

1412142 (Refugee) [2015] AATA 3566 (24 October 2015)

DECISION RECORD

DIVISION: Migration & Refugee Division
CASE NUMBER: 1412142
COUNTRY OF REFERENCE: Turkey
MEMBER: R. C. Titterton
DATE: 24 October 2015
PLACE OF DECISION: Sydney
DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.

Statement made on 24 October 2015 at 9:57am

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the Migration Act 1958 and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a protection visa under s.65 of the *Migration Act 1958* (the Act).

BACKGROUND

2. The applicant, who claims to be a citizen of Turkey, fears returning to Turkey because she fears violence from her husband. She claims that she has been hospitalised in 2011 and 2013 as a result of his assaults upon her. He was a drug addict and dealer, had a gun, had tried to kill his previous wife and had connections with the police.
3. The applicant was born on [date] in Istanbul, Turkey where she continued to live until coming to Australia. She had [number] years education and previously worked in [industries] in Turkey. She has been married twice before. Her first two marriage ended in divorce. She underwent a religious ceremony to her third partner in late 2009/early 2010. Her [children] from her first two marriage's [and siblings] remain in Turkey.
4. The applicant arrived in Australia [in] June 2013 and applied for the protection visa [in] November 2013. She was interviewed by the delegate [in] May 2014. [In] June 2014 and the delegate refused to grant the visa.
5. The applicant appeared before the Tribunal on 13 April 2015 to give evidence and present arguments. The Tribunal also received oral evidence from the applicant's son in [Turkey]. The Tribunal hearing was conducted with the assistance of an interpreter in the Turkish and English languages. The applicant was represented in relation to the review by her registered migration agent. The representative attended the Tribunal hearing.
6. The applicant's representative made written submissions to the Department dated 22 May 2014 and submissions to the Tribunal dated:
 - (a) 2 April 2015. In summary, these submissions attach a document (and translation) from the Public Hospitals Department of Turkey stating that the applicant attended [a] Hospital [in] December 2011 and was discharged [in] January 2012. She then attended again [in] February 2013 and was discharged the same day;
 - (b) 14 May 2015. These submissions attach a newspaper report (and translation) titled "[headline]" dated [in] December 2012 in relation to the suicide of [name] and subsequent legal action which have left his parents without the financial capacity to pay the costs order made against them; and
 - (c) 24 September 2015.
7. A summary of the country information relied on by the applicant appears in Attachment 2.
8. The hearing was conducted by Ms Rowena Irish. However, on 19 August 2015 the Tribunal was reconstituted by the present member. He listened to the sound recording

of the hearing conducted by Ms Irish, and has considered all the materials including submissions and country information relied on by the applicant.

CONSIDERATION OF CLAIMS AND EVIDENCE

9. The law upon which the findings below are based is set out in Attachment 1.
10. On the basis of the applicant's oral evidence and her Turkish passport, which was presented at the hearing, the Tribunal finds that the applicant is a citizen of Turkey. There is nothing in the evidence before the Tribunal to suggest that the applicant has a right to enter and reside in any country other than Turkey. Therefore the Tribunal finds that the applicant is not excluded from Australia's protection by subsection 36(3) of the Act. As the Tribunal has found that the applicant is a national of Turkey, the Tribunal also finds that Turkey is the applicant's "receiving country" for the purposes of s.36(2)(aa).

Convention criteria

11. Like the delegate, the Tribunal considers the applicant to generally be credible. She provided consistent and detailed evidence in relation to the past instances of domestic violence and medical evidence to support her claim to have been hospitalised in 2011 and 2013 as a result. Her oral evidence was also consistent with that of her [son]. It is also consistent with country information. The applicant's representative has provided numerous detailed references to the prevalence of domestic violence in Turkey. This information is consistent with the *DFAT Country Information Report: Turkey* dated 2 June 2014.
12. This information is also consistent with the information in the US State Report for Turkey issued 26 June 2015 (and referred by the applicant's representative in post-hearing submissions received 25 September 2015). That report relevantly states in the Executive Summary:

The most significant human rights problems during the year were:

3. Inadequate protection of minority and vulnerable populations: The government did not effectively protect vulnerable populations from societal abuse, discrimination, and violence. Kurds continued to face human rights problems, particularly limitations on freedom of assembly. Roma, women, children, and lesbian, gay, bisexual, and transgender (LGBT) individuals were also subject to discrimination and abuse. Violence against women, including so-called honor killings, remained a significant problem, and child marriage persisted.

Other problems during the year included poor prison conditions, including overcrowding; restrictions on religious freedom; government restrictions on human rights organizations; and a rise in the expression of anti-Semitic sentiments by political leaders and progovernment media outlets.

The government took limited steps to investigate, prosecute, and punish members of the security forces and other officials who were accused of human rights abuses. Impunity was a problem.

13. The Tribunal accepts the applicant's evidence that approximately 7-8 months after they moved in together her partner started being physically abusive. The Tribunal accepts that he controlled her (for example he forced her to quit her job and socially isolated her from her friends) and forced her to have sex with him. The Tribunal accepts that on New Year's Eve 2011 he physically assaulted her, resulting in her being hospitalised for a number of days. The Tribunal accepts that in February 2013 he threw a marble ash tray at her that hit her in the chin, requiring her to again attend

at hospital for treatment. The applicant stated that there were many other incidents he would constantly humiliate, undermine, question and devalue her.

14. The Tribunal accepts that the applicant left the family home without the knowledge of her partner and came to Australia to visit her son as she was afraid of what her partner might do if he found out she had left him. The Tribunal accepts that the applicant has genuine fears about returning to Turkey. The Tribunal accepts that the applicant's delay in lodging her application for protection was reasonable and does not indicate any lack of fear about returning to Turkey.
15. The Tribunal accepts that the applicant has a genuine fear of harm and has considered whether the harm is for a Convention-related reason. The applicant's representative submitted that the applicant is a member of the particular social group of "women in Turkey" and referred to case law supporting the submission that such a group exists. However, the Tribunal is not satisfied that the applicant's partner would harm her for reason of her membership to this group. The applicant described the circumstances in which her partner would harm her. These were situations where she questioned or challenged him, for example when she insisted that she would go out with friends or when she questioned him about the gun he had. Her description suggests that he was generally a violent, aggressive person and that there was a very personal dynamic within the relationship leading him to harm her because of his own violent tendencies, his drug problem, mental health issues and his desire to control her rather than because she is a woman in Turkey.
16. When the Tribunal discussed with the applicant at the hearing its concerns that her partner would harm her for personal reasons rather than any Convention reason she did not comment on this, stating "what can I do?"
17. In the circumstances the Tribunal is not satisfied that he would harm the applicant because of her race, religion, nationality, membership of a particular social group or political opinion.
18. However, as was correctly submitted by the applicant's representative, women suffering violence in such situations as the applicant may nevertheless, depending on the circumstances, come within the scope of the Convention: *Minister for Immigration and Multicultural Affairs v Khawar* (2002) 210 CLR 1. In that decision a majority of the High Court held that the Convention test may be satisfied by the selective and discriminatory withholding of State protection for a Convention reason from serious harm that is not Convention related. Importantly, s.91R(1)(c) of the Act refers to systematic and discriminatory conduct. It is not sufficient to show maladministration, incompetence or ineptitude by the police or that the failure to protect is due to a shortage of resources. What is required is State toleration or condonation of the persecution in question and systematic and discriminatory implementation of the law: per Gleeson, CJ at [26] and per McHugh and Gummow JJ at [84] to [87]. The applicant has contended that she will not be afforded protection by the Turkish authorities from harm at the hands of her partner. The Tribunal has considered whether the country information supports a finding that there will be selective and discriminatory withholding of State protection for a Convention reason.
19. The applicant's representative's submission refers to country information about the prevalence of domestic violence in Turkey despite the introduction of legal and practical measures by the government, individual cases of women who had been killed by husbands despite seeking police protection or moving to shelters, societal attitudes which resulted in underreporting, or delays in the reporting, of incidents, the linking of violence towards women with family honour, difficulties with enforcement and lenient

treatment of offenders. The Tribunal accepts that there are significant issues with the practical enforcement of laws protecting women in Turkey, and is satisfied that the country information suggests that there is selective and discriminatory withholding of State protection for women who are likely to be subjected to domestic violence.

20. The most recent US State Report for Turkey released 26 June 2015 relevantly states:

SECTION 6. DISCRIMINATION, SOCIETAL ABUSES, AND TRAFFICKING IN PERSONS

The law prohibits discrimination based on race, gender, disability, language, or social status, but the government did not enforce these prohibitions effectively. Government officials used discriminatory language toward opposition groups such as protesters, women, Alevis, Kurds, and other minorities. The constitution allows measures to advance gender equality as well as measures to benefit children, seniors, persons with disabilities, widows, and veterans, without violating the constitutional prohibition against discrimination.

On March 3, the parliament approved a law known as the Democratization Package that introduced an article on hate speech or injurious acts related to language, race, nationality, color, gender, disability, political opinion, philosophical belief, religion, or sectarian differences. Perpetrators of these acts may be punished by up to three years in prison. While observers considered the legislation a positive step, they noted its categories did not match OSCE's recommendations because ethnic identity, sexual orientation, sexual identity, age, and profession were not included.

Consequently civil society organizations asserted the grounds for punishing discrimination and hate in the law remained too limited and excluded major offences that may be motivated by discrimination and/or hate, especially failing to protect the most vulnerable groups, including women, persons with disabilities, LGBT individuals, Roma, and religious minorities.

Women

Rape and Domestic Violence: The law prohibits violence against women, but human rights organizations claimed the government did not effectively enforce it. The law prohibits sexual assault, including rape and spousal rape, with penalties of imprisonment for two to seven years. The government did not effectively or fully enforce these laws or protect victims, who often waited days or weeks to report incidents due to embarrassment or fear of reprisals, hindering effective prosecution of assailants. Government statistics on violence against women were incomplete, and human rights organizations alleged that authorities manipulated the statistics to show progress on the issue. Societal acceptance of domestic abuse in some cases contributed to underreporting of gender-based violence.

The law covers all women, regardless of marital status, and provides for police and local authorities to grant various levels of protection and support services to victims of violence or to those at risk of violence. It also requires government services, such as shelter and temporary financial support, for victims and provides for family courts to impose sanctions on perpetrators.

The law provides for the establishment of prevention-of-violence and monitoring centers to offer economic, psychological, legal, and social assistance. The Ministry of Family and Social Policies operated 93 women's shelters with a capacity of 2,527 persons, while municipalities operated 33 women's shelters with a capacity of 761 persons. An NGO operated one women's shelter. The Purple Roof Association reported there were 14 in-take centers operated by the ministry, called SONIMs, which refer women to shelters. Purple Roof alleged that the SONIMs and shelters were insufficient in terms of both number and the quality of services they provided.

Regulations call for a state-funded women's shelter for every 100,000 persons, but there were no sanctions for noncompliance. Observers noted an inadequate number of shelters—or no shelters at all—in many cities with populations above 100,000. For

example, there were only three shelters in Adana, a city with a population of two million. The government operated a nationwide domestic violence hotline, but women's rights NGOs criticized the government for changing the hotline's focus from violence against women to broader violence issues, renaming it the "Family, Women, Children, Disabled, Families of Martyrs and Veterans Hotline." NGOs reported that the quality of the services provided during the calls was inadequate for victims of domestic violence. Through August 25, the hotline received 69,774 calls regarding violence, negligence, or exploitation. In a press release April 6, the Ankara Bar Association president stated that since 2011 the Poppy Center, which provides legal support to women facing domestic violence, received approximately 25,000 requests for assistance from women and children. There were 2,923 individual applications, and the bar association appointed lawyers in 2,418 cases. The association president estimated that only 10 percent of victims facing domestic violence actually applied for institutional assistance.

Violence against women, including spousal abuse, remained a serious and widespread problem both in rural and urban areas. Spousal rape is a criminal offense, and the law also provides criminal penalties for crimes such as assault, wrongful imprisonment, or threats. Despite these measures the number of killings and other forms of violence against women in the country remained high, and activists asserted increased awareness and a change in mentality were required to prevent more women from becoming victims of domestic violence.

Courts regularly issued restraining orders to protect victims, but human rights organizations reported that police rarely enforced them effectively. Women's associations also charged that government counselors sometimes encouraged women to remain in abusive marriages at their own personal risk rather than break up families.

On August 8 in Istanbul, a husband stabbed his wife, Hasret Kara, with a screwdriver 43 times in front of her four children. She survived the attack and underwent surgery on her lungs. After an initial detention, the court released her husband. Following a public campaign led by women activists and NGOs (who also guarded her house with the help of neighbors), authorities rearrested the husband on August 27.

According to Bianet, which tracks statistics through media reporting, through October a total of 235 women were killed, 88 women and girls raped, and 499 women battered in the country. NGO groups maintained these numbers were probably much lower than actual occurrences due to underreporting. The Jandarma reported that through August 31, 7,552 cases of domestic violence were reported, representing a 6 percent increase over the previous year. As of August 1, the Jandarma identified 25 rape and 290 sexual assault cases with 328 suspects.

Female Genital Mutilation/Cutting (FGM/C): The law does not prohibit FGM/C. There were no documented cases of FGM/C in the country, and it was not a traditional practice.

Other Harmful Traditional Practices: So-called honor killings of women continued to be a problem. Most honor killings occurred in conservative families in the rural Southeast of the country or among families of migrants from the Southeast living in large cities. Individuals convicted of honor killings may receive life imprisonment, but NGOs reported that actual sentences were often reduced due to mitigating factors. The law allows judges, when establishing sentences, to take into account anger or passion caused by the "misbehavior" of the victim. Because the law created harsh penalties for honor killings, family members sometimes pressured girls to commit suicide to preserve the family's reputation. The Federation of Women Associations reported a trend of suspicious suicides of teenage girls in Adiyaman and Siirt Pervari regions during the year. The government did not report honor-killing statistics for 2014, and women's advocates alleged this failure was part of the problem. Human rights groups also alleged that honor killings were likely underreported in the media and inadequately investigated by the police, as murders were not always attributed to honor killing, were made to look like suicide, or were in fact induced suicides.

Kader Erten in Siirt was forced to marry at a young age. She mothered two children by the age of 16. While her husband was doing military service, she was found dead in her house in January. Her husband's family claimed she committed suicide, but a local NGO believed it was an honor killing because rumors of her infidelity surfaced. A court was seeking to determine whether it was a suicide or honor killing.

In one example, in Diyarbakir a husband, Veysi Turan, was accused of killing his wife, Mubarek, for suspected infidelity. Turan rigged the light switch to electrocute his wife when she turned it on, making her death look like an accident. Turan was in prison, and the case was pending in court.

Sexual Harassment: During the year penalties for sexual crimes committed against women and children were increased. The law provides different penalties for the crimes of sexual harassment and sexual assault, requiring from two up to five years' imprisonment for sexual harassment and five to ten years' imprisonment for sexual assault of an adult. If the victim is a child, the recommended punishments are longer. Women's rights activists reported authorities rarely enforced these laws. Bianet counted 75 cases of sexual harassment through October; the government did not provide data on sexual harassment.

Reproductive Rights: Couples and individuals in most cases had the right to decide the number, spacing, and timing of their children; to have the information and means to do so; and the right to attain the highest standard of reproductive health, free from discrimination, coercion, and violence. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections. Women's rights NGOs criticized the government for unofficial bans on or interference in the distribution of birth control pills.

The UN Population Fund report, *State of World Population 2013*, estimated that skilled attendants assisted in 91 percent of all births, while 73 percent of married women used some method of birth control as of 2010.

Discrimination: While women enjoy the same rights as men under the law, societal and official discrimination were widespread. On July 28, Deputy Prime Minister Bulent Arinc sparked an outcry with his statement that women should not laugh loudly in public. "She should not laugh loudly in front of all the world and should preserve her decency at all times," he stated. He went on to mock women using their cell phones excessively, implying that women, even with their female friends, should be quiet and submissive. On November 24, President Erdogan told a summit organized in honor of the UN's International Day for the Elimination of Violence against Women: "You cannot claim that men and women are equal, as their natures are different." He went on to clarify: "Our religion has defined a position for women: motherhood," and he added that women and men could not be treated equally "because it is against human nature.... You cannot place a mother breastfeeding her baby on an equal footing with men."

The constitution permits measures, including positive discrimination, to advance gender equality. The Purple Roof Association reported non-Turkish speaking women and women with disabilities had difficulty accessing these services.

Women continued to face discrimination in employment and were generally underrepresented in managerial-level positions in business and government. According to the Turkish Statistics Institute, women's participation in the labor market was at 27 percent in 2013. Women mostly served as unpaid family workers with no social protection apart from that afforded by other family members. According to the June data of the State Personnel Department, 37.3 percent of individuals employed by state institutions and agencies were women. Women occupied only 9.2 percent of executive positions within the state bureaucracy. According to the European Commission's progress report, women's access to employment was limited by gender-based segregation of domestic duties and inadequate child-care services or services for older persons (see section 7.d.).

The number of women in politics and the judiciary remained very small. In April the Association for the Support and Training of Women Candidates reported in its *Equality in Representation of Men and Women Report* that only one of 81 provincial governors appointed by the Ministry of Interior was a woman. In the high judiciary, the rate of representation for women was 14.2 percent. The Ministry of Family and Social Policies reported that six of 458 deputy governors and 21 of 860 subgovernors were women. The ministry also reported that as of February, women held 41 percent of the teaching positions at universities, and 28 percent of full professors were women. Women were rector in 14 of 176 universities. The High Council of Judges and Prosecutors announced that as of September 2013, a total of 3,549 of 13,666 judges and prosecutors were women. Of 550 members of parliament, 78 were women. At times members of parliament used language that denigrated women.

Women were also underrepresented in management in trade unions. The government, working with the state employment agency Is-Kur and women's groups, developed programs to encourage the hiring of women. The government reported that men and women had equal employment opportunities and received equal pay for equal work.

21. The Tribunal notes that it is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.
22. As noted the most recent DFAT Country Report for Turkey is dated 2 June 2014. It relevantly states:

Women

3.1 Women in Turkey enjoy a greater degree of equality than women in any other Muslim country. This is largely due to the state's secularist policy. However, serious societal discrimination against women persists, and women in some situations are at risk of societal or family violence. Overall, DFAT assesses that women in Turkey face a moderate level of discrimination.

Official Discrimination

3.2 There is no constitutional discrimination against women. While elements of the Turkish criminal code have in the past discriminated against women, these have largely been removed. Women's rights groups in Turkey spoke relatively positively to DFAT of the previous and current Government's efforts to reform the criminal and civil law codes, relying on processes which included significant consultation with women's rights groups.

3.3 As a result, there is little official discrimination against women in Turkey. Marriage, divorce, inheritance and child custody are regulated by a civil law code that respects gender equality. Abortion remains legal up to 10 weeks, and up to 24 weeks in cases of rape or danger to the mother, although doctors now have a right to conscientious objection to performing abortions.

Societal Discrimination

3.4 Women's representation in national government, having stagnated for many years, is now increasing, though it remains at significantly lower rates than international averages.

3.5 Violence against women remains a problem across Turkey, and particularly in more conservative, traditional and rural areas. For example, in a credible nationwide survey published in 2009, 10 per cent of women reported suffering violence from intimate partners over the preceding year, and 39 per cent reported

suffering violence from intimate partners during their lifetime. Public reporting of domestic violence has increased substantially over the last decade.

3.6 Several groups suggested to DFAT that the problem is becoming more visible, possibly as a result of women becoming aware of their rights, and the increasing accessibility of support services. The Turkish Government has set up a network of approximately 50 shelters for women (and sometimes men) fleeing family violence. Women's rights groups criticised these shelters for being inadequate in number and having lax security policies. Non-government organisations provide further shelters (approximately 50 in total), as well as relocation assistance services.

3.7 In addition, the Government provides a range of protection services, including relocation and changes to women's identities. The Government funds one helpline while another is privately funded. In March 2012, a law aimed at protecting women and family members from violence entered into force. DFAT has been told that Turkish police were becoming more responsive to requests for assistance, in part thanks to training on the new law. However, in some cases, women were told to reconcile with their partners. DFAT has been told that divorced and widowed women also suffer from societal discrimination, including difficulty in securing access to housing and employment.

3.8 'Honour crimes', generally perpetrated against women, are regularly reported in the media. The Government has repealed laws which provided reduced sentences for honour crimes. While accurate statistics are unavailable, DFAT has been told that the practice continues, but is declining.

3.9 Underage and forced marriage, particularly of young girls, also remains prevalent. Women's rights groups in Turkey told DFAT that awareness of underage marriage is increasing and as a result the problem—while it remains extensive—is decreasing. Survey results vary. One NGO survey undertaken in Turkey suggests that the prevalence of marriages under the age of 18 is decreasing but remains high, at around 35 per cent of surveyed women in 2013. Another NGO put the current number at 38 per cent, while the Ministry for Family and Social Policy's survey indicated the number was only 9.3 per cent. One NGO found the prevalence of forced marriages was low, and also decreasing—from approximately 2.2 per cent of surveyed women in 2011, to 1.6 per cent of surveyed women in 2013. In response to these continuing issues, DFAT was told in early 2014 that the Ministry of Justice had initiated outreach programs to train imams in the laws relating to underage marriage and that the state regularly prosecutes imams accused of performing underage marriages.

3.10 A Turkish human rights group told DFAT that female genital mutilation was a new and still rare phenomenon in Turkey concentrated in Arabic-speaking areas. It was primarily associated with more fundamental strains of Islam reaching Turkey through migration and the Internet.

3.11 As noted above, the civil law code provides for equal inheritance between men and women. In practice, the 2013 survey suggests that approximately 70 per cent of families use the civil code as the basis of inheritance sharing. The survey suggests that approximately 75 per cent of families share inheritance equally between men and women.

3.12 A number of ingrained social practices that discriminate against women remain prevalent in Turkey. Despite a 2003 Labour Law intended to eliminate inequalities between men and women in salary, pay equity remains problematic.

23. While I have taken the comments of DFAT set out above into account, the Tribunal finds that the US Department of State Report to be more persuasive given its thoroughness, its detail, and particularly because of its recency. The US Department of State Report was released one year after the DFAT Country Report.
24. In the circumstances, the Tribunal accepts that there are still significant issues with the enforcement of the laws and entrenched societal attitudes which make it difficult to

adequately address gender based violence (such as embarrassment of victims which led to a delay in reporting incidents and hindered effective prosecution of assailants) in Turkey. Given the commentary in the recent US Department of State Report the Tribunal, and having regard to all the evidence before the Tribunal, I accept and find that:

- (a) Turkish law prohibits sexual assault, but the Government does not effectively or fully enforce these laws or protect victims;
 - (b) violence against women, including spousal abuse, remains a serious and widespread problem;
 - (c) the inadequate number of shelters--or no shelters at all--in many cities with populations above 100,000;
 - (d) while Courts regularly issued restraining orders to protect victims, but human rights organizations reported that police rarely enforced them effectively; and
 - (e) societal and official discrimination against women were widespread
25. The Tribunal is satisfied therefore that the Turkish government or authorities withhold protection from women who are being threatened with domestic violence in a systematic and discriminatory manner, and that there is State toleration or condonation of the persecution.
26. The Tribunal finds that the harm the applicant fears would be persecution because it is the result of systematic and discriminatory conduct for a Convention reason. The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Accordingly, the applicant satisfies the criterion set out in s.36(2)(a).

Relocation

27. Depending upon the circumstances of the particular case, it may be reasonable for a person to relocate in the country of nationality or former habitual residence to a region where, objectively, there is no appreciable risk of the occurrence of the feared persecution. Thus, a person will be excluded from refugee status if under all the circumstances it would be reasonable, in the sense of 'practicable', to expect him or her to seek refuge in another part of the same country. What is 'reasonable' in this sense must depend upon the particular circumstances of the applicant and the impact upon that person of relocation within his or her country. However, whether relocation is reasonable is not to be judged by considering whether the quality of life in the place of relocation meets the basic norms of civil, political and socio-economic rights.
28. The applicant claims in her statutory declaration that she is unable to relocate because her partner has lots of contacts throughout Turkey due to his regular travel, work and contacts and therefore would be able to locate her. She stated at the Tribunal hearing that she fears he has national connections within the police as a result of his drug taking or dealing. However, the Tribunal found her evidence in relation to this to be unpersuasive. At the hearing the applicant stated that she was sure her partner was using drugs because she saw some in his jacket pocket once when she took it to the dry cleaners at the beginning of 2013. She stated that she overheard conversations he was having on the telephone on many occasions where he told other people to go and talk to a particular officer who could help them. When the Tribunal asked if she knew anything further about his connection with the Turkish police she stated that she did not know anything more but believes he has connections. The applicant was able to provide very little detail about her partner's claimed police connections or drug

dealing. Her statutory declaration suggests that she was not sure whether he was dealing in drugs. .

29. While the Tribunal is willing to accept that the applicant's partner may have been involved in dealing drugs it is not satisfied that this means he has police connections that would enable him to locate the applicant anywhere in Turkey. As discussed with the applicant at the hearing the Tribunal was unable to locate any reports supporting the applicant's claim that as a drug dealer her partner would have police connections across the country that would enable him to locate her. The US Department of State's 2015 International Narcotics Control Strategy Report (INCSR) notes that 'Turkish law enforcement agencies remain strongly committed to disrupting illicit drug trafficking'¹ and states the following regarding corruption and the narcotics trade in Turkey:

As a matter of government policy, Turkey does not encourage or facilitate illicit production or distribution of narcotic or psychotropic drugs or other controlled substances, or the laundering of proceeds from illegal drug transactions. There was no evidence of drug-related senior level government corruption in 2014.²

30. A 2014 article on 'International Drug Trafficking and National Security of Turkey' authored by an employee of Turkey's Department of Anti-Smuggling and Organised Crime and published in the Canadian *Journal of Politics and Law* highlights the risks of corruption presented by the high volume of drugs and drug money moving through Turkey.³ The article notes that corruption among security officials and links to organised crime syndicates was a significant issue in the 1980s and 1990s, however the development of specialised anti-corruption and drug enforcement agencies had 'eliminated corruption to a great extent' by the 2000s. This was supported by a new law (no. 4208) on money laundering and financial investigations and the creation of special courts and appointment of special prosecutors to tackle organised crime and corruption cases. Furthermore, the counter-narcotics agencies have introduced extensive anti-corruption measures, including physical and electronic surveillance of officials and increased salaries with financial rewards for drug seizures to reduce incidence of bribery.⁴

¹ US Department of State 2015, *2015 International Narcotics Control Strategy Report (INCSR) – Country Report: Turkey*, Bureau of International Narcotics and Law Enforcement Affairs <<http://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/239021.htm>> Accessed 9 April 2015 <CXBD6A0DE4175>

² US Department of State 2015, *2015 International Narcotics Control Strategy Report (INCSR) – Country Report: Turkey*, Bureau of International Narcotics and Law Enforcement Affairs <<http://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/239021.htm>> Accessed 9 April 2015 <CXBD6A0DE4175>

³ Ekici, B. 2014, 'International Drug Trafficking and National Security in Turkey', *Journal of Politics and Law*, vol 7(2), Canadian Centre of Science and Education, 28 May, pp. 121 <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=26&cad=rja&uact=8&ved=0C DcQFjAFOBQ&url=http%3A%2F%2Fwww.ccsenet.org%2Fjournal%2Findex.php%2Fjpl%2Farticle%2 Fdownload%2F37466%2F21005&ei=SLMIVa3RGdPi8AXBnoCICg&usg=AFQjCNGN58X2j1OarL9-Onwnximh_t3S4g&sig2=1R3IXkknifwBLvHrjMKjg&bvm=bv.90237346,d.dGc> Accessed 9 April 2015 <CIS2F827D92379>

⁴ Ekici, B. 2014, 'International Drug Trafficking and National Security in Turkey', *Journal of Politics and Law*, vol 7(2), Canadian Centre of Science and Education, 28 May, pp.121-2 <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=26&cad=rja&uact=8&ved=0C DcQFjAFOBQ&url=http%3A%2F%2Fwww.ccsenet.org%2Fjournal%2Findex.php%2Fjpl%2Farticle%2 Fdownload%2F37466%2F21005&ei=SLMIVa3RGdPi8AXBnoCICg&usg=AFQjCNGN58X2j1OarL9-Onwnximh_t3S4g&sig2=1R3IXkknifwBLvHrjMKjg&bvm=bv.90237346,d.dGc> Accessed 9 April 2015 <CIS2F827D92379>

31. When this information was discussed with the applicant at the hearing she responded that he would find her within Turkey but not in another country. The Tribunal did not find this persuasive. The applicant was unable to provide any detail about her partner's claimed police connections other than overhearing one sided conversations in which he referred to certain officers. On the basis of the above country information about the limited police connections of drug syndicates in Turkey and the applicant's vague and limited details about her partner's police connections, the Tribunal is not satisfied that a drug dealer would have police connections that he could use to track his former partner throughout Turkey. Although the applicant claims to have overheard conversations in which her partner referred to a particular officer in other [cities], the Tribunal is not satisfied that this would mean he would know that the applicant was in that city or that his connections would be such that he could trace her within the city which has a population of approximately [number] million people.⁵

32. The *DFAT Country Information Report: Turkey* states in relation to relocation:

5.14 There are no legal impediments to Turkish citizens relocating within Turkey. It is generally necessary to have certain documents, such as a transfer of electoral registration, approved by the *muhtar* (an elected village or neighbourhood representative). Tasks of the *muhtar* include registering the residents of the village or neighbourhood, as well as providing official copies of documents and birth certificates. Citizens require a certificate of residence, issued by the *muhtar*, but it is relatively common not to seek that document. However, it would be difficult to access government services without a certificate of residence.

...

5.17 For women at risk of or fleeing family violence, internal relocation is sometimes a practical and reasonable option. The state provides a network of approximately 50 shelters nationwide, and a range of NGOs provide further support services, including up to 50 further shelters. Support services provided by NGOs range from counselling to referrals to government agencies. Government services for women facing family violence include identity changes and relocation. Women's rights NGOs argue that the state's network of shelters and support services are inadequate, understaffed and insecure, and that the social stigma that a woman would face if she were to move away from her family can be extreme (for more information, see 'Women', above).

33. However, as noted above in the US Department of State Report, there are an inadequate number of shelters available and, in some cities, none at all. It is convenient to repeat what is relevantly stated:

The law provides for the establishment of prevention-of-violence and monitoring centers to offer economic, psychological, legal, and social assistance. The Ministry of Family and Social Policies operated 93 women's shelters with a capacity of 2,527 persons, while municipalities operated 33 women's shelters with a capacity of 761 persons. An NGO operated one women's shelter. The Purple Roof Association reported there were 14 in-take centers operated by the ministry, called SONIMs, which refer women to shelters. Purple Roof alleged that the SONIMs and shelters were insufficient in terms of both number and the quality of services they provided.

Regulations call for a state-funded women's shelter for every 100,000 persons, but there were no sanctions for noncompliance. Observers noted an inadequate number of shelters—or no shelters at all—in many cities with populations above 100,000. For

⁵ See Turkish Statistical Institute "News Release: Population Projections 2013-2075", 14 February 2013 at <http://www.turkstat.gov.tr/PreHaberBultenleri.do?id=15844>

example, there were only three shelters in Adana, a city with a population of two million. The government operated a nationwide domestic violence hotline, but women's rights NGOs criticized the government for changing the hotline's focus from violence against women to broader violence issues, renaming it the "Family, Women, Children, Disabled, Families of Martyrs and Veterans Hotline." NGOs reported that the quality of the services provided during the calls was inadequate for victims of domestic violence. Through August 25, the hotline received 69,774 calls regarding violence, negligence, or exploitation. In a press release April 6, the Ankara Bar Association president stated that since 2011 the Poppy Center, which provides legal support to women facing domestic violence, received approximately 25,000 requests for assistance from women and children. There were 2,923 individual applications, and the bar association appointed lawyers in 2,418 cases. The association president estimated that only 10 percent of victims facing domestic violence actually applied for institutional assistance.

Violence against women, including spousal abuse, remained a serious and widespread problem both in rural and urban areas. Spousal rape is a criminal offense, and the law also provides criminal penalties for crimes such as assault, wrongful imprisonment, or threats. Despite these measures the number of killings and other forms of violence against women in the country remained high, and activists asserted increased awareness and a change in mentality were required to prevent more women from becoming victims of domestic violence.

34. The Guide *to Refugee Law in Australia* states that:

"it is widely accepted that even where the feared persecution is localised, a person will not be excluded from refugee status merely because he or she could have sought refuge in another part of the same country, if under all the circumstances it would not have been reasonable to expect him or her to do so. The High Court has endorsed this proposition, explaining that what is reasonable, in the sense of practicable, must depend upon the particular circumstances of the applicant and the impact upon that person of relocating within their country. As Kirby J stated, the supposed possibility of relocation will not detract from a 'well-founded fear of persecution' where any such relocation would, in all the circumstances be unreasonable.

Should or would reasonably relocate?

The reasonableness test is commonly understood as excluding from refugee status a person who, although having a well-founded fear of persecution in their home region, 'could reasonably be expected to relocate' to a safe region within their country, in the sense that they *could* avail themselves of protection by relocating within their country. As Hathaway and Foster have explained, 'since primary recourse should always be to one's own state, refugee status is appropriately denied where internal protection is available within the applicant's own state'.

So understood, the inquiry focuses on whether it would be objectively reasonable for a decision-maker to expect (require) an applicant to relocate within their country. Thus, whilst the wishes of an applicant may be a relevant consideration in some circumstances, the applicant's attitude to the possibility of relocation is not determinative of the question whether relocation is reasonable. . . . Similarly, relocation will not be considered to be unreasonable simply because an applicant has a subjective fear which is not well-founded.

(footnotes omitted)

35. The applicant's representative submitted that:

. . . She suspects that [her husband] has contacts with the police.

She cannot seek assistance from her [brother] in Istanbul because he opposed her relationship with [her husband]. She has never introduced [her husband] to her brother. Furthermore, she has no communication with her [siblings]. In any event, she does not know what effective assistance she can get.

She cannot seek help from her [other son] [because] when she divorced from her first husband, she struggled to win custody of [her son] and she has no contact with him since. In addition, he did not want her to attend his wedding, so she did not.

The applicant cannot safely relocate from Istanbul because a husband has lots of contacts throughout Turkey due to his regular travel, work and contacts she states that running away from her husband and Turkey would be the end of her life as she is convinced he would eventually find her. It would be so angry that she fears he will kill her.

36. The Tribunal accepts and finds that these fears are genuinely held by the applicant. The Tribunal accepts that the applicant's attitude to the possibility of relocation is not determinative of the question whether relocation is reasonable, and that any inquiry must focus on whether it would be objectively reasonable for a decision-maker to expect or require an applicant to relocate within their country. Thus, whilst the wishes of an applicant may be a relevant consideration in some circumstances, the applicant's attitude to the possibility of relocation is not determinative of the question whether relocation is reasonable. However, having taken into account the individual circumstances of the applicant (including but not limited a lack of family support within Turkey, and the unavailability of sufficient shelters for victims of domestic violence) the Tribunal accepts that it would not be reasonable to require the applicant to relocate in Turkey.
37. In light of the foregoing, the Tribunal does not consider that relocation is a reasonable option for the applicant.

Complementary protection criteria

38. Having concluded that the applicant meets the refugee criterion in s.36(2)(a), the Tribunal has not considered the alternative criterion in s.36(2)(aa).

DECISION

39. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.

R. C. Titterton
Member

ATTACHMENT 1 - RELEVANT LAW

1. The criteria for a protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa of the same class.

Refugee criterion

2. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
3. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:
 - a. owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.
4. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the Regulations to a particular person.
5. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
6. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve 'serious harm' to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). Examples of 'serious harm' are set out in s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
7. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors.
8. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase 'for reasons of' serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a

Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.

9. Fourth, an applicant's fear of persecution for a Convention reason must be a 'well-founded' fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a 'well-founded fear' of persecution under the Convention if they have genuine fear founded upon a 'real chance' of being persecuted for a Convention stipulated reason. A 'real chance' is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
10. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence. The expression 'the protection of that country' in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.
11. Whether an applicant is a person in respect of whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

Complementary protection criterion

12. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').
13. 'Significant harm' for these purposes is exhaustively defined in s.36(2A): s.5(1). A person will suffer significant harm if he or she will be arbitrarily deprived of their life; or the death penalty will be carried out on the person; or the person will be subjected to torture; or to cruel or inhuman treatment or punishment; or to degrading treatment or punishment. 'Cruel or inhuman treatment or punishment', 'degrading treatment or punishment', and 'torture', are further defined in s.5(1) of the Act.
14. There are certain circumstances in which there is taken not to be a real risk that an applicant will suffer significant harm in a country. These arise where it would be reasonable for the applicant to relocate to an area of the country where there would not be a real risk that the applicant will suffer significant harm; where the applicant could obtain, from an authority of the country, protection such that there would not be a real risk that the applicant will suffer significant harm; or where the real risk is one faced by the population of the country generally and is not faced by the applicant personally: s.36(2B) of the Act.

Section 499 Ministerial Direction

15. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration –PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.

ATTACHMENT 2 – COUNTRY INFORMATION

Legislative Provisions Protecting Victims of Domestic Violence

1. The primary legislative measure providing legal protection for victims of domestic violence is *Law No. 6284 on the Protection of the Family and the Prevention of the Violence against Women*, passed on 8 March 2012. The Law entered into force on 20 March 2012, and the Regulation for its implementation was issued on 18 January 2013.⁶ Although only a Turkish version of the Law was located⁷, an article published in the *International Journal of Humanities and Social Science* in 2012 summarises its content,⁸ notably setting out the following basic principles for implementation of the legislation and provision of services as per Art 1 of the Law:
 - a. The ‘Constitution of the Republic of Turkey’, international conventions to which Turkey is a party of, in particular ‘Council of Europe Convention on Preventing and Combating of Violence against Women and Domestic Violence’ and other legal regulations shall prevail.
 - b. In the provision of services and support to be given to the violence victims, a procedure based on fundamental human rights, sensitive to human equality, in accordance with the social state tenet, fair, effective and expeditious shall be followed.
 - c. Preliminary injunctions granted for the victim of violence and the person resorting to violence as well [sic], shall be implemented, in a way compliant with human dignity.
 - d. Under this law, special measures preventing gender-based violence against women and those protecting women against gender-based violence shall not be interpreted as discrimination.
2. An interview with Turkish lawyer and women’s activist Nazan Moroğlu published in Turkish newspaper *Hurriyet Daily News* summarises some key features of the legislation. The Law:

⁶ United Nations Department of Drugs and Crime 2013, *Information Provided by Turkey related to the Investigation and Prosecution of Gender-Related Killings of Women and Girls*, Open-ended Intergovernmental Expert Group Meeting on gender-related killing of women and girls 11-13 November 2014 <http://www.unodc.org/documents/justice-and-prison-reform/IEGM_GRK_BKK/Turkey_updated_reply_for_publication.pdf> Accessed 8 April 2015 <CIS36DE0BB1889>

⁷ At: <<http://www.tbmm.gov.tr/kanunlar/k6284.html>> Accessed 8 April 2015 (referred to in US Library of Congress 2012, *Turkey: Parliament Adopts Law on Prevention of Domestic Violence*, Global Legal Monitor, 15 March <http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403030_text> Accessed 8 April 2015 <CX0D38E8E20183>

⁸ Erdem, Dr. M. 2012, ‘Struggling with Domestic Violence: the Turkish Model’, *International Journal of Humanities and Social Science*, vol 2 no. 24, December <http://www.ijhssnet.com/journals/Vol_2_No_24_Special_Issue_December_2012/21.pdf> Accessed 8 April 2015 <CIS961F9402155>; see also the summarised provisions in: United Nations Department of Drugs and Crime 2013, *Information Provided by Turkey related to the Investigation and Prosecution of Gender-Related Killings of Women and Girls*, Open-ended Intergovernmental Expert Group Meeting on gender-related killing of women and girls 11-13 November 2014 <http://www.unodc.org/documents/justice-and-prison-reform/IEGM_GRK_BKK/Turkey_updated_reply_for_publication.pdf> Accessed 8 April 2015 <CIS36DE0BB1889>

- a. Covers all women, regardless of marital status;
 - b. Those who violate a protection order will immediately be subject to three days imprisonment;
 - c. Police officers are authorised to issue a protection order as soon as the victim requires it (i.e. in the absence of resort to a family court or to the prosecutorial authorities);
 - d. There are various means of protecting victims: issuing restraining orders; requiring the perpetrator to hand over to law enforcement authorities any weapon (or to the employing institution if he/she is in a profession that requires him/her to carry weapons); requiring the perpetrator not to be in the close vicinity of the workplace of the abused; relocation of the victim; and
 - e. Offenders whom breach restraining orders face a prison term of up to six months.⁹
3. Prior to the implementation of Law No. 6284, the primary legal instrument for protection of victims of domestic violence was *Law No. 4320 on the Protection of the Family*, enacted on 14 January 1998.¹⁰ The law contained a number of measures for the protection of women and children from domestic violence; however the law was criticised for 'major deficiencies' such as providing protection only for married women and lacking the necessary range of sanctions for legal authorities to adequately protect victims.¹¹ Law No. 6284 significantly expanded the scope for protection of victims of domestic violence, with more severe penalties for perpetrators, a special budget for the Ministry of Family and Social Policy for assisting victims and, as noted above, provides for the protection of all (not just legally married) women.¹²
4. General laws against assault and threats in Turkey's *Criminal Code (2004)* may also provide legal protection for victims of domestic violence, and Articles 96 and 232 of the Code provide protection for spouses and relatives of a perpetrator of domestic violence.¹³ The most recent US Department of State report on Human Rights Practices (covering the events of 2013), notes the following regarding legal provisions for the protection of victims of domestic violence:

The law provides for the establishment of prevention-of-violence and monitoring centers to offer economic, psychological, legal, and social assistance. The Ministry of Family and Social Policies (MFSP) operated 90

⁹ Yinanç, B. 2012, 'Female activists make history with new law to protect women', *Hurriyet Daily News*, 10 March <<http://www.hurriyetdailynews.com/female-activists-make-history-with-new-law-to-protect-women.aspx?pageID=238&nID=15649&NewsCatID=339>> Accessed 8 April 2015 <CX0D38E8E20184>; in US Library of Congress 2012, *Turkey: Parliament Adopts Law on Prevention of Domestic Violence*, Global Legal Monitor, 15 March <http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403030_text> Accessed 8 April 2015 <CX0D38E8E20183>

¹⁰ *Law No. 4320 on the Protection of the Family 1998* (Turkey), (effective 14 January 2008, amended 2007), Lexadin <http://www.justice.gov.tr/basiclaws/family_%20protection.pdf> Accessed 8 April 2015 <CIS3A79C58367>

¹¹ Karal, D. 2012, 'Domestic Violence No Longer a Family Matter', *Today's Zaman*, 25 March <http://www.todayszaman.com/news-275348-domestic-violence-no-longer-a-family-matter-by-dilek-karal*.html> Accessed 8 April 2015 <CX0D38E8E20185 >

¹² Karal, D. 2012, 'Domestic Violence No Longer a Family Matter', *Today's Zaman*, 25 March <http://www.todayszaman.com/news-275348-domestic-violence-no-longer-a-family-matter-by-dilek-karal*.html> Accessed 8 April 2015 <CX0D38E8E20185 >

¹³ *Law No. 5237: Criminal Code 2004* (Turkey), promulgated 26 September 2004 (effective 12 October 2004), Lexadin <http://www.justice.gov.tr/basiclaws/Criminal_Code.pdf> Accessed 8 April 2015 <CISD49C2F4555>; Organisation for Economic Co-Operation and Social Development (OECD) 2015, *Social Institutions and Gender Index - Country Profile: Turkey*, Social Institutions and Gender Index (SIGI) <<http://genderindex.org/country/turkey>> Accessed 8 April 2015 <CISEC96CF1505>

women's shelters with a capacity of 2,429 persons. These shelters assisted 4,463 women and 1,899 children as of September. The MFSP reported that municipalities operated 32 women's shelters with a capacity of 779 persons, although the Ministry of Interior put this figure at 57 women's shelters. One women's shelter was NGO-operated. Regulations call for state-funded women's shelters in any city with a population of more than 50,000... Through August 31, the government's domestic violence hotline received 75,836 calls regarding violence, negligence, or exploitation.¹⁴

5. *Today's Zaman* reported in February 2014 that in light of continuing high levels of violence against women, the Turkey's Ministry of Family and Social Policy had initiated a national action plan into 2015 with the goal of eradicating violence against women. The policy reportedly:

...includes activities such as reaching out to young men during their compulsory military service with presentations about honor killings and women's human rights and training law enforcement officers, healthcare personnel and clerics. The ministry's website states that so far, 71,000 police officers, 65,000 healthcare personnel and 17,000 religious officials have been offered guidance on how to better serve women facing violence.¹⁵

6. In March 2015 a new 2016-19 action plan on 'Fighting Violence against Women' was announced by Prime Minister Ahmet Davutoğlu, which will reportedly include new legal regulations, awareness-raising projects, and the expansion of violence prevention and monitoring centres across the country (they are currently only in 14 provinces).¹⁶

Effectiveness of Legal Protections

7. Although Law No. 6284 addressed many of the legislative gaps in protection for victims of domestic violence, implementation of the law by Turkey's legal and judicial bodies has been criticised.
8. In early 2015 the United Nations Country Team (UNCT) for Turkey reported in regard to Law No. 6284 that 'effective implementation, particularly within the police and the judiciary system, remains a challenge'.¹⁷ Moreover:

Though the number of shelters has doubled since 2010, it still remains too low to cover all victims. The UN regrets that the Municipal Law No. 5393 was changed in December 2012 and the population threshold for the establishment of shelters for women and children in metropolitan municipalities and municipalities was increased. Specialised shelters, special needs groups, a dedicated hotline and women's counselling and monitoring centres need to be established. More efforts are needed for the effective

¹⁴ US Department of State 2014, *Turkey - Country Reports on Human Rights Practices 2013*, 27 February, Section 6
<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220341#sthash.Nq b4mKxx.dpuf>> Accessed 8 April 2015 <OG1F18C90180>

¹⁵ Kaso, M. N. 2014, 'Laws don't prevent out-of-control violence against women in Turkey', *Today's Zaman*, 9 February <http://www.todayszaman.com/national_laws-dont-prevent-out-of-control-violence-against-women-in-turkey_338856.html> Accessed 8 April 2015 <CX1B9ECAB10408>

¹⁶ 'Turkish leaders celebrate Women's Day, promise better living conditions' 2015, *Daily Sabah*, 8 March <<http://www.dailysabah.com/nation/2015/03/08/turkish-leaders-celebrate-womens-day-promise-better-living-conditions>> Accessed 8 April 2015 <CXBD6A0DE4123>

¹⁷ United Nations Country Team in Turkey 2015, *Universal Periodic Review of Turkey 2015 - UNCT Submission*, 1 January, UNHCR Refworld <<http://www.refworld.org/docid/54c109084.html>> Accessed 8 April 2015 <CISEC96CF1299>

access of victims to appropriate legal information, legal aid and judicial proceedings.¹⁸

9. Furthermore, the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported to the Human Rights Council Working Group on the Universal Periodic Review in January 2015 that the Committee on the Elimination of Discrimination Against Women (CEDAW) 'was concerned about violence against women, including domestic violence'; the Committee on Economic, Social and Cultural Rights (CESCR) was 'concerned that domestic violence was not criminalized, and called on Turkey to criminalize it'; and that CEDAW 'considered that Law No. 6284 did not contain provisions for prosecution and punishment of perpetrators and recommended its amendment'.¹⁹
10. The *World Post* reported in February 2015 that despite significant legislative reform in the area of preventing violence against women, and regional initiatives such as being the first country to ratify the Council of Europe's Convention on Preventing and Combating Violence Against Women and Domestic Violence (CAHVIO) in 2012, violence against women in recent years has increased.²⁰
11. The brutal murder of a 20 year old college student in February 2015 during an attempted rape has particularly drawn attention to escalating incidence of violence against women in Turkey, resulting in crowds of protestors gathering across the country.²¹ The *New York Times*, reporting on the murder, notes that in spite of a number of 'legislative victories' since the 1990s aimed at ending violence against women:

...laws have been undermined by loopholes that allow judges – mostly male – to reduce sentences at their discretion. In hundreds of cases, men who murdered were able to argue that a woman provoked them, or that their dignity was impugned, and they received a reduced sentence...

... In 2014, the European Court of Human Rights ruled that Turkey had failed to investigate the suicide of a woman known to be abused by her husband. The judges found that "discriminatory judicial passivity in Turkey created a climate that was conducive to domestic violence."²²

12. Amnesty International's *State of the World's Human Rights 2014/15* report states that implementation of Turkey's *Law No. 6284* 'remained inadequate, under-resourced and

¹⁸ United Nations Country Team in Turkey 2015, *Universal Periodic Review of Turkey 2015 - UNCT Submission*, 1 January, UNHCR Refworld <<http://www.refworld.org/docid/54c109084.html>> Accessed 8 April 2015 <CISEC96CF1299>

¹⁹ United Nations Human Rights Council 2015, *Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Turkey*, 12 November, UNHCR Refworld <<http://www.refworld.org/docid/54c108a34.html>> Accessed 8 April 2015 <CIS2F827D92201>

²⁰ Noi, A. U. 2015, 'Will the Reinstatement of the Death Penalty in Turkey Prevent Violence Against Women?', *World Post*, 24 February <http://www.huffingtonpost.com/aylin-unver-noi/will-the-reinstatement-of-death-penalty-turkey_b_6743662.html> Accessed 8 April 2015 <CXBD6A0DE4121>

²¹ Asquith, C. 2015, 'Turkish Men Get Away with Murder: Ozgecan Aslan and Violence Against Women in Turkey', *New York Times*, 23 February <http://www.nytimes.com/2015/02/24/opinion/ozgecan-aslan-and-violence-against-women-in-turkey.html?_r=0> Accessed 8 April 2015 <CXBD6A0DE4122>

²² Asquith, C. 2015, 'Turkish Men Get Away with Murder: Ozgecan Aslan and Violence Against Women in Turkey', *New York Times*, 23 February <http://www.nytimes.com/2015/02/24/opinion/ozgecan-aslan-and-violence-against-women-in-turkey.html?_r=0> Accessed 8 April 2015 <CXBD6A0DE4122>

ineffective in dealing with domestic violence' and notes that '[a] number of women under judicial protection were reported to have been killed'.²³

13. In February 2014 *Today's Zaman* reported that despite the promulgation of *Law No. 6284*, 'violence against women continues to be a source of embarrassment to Turkey'.²⁴ The article cites İstanbul Bar Association's Centre of Women's Rights vice president, Afet Gülen Kösem, who states that 'the Turkish state is still protecting the family, not women, who are not perceived as separate individual' and notes that the government has failed to open enough Violence Prevention and Monitoring Centres.²⁵ Kösem's criticisms regarding the protection of the family, as opposed to women as individual's, refers to the change in name of *Law No. 6284* during the drafting state from the 'law to protect women and individual family members from violence' to the 'law to protect family and prevent violence against women'.²⁶ This was in line with the much-criticised 2011 replacement of the Ministry for Women and Family with Ministry for Family and Social Policy, which Human Rights Watch labelled 'a step backward in its struggle to combat gender inequality and violence against women'.²⁷ The *Today's Zaman* article also cites claims of Gönül İşler, president of the Association of Women's Rights Protection, that law enforcement is 'male-centric', with prosecutors often being biased in favour of men in cases of violence against women.²⁸
14. The US State Report released 26 June 2015²⁹ which states, in summary:
- Violence against women, including so-called honour killings, remain a significant problem;
 - The Turkish government did not effectively enforce the law prohibiting violence against women.
 - There were insufficient numbers of shelters for women in need, including some cities with no shelters at all.
 - Violence against women, including spousal abuse, remained a serious and widespread problem in both rural and urban areas.

²³ Amnesty International 2015, *Amnesty International Report 2014-15 - Turkey*, 23 February <http://www.amnesty.org.au/images/uploads/about/Annual_Report_2015_The_State_of_the_Worlds_Human_Rights.pdf> Accessed 8 April 2015 <NG5A1E6BC120>

²⁴ Kaso, M. N. 2014, 'Laws don't prevent out-of-control violence against women in Turkey', *Today's Zaman*, 9 February <http://www.todayszaman.com/national_laws-dont-prevent-out-of-control-violence-against-women-in-turkey_338856.html> Accessed 8 April 2015 <CX1B9ECAB10408>

²⁵ Kaso, M. N. 2014, 'Laws don't prevent out-of-control violence against women in Turkey', *Today's Zaman*, 9 February <http://www.todayszaman.com/national_laws-dont-prevent-out-of-control-violence-against-women-in-turkey_338856.html> Accessed 8 April 2015 <CX1B9ECAB10408>

²⁶ 'Parliament passes violence against women bill on March 8' 2012, *Today's Zaman*, 11 March <<http://www.todayszaman.com/news-273913-parliament-passes-violence-against-women-bill-on-march-8.html>> Accessed 8 April 2015 <CX0D38E8E20188>

²⁷ Human Rights Watch 2011, *Turkey: Backward Step for Women's Rights: Abolishing Women's Ministry Harms Women's Rights Efforts*, 10 June <<http://www.hrw.org/news/2011/06/09/turkey-backward-step-women-s-rights>> Accessed 8 April 2015 <CXCB3E63420667>; see also: Sak, G. 2014, 'Turkey needs ministry of women's affairs', *Al Monitor*, 5 February <<http://www.al-monitor.com/pulse/culture/2014/02/turkey-need-ministry-women-affairs.html>> Accessed 8 April 2015 <CX1B9ECAB10409>

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²⁹ <http://www.state.gov/j/drl/hrrpt/humanrightsreport/index.htm#wrapper>