salary of a doctor is indexed. This system gives doctors the freedom to decide which medical service he/she wants to perform. For example, abortion services did not initially appear in the Health Application Notification of March 2014, but were later added as an afterthought as part of the “points system for doctors” application of the HTP with a fairly low points value for abortion services. As a result, some doctors do not think it is worth their while to perform abortion services. This system causes health services to become materialized, reduces the patient to a client who is waiting to be served, and is not in accordance with the humane side of doctor-patient perspective and the ethical and humanitarian values of medicine. It thus damages the doctor-patient relationship which should be built on trust. This points system causes the doctor to move away from procedures that have a low point value. This causes the quality of the health service to diminish. It also causes the treatment of vulnerable groups to be neglected, contrary to the equal, fair and just treatment and non-discrimination that is the base of medical ethics. The points system limits the freedom of independent decision making belonging to the doctor.
20. The Pregnancy, Baby and Post-Natal Monitoring System (GEBLIZ), which began in September 2008, is an intrusive mechanism, which violates woman’s privacy. GEBLIZ is a system that can potentially endanger women’s safety through both unexpected follow-up home visits by health workers and the recording of pregnancy information for all women, leaving them unable to conceal their pregnancies if they so choose. For example, an 18 years old woman in Istanbul became pregnant; following which her personal data become recorded in the GEBLIZ system. After a few days the health workers visited her home for a health check. When her mother realized her daughter’s pregnancy, she attempted to stab her. Although the mother was not able to harm the young pregnant woman, afterwards she disinherited her daughter.
21. The above negative developments have led to increases in risky procedures to terminate unwanted pregnancies. Such procedures are often undertaken in unhealthy and unsanitary conditions, which can seriously threaten the women’s health and well-being. Unfortunately, there is no current statistical data on the prevalence of unsafe abortion in Turkey, however, information informally provided from those working in the field reflects the existence of unsafe abortions.
22. All individuals have the right to access a range of methods of birth control and termination services for unwanted pregnancies, which should be widely available and accessible. However, increasing

neo-liberal political discourse on population-related issues, are becoming real threats to women's health and lives. In reality, it is becoming increasingly difficult to access free birth control options. The Health Ministry is unwilling to disseminate basic birth control options. It is known that the demand placed on FHCs for quality birth control options is not being met. This situation not only violates human rights, it also renders physicians immobile on a vital health issue thus preventing them from fulfilling their responsibilities. For example, because inter uterine devices are not part of the Social Security Institution's reimbursement coverage women are being asked to pay for something their doctors prescribe and which should be administered at state hospitals free of charge.

Recommendations:

23. In line with the government's 2014-2018 Development Plan, develop accessible, high quality, cost effective and sustainable health policies based on data and supported by evidence.
24. Develop multi-tiered preventive health services to ensure individuals are physically and psychologically healthy, and are able to live in socially, biologically and physically health environments.
25. Develop and implement a comprehensive, holistic Sexuality Education based on human rights principles, available in all social institutions and communities.
26. Undertake a public awareness raising campaign aimed at informing women of their right to legally obtain an abortion, with accurate information regarding how women can obtain the services.
27. Ensure all individuals have access to a full range of free birth control methods and instruments.
28. Take all necessary steps to remove all forms of discrimination against women, specifically access to non-discriminatory adequate health services including consultation and information about birth control.
29. Ensure the elimination of the practice of all manner of psychological pressure such as making women listen to the heartbeat of the fetus or "persuasion rooms" under the guise of "information and thinking time" for women who apply to health institutions for a termination must end.¹¹
30. Amend Article 6 of the Planned Population Law 557, so as to ensure that women who opt for a termination are able to do so without "permission from her husband".¹²
31. Implement all health related practices, to the highest standards, devoid of violence, oppression, stigmatization, and be non-discriminatory, holistic and comprehensive.

¹¹ <http://www.cnnturk.com/2012/saglik/08/16/kurtaj.isteyen.kadina.bebegin.kalp.sesi.dinletilecek/673247.0/>

¹² <http://www.ntvmsnbc.com/id/25417588/>

32. Ensure adolescents have access to correct information about: Gynaecological controls, emergency contraception, assisted reproduction treatments, maternity care, safe abortion services, the prevention, treatment, care and support of sexually transmitted diseases and HIV and services for those who have been exposed to conflict situations. All such services must be accessible, low cost, acceptable and of a high quality.
33. While renewing health goals, targets, and indicators, the state must ensure health investments and strategies be stringently respectful of all human rights, most importantly sexual and reproductive rights.
34. Ensure all health services and information, including those related to abortion, are provided in diverse languages, including Kurdish.
35. Ensure all health providers are aware of current legal context surrounding abortion, and provide accurate, non-discriminatory and non-judgemental information and services to all individuals.
36. Eliminate the points system, in favour of a health system that respects health professionals' values and ethics, in line with the right to health.