



Report on CAN in Turkiye; Findings and Regulations

Balkan Epidemiological Study on Child Abuse and Neglect
223478 Grant Agreement

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CHILD ABUSE AND NEGLECT IN TURKEY, 2010

SUMMARY

Several studies revealed that up to one third of children in Turkey may be physically abused. Sexual abuse remains highly under-reported to authorities because of social taboos. Few published studies report a sexual abuse prevalence of 11–37% of the adolescent population. Emotional abuse and neglect can only be assumed to be quite common, considering high rates of domestic violence, poverty, and low educational levels. Overall public, professional, and governmental awareness of child abuse and neglect remains low in Turkey.

Turkish Society for the Prevention of Child Abuse and Neglect (TSPCAN) was founded in the early 1980s. The law in Turkey defines CAN within the statutes relating to violation of well being of a human being. Recently, child protection agencies are in stage of development.

This report summarizes that the articles related to CAN and national legal framework in Turkey.

Review of the articles related to CAN that is reported from Turkey

Child abuse and neglect is a fairly new clinical field in Turkey. Despite a distinctive “Child in Need of Assistance” law adopted by Turkish government decades ago, child protection measures are still far from being comprehensive enough. Many issues related to child abuse and neglect are scattered within the statutes on “violation of well being of a human being.” “Child in Need of Assistance” law does not cover clear description of various categories of child abuse and neglect, mandatory reporting to child protective services, time line for the filing of a report, public and professional education for the prevention of abuse, continuing education for professionals in regards to management of abused children, national database and surveillance system both for the victims and the offenders, and the need for multidisciplinary management. Reporting of abuse is addressed in the Criminal Code since the law approaches child abuse and neglect from a criminal perspective. Mandatory reporters are identified as all citizens and state officials in the criminal law. The recent amendment clarifies only the definition of sexual assault/abuse.

Child Protection Services resources are very limited. There are only two schools of social work graduating less than 200 social workers per year, a minority of which finds positions at the state level to practice their profession in human services due to current state policies. Eighty-one regional Departments of Social Services under the Turkish Republic of Prime Ministry, Social Services and Child Protection Institution are designated to handle child protection issues in addition to all other social support. This network employs only 3,260 social workers to serve a population of over 70 million (1).

The law allows the judge to order the Department of Social Services to provide services to the family if the prosecutor takes the case to court, which occurs rarely leading to missed opportunity for social services. Forensic medicine physicians appointed as expert witnesses for criminal courts may get involved in the assessment of a case long after injuries have healed and the evidence of the crime has been lost.

Culturally, physical discipline of children is approved of and several field studies revealed that up to one third of children in Turkey may be physically abused (2-5), Intra-familial sexual abuse remains highly under-reported to authorities due to social taboos. Few published studies report a sexual abuse prevalence of 11–37% of the adolescent population (6-8). Emotional abuse and neglect can only be assumed to be quite common, considering high rates of domestic violence, poverty, and low educational levels. Overall public, professional, and governmental awareness of child abuse and neglect remains low in Turkey.

Early studies in Turkey came from Education, Psychology, and Law followed with medical community including psychiatry, forensic medicine, and pediatrics in the 1990s (9-17). Turkish Researchers reported physical abuse in 34% of 16,000, physical abuse/witnessing in 35% of 785 individuals, and physical or emotional abuse in 36 %of children at a hospital setting, sexual abuse in 11%of 1500 high school students, in 13% of 1,871 female high school students, and in 18%, 37%, and 28% of 500, 445, and 1,262 college students in three different studies (2,4-8,18). Lastly, research of level of medical knowledge, attitudes and practices regarding child abuse revealed poor knowledge, lack of education, and reluctance for reporting (19). This latter study had led to Izmir child abuse follow-up team and the first MDT in Turkey at Behcet Uz Children's Hospital in 1996, which started the clinical practice of child protection at hospital settings in Turkey. The authors established the first Turkish CAN follow-up team at Dr. Behcet Uz Children's Hospital.

Following a training program in five teaching hospitals in Izmir, the authors kept a record of every case diagnosed with CAN from these hospitals between 1996 and 1998 (23). Fifty cases were diagnosed and followed-up. Seventy-six percent of patients were reported from Dr. Behcet Uz Children's Hospital. Age and sex distribution was 9.2 6 6.7 years and 46% male, 54% female, respectively. The offenders were only father in 38%, only mother in 28%, and multiple in 34%. More than three CAN risk factors were present in 94%. Of the children reported 44% survived, 14% died, and 42% were lost to follow-up. Sixteen percent were free of reabuse, and 42% survived with handicaps (23).

Following this team, 3 more teams were established at Cukurova Medical School Hospital, Dokuz Eylul Medical School Hospital, and Gazi Medical School Hospital before 2002 (4 teams in 6 years). Behcet Uz Children's Hospital MDT was the only MDT that published cases series (3,4,20,21).

Recently, The University of Iowa Child Protection Program collaborated with Turkish professionals to develop a training program on child abuse and neglect during 2002–2006 with the goals of increasing professional awareness and number of multidisciplinary teams (MDT), regional collaborations, and assessed cases. The number of abuse cases assessed by the MDTs increased by five times compared to pre-training period (22). In this study, 10 (71.4%) have established databases to track cases. These teams cumulatively assessed 593 children from 2000 to 2006. Sexual abuse was confirmed in 39.9% (305/765), physical abuse in 22.2% (170/765), emotional abuse in 19.9% (152/765), neglect in 17.4% (133/765), and Munchausen Syndrome by Proxy in 6% (5/765) of all confirmed abuse types. Looking from

case based prevalence perspective, sexual abuse was confirmed in 51.4% of victims (305/593), physical abuse in 28.7% (170/593), emotional abuse in 25.6% (152/593), neglect in 22.4% (133/593), and Munchausen Syndrome by Proxy in .8% (5/593) reflecting the significant incidence of multiple types of abuse in individual cases, which was documented in 120 (20.2%) victims.

In a recent report, also, in a University Hospital in Turkey, the case series were reviewed between February 2001 and January 2007 and described the challenges in their child protection system. There were 139 patients, with mean age for physical abuse, sexual abuse, and neglect were 8.9 +/- 6.2, 10.8 +/- 4.2, and 5.1 +/- 5.5 years, respectively. Sexual abuse was significantly less common while neglect was significantly more common in the 0-5 years of age group. The authors concluded that, interagency collaboration seems to be inadequate, as well as the gaps within each link of the child protection system (medical, legal and social services) in Turkey (24).

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NATIONAL LEGAL FRAMEWORK ABOUT CHILD ABUSE AND NEGLECT:

A) INTERNATIONAL CONVENTION

According to article 90 of the, 1982 Turkish Republic Constitution, all conventions approved and in force by the **Turkish Grand National Assembly**, are statutory instruments. After their

publication in the Official Gazette, all International conventions have priority over national legislation. Where articles of any particular act and the Convention are in conflict, then the international convention has priority over the act in question.

ARTICLE 90.– International conventions that are enforced in accordance with the procedures are legal instruments. Applications to the Constitutional Court on the grounds they violate the constitution are invalid. In situations where there is a conflict between the international conventions that are enforced in accordance with the procedures, (Appendix: 7.5.2004-5170/7 art.) and legislation in force on the same subjects, the provisions of international convention as taken as basis.

Turkish Republic has been party to many international arrangements on the subject of Child Exploitation and Neglect. Information on international conventions and declarations that Turkey has signed and approved on the subject of rights and protection of children are presented below.

1) UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

The Convention that was accepted by United Nations General Assembly in 1989, is the most important and fundamental international document on children's rights and their protection. Turkey, signed the Convention in 1990 at the World Children's Summit and the convention was approved by TBMM in 1994. (dated 9 September 1994 and Act number 4058) The Convention was published in the Official Gazette on 27 January 1995, reference 22184 and came into force and thus became a national legal instrument.

Turkey has put reservations on three of the conventions articles (articles 17., 29. and 30.) stating that, "... *T.R. Constitution reserves the right to interpret and apply in accordance with the provisions and the spirit of the Lausanne Agreement dated 24 July 1923* ".

The articles on which reservations have been placed are, article 17 on information and the right to acquire information, 29th article on the objectives of education and 30th article that defines the rights of minorities in respect of their right on their culture and religion. The justification for the reservation is the limited definition of the term minority in the Lausanne Agreement dated 1923. In the 27th session of the Rights of the Child Committee dated 8 June 2001, during the final observations on Turkey, concern was expressed about the reservations placed by Turkey.

2) THE OPTIONAL PROTOCOLS TO THE CONVENTION ON THE RIGHTS OF THE CHILD, ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

The Convention on the Rights of the Child that Turkey is Party to was signed in 1990, subsequently approved in 1994 and was published in the Official Gazette and act 2054 incorporated it into national law.

Rights of the Child Convention defines children's rights as; protection of children from economic exploitation, from being employed in dangerous jobs, from all sexual exploitation and abuse or the protection of the children's right for education, health, physical and mental, moral and social development. In the Conventions 34th and 35th articles, it is stated that " It is the duty of the Nations that are Party to the Convention to prevent children from sexual exploitation and abuse including child pornography and prostitution and they will make every effort to prevent the sale and abduction and turning children into objects of prostitution ".

This optional protocol clarifies the implementation of applications related to the aforementioned articles and contains measures designed to increase the communal knowledge and awareness on the subject, to ensure the application of existing laws, and to provide grounds for investigation of the subject on a wider context at an international level. This optional protocol covers definitions to be applied in respect of sale of children, prostitution, and international principles to be applied for adoption and the rules to be applied in rehabilitation of the victims.

The Nations that are party to the convention, are expected, in addition to the subjects covered in the optional protocol, to enact legislation to take legal measures against presentation of children for sexual exploitation, transfer of children's organs for financial gain, forced child labour, violations in adoption of children and the punitive measures to be taken against people that are party or accessory to these actions. The nations that are signatories to the protocol are obligated to submit a national report to United Nations Rights of the Child Committee within two years of signing of the convention.

3) OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

This optional protocol was signed by Turkey on 8 September 2000, and was approved by the Council of Ministers decision number 49911 dated 16 October 2003 and came into force on 18 March 2004. Turkey signed the Protocol subject to three reservations, these are as follows;

- The provisions of the protocol to be applied only to nations that are recognized and for which diplomatic relations exist,
- To act in accordance with the existence of conscription in force in Turkey and ensure age restrictions in military conscription are observed,
- Turkey's reservation on the 29th article of the Rights of the Child Convention is still fully valid.

4) RIGHTS OF THE CHILD DECLARATION

The idea that children have different physical, physiological, behavioural, and psychological attributes in comparison to adults, that the stabilization of its consciousness that is continually growing and developing represents a communal problem which must be shared by everyone through scientific methods, was duly accepted at the United Nations General Assembly on 20 November 1959 with the "Rights of the Child Declaration".

The Universal Human Rights Declaration which forms the foundation of this declaration was adopted by United Nations General Assembly decision number 217 A (III) dated [December](#) 1948 and was subsequently published in the Official Gazette on 27 May 1949 in accordance with decision number 7217.

5) EUROPEAN CONVENTION ON THE EXERCISE OF CHILDREN'S RIGHTS

Convention, was prepared by taking in to account the United Nations Rights of the Child Convention and special attention was paid to article 4 of this Convention that requested the implementation of all legal administrative and other rights of the participating nations party to the Convention and was opened for signing on 25 January 1996

Turkey, signed the Convention on 9 June 1999, and approved it subject to "making a declaration" on 18 January 2001. The act number 4620 relating to the approval of the Convention, was accepted by the TBMM on 18 January 2001 and was published in the Official Gazette number 24305 on 1 February 2001.

The Convention has provisions on; the recognition of certain procedural rights in cases involving children under the jurisdiction of judicial authorities for the protection of children's rights as an individual and a human being and for easing the use of these rights either by themselves in person or by other persons or institutions.

The Convention recognizes certain procedural rights for the protection of the interests and development of the rights of children as individuals and as human beings in cases that are related to them. The objective of the Convention is to provide for the attendance on cases involving family law (divorces, custody, residence of children and establishment of personal relations etc.) under the jurisdiction of judicial authorities and to allow them to be able express their preferences and views and to enable them to use their rights easily in order to acquire information on the case in question.

With its additional declaration the Turkish Republic has made it known which family law cases the convention would apply to. Thus the convention will be applicable in, divorce, separation, children's custody cases and cases related to establishment of relations between parents and children and the establishment of paternity by the courts.

6) CONVENTION CONCERNING THE RECOGNITION AND ENFORCEMENT OF DECISIONS RELATING TO MAINTENANCE OBLIGATIONS TOWARDS CHILDREN

The Convention was executed on 15 April 1958 and came into force on 1 January 1962. It was signed by Turkey on 11 June 1968, was approved by act dated 14.9.1972, number 1620 and was published in the Official Gazette dated 27.9.1972 number 14319 and subsequently came into force .

The object of mutual recognition and enforcement of maintenance decisions for children by party nations is to be able to determine mutual provisions.

7) CONVENTION CONCERNING THE POWERS OF AUTHORITIES AND THE LAW APPLICABLE IN RESPECT OF THE PROTECTION OF MINORS

The Convention was opened for signature on 5.10.1961 and Turkey joined the Convention on 4.1.1977. The Convention aims to specify the authorities and acts that will have jurisdiction over protection of minors.

Turkey approved and signed this convention subject to " Preserving the right of the Turkish Republic, in accordance with the article 23 of the convention, to protect right of the adjudating judge in cases of divorce, nullification or separation in respect of a minors parents to be able give verdicts in order to protect the minors person or property “. (The Council of Ministers Decision number 8/5/5727 that was published in the Official Gazette dated 21 February 1993 number 17966)

8) EUROPEAN CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF VERDICTS RELATED TO CHILD CUSTODY AND REASSIGNING OF CUSTODY

The Convention is dated 20 May 1980 and was signed by Turkey on 20 October 1997. It was approved by the Grand National Assembly of Turkiye, 4.8.1999 with act no 4433, and became applicable after being published in the Official Gazette.

The Convention was concerned about the rise of incidences of illegal transportation of children across international boundaries and it was hoped to reduce the problems in this area. In the Convention it was stated that it was crucial to observe the child's interests in the case of custody. The Convention, asserts that recognition and enforcement of verdicts related to the child custody will enable a better protection of the Childs interests.

9) THE CONVENTION CONCERNING THE PROHIBITION AND IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOUR, (WORST FORMS OF CHILD LABOUR CONVENTION, 1999, ILO CONVENTION NO 182)

This is one of ILO's 8 conventions on fundamental rights. Convention was accepted at the International Labour Organization's 87th General Conference held in Geneva on 17 June

1999. It was subsequently accepted by Turkey on 25.1.2001 and act number 4623, 3.2.2001 and was published in the Official Gazette number 24307 and became enforceable.

According to the convention “the worst forms of child labour” covers the jobs listed below and the aims to enable the participating nations to implement measures to prohibit or outlaw these jobs in an effective and a rapid manner:

- All types of implementation that involve the buying, selling and trading of children, forced to work, or forced to work for payment of debts and their forced use in military operations or forced labour like slavery or slavery like situations;
- The use or presentation or provision of a child for prostitution, for the production of pornographic publications or shows;
- The use of children in the production and trade or procurement or presentation of narcotic substances that have been specified in international conventions;
- Jobs that due to their nature or the conditions under which they are created are harmful to the health, security, or moral development of children.

The Convention emphasizes the importance of education and has proposed the following measures to prevent employment of children or their being removed from these situations:

- Provision of direct assistance for their social adjustment and rehabilitation;
- Provision of basic education and where possible and applicable, the provision of occupational training;
- The identification of children under risk and reaching these children,
- Special care being taken over female children.

10) CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The Convention was executed on 25 October 1980 in Lahey; was signed by Turkey on 21.1.1998 and was approved on 3.11.1999 and by act number 4461.

The aim of the Convention, is to provide for the immediate return of illegally transported or held children from the nations of the convention and to ensure that their visitation and

protection rights in any of the nations that are parties to the convention are observed by the other member states.

Turkey has placed a reservation on the Conventions article 26. paragraph 3 as “The Turkish Republic will not be liable for the expenses that arise from court expenses or those of legal and other consultants expenses and expenses arising from the returning of the child”.

11) ILO CONVENTION NO.138, MINIMUM AGE CONVENTION 1973

It was accepted at the 58th General Conference of the ILO held on 6.6.1973 in Geneva.

The Convention states member nations are obligated to abolish child labour in an effective manner and to follow a national policy of employment with a minimum age that will provide for the full physical and mental development of youth.

According to the convention member states will specify a minimum age for employment within their national boundaries and for working in transportation activities. This minimum age will not be less than the compulsory education completion age. Any acceptance for employment that may pose a threat or harm the young peoples, health, safety and morality will not be for persons under 18 years of age.

12) CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF TRANSNATIONAL ADOPTION

Convention was opened for signature on 29.5.1993 in Lahey, and it was signed by Turkey on 5.12.2001; and came into force on 14.1.2004 with act number 5049.

The Convention states that, transnational adoption should take place only if the highest interests of the child are served and that their fundamental rights are secured and guaranteed; and that it is obligatory to take measures to prevent the abduction and sale of children. The objectives of the convention are given below:

- a) To ensure that transnational adoption is carried out subject to the establishment of protective measures by complying the fundamental rights afforded to children by international legislation and that the highest interests of the child are served;
- b) To ensure that these measures are observed and to establish a system of cooperation between member nations to prevent the abduction, sale and trade in children;
- c) To ensure that adoptions carried out in accordance with the convention are recognized by the member states.

13) CONVENTION ON THE ESTABLISHMENT OF THE ANCESTRY ON THE MOTHERS SIDE FOR ILLEGITIMATE CHILDREN

The Convention was signed on 12.9.1962 in Brussels, and was approved on 8.4.1965 by act number 578. Convention aims to establish common regulations for the determination of the ancestry of illegitimate children.

14) CONVENTION FOR THE RECOGNITION OF ILLEGITIMATE CHILDREN

This is a convention that aims to specify the international rules to be applied in recognition of illegitimate children and thus make the recognition process easier. Convention was executed on 5 September 1980 in Munich, and was approved by TBMM on 26.3.1987 and act number 3337.

15) TECHNICAL AID CONVENTION BETWEEN THE INTERNATIONAL CHILDREN'S EMERGENCY AID FUND AND THE TURKISH GOVERNMENT

The Convention was signed on, 5.9.1951 , and was approved on 19.3.1954 was published in the official gazette number 8662 and thus came into force .

16) EUROPEAN CONVENTION ON THE REPATRIATION OF MINORS

The convention was prepared on 28 May 1970 in Lahey and was signed by Turkey on 26.6.1974 and was approved on 25.1.1976 and act number 1931.

Convention contains detailed provisions on the methods and principles to be applied on the forced repatriation under circumstances that are dictated by the child's interest.

17) EUROPEAN CONVENTION ON HUMAN RIGHTS AND BIOMEDICINE

Convention, was opened for signature on 4 April 1997 under the auspices of the European Council, and was approved on 3 December 2003 by act number 5013 and became a part of Turkish legislation. The Conventions 6th article specifies the principles for medical intervention on children.

In accordance with the aforementioned article, "Intervention on a minor that doesn't have the right to give consent by law, is only possible by the consent of their representative, or and authority, person or an institution specified by law. The opinion of the minor will be taken into account in proportion to their age and level of maturity."

OTHER SOURCES

ADDITIONAL PROTOCOL TO THE UNITED NATIONS CONVENTION ON TRANSBOUNDARY ORGANIZED CRIME, ON THE PUNISHMENT, PREVENTION AND ABOLITION OF HUMAN TRADE SPECIALLY IN THE OF TRADE IN WOMEN AND CHILDREN

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

UNITED NATIONS STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE ("THE BEIJING RULES") 29 NOVEMBER 1985

UNITED NATIONS GUIDELINES FOR THE PREVENTION OF JUVENILE DELINQUENCY (THE RIYADH GUIDELINES) 14 DECEMBER 1990

UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY 14 DECEMBER 1990 (HAVANA RULES)

DECLARATION ON THE PROTECTION OF WOMEN AND CHILDREN IN EMERGENCY AND ARMED CONFLICT (14 DECEMBER 1974)

1.1.1. National Laws (if any)

1) CHILD PROTECTION ACT (Dated 03.07.2005 and act number 5395)

The Child Protection Act was accepted by TBMM on 03.07.2005 and was published in the official gazette dated 15.07.2005 and number 25876 and came into force. This is the principal act on the protection of children.

When the act became applicable, the act on the Establishment of Juvenile Court and Duties and Adjudication Procedures dated 7.11.1979 number 2253 was abolished.

The objective of the act has been specified as “ The regulation of procedures and principles related to the protection of children in need of protection or are being driven to crime and securing of their rights”. The provisions of the act cover; the measures to be taken for protection of children in need of protection and the regulation of procedures and principles on the security measures to be applied in respect of children being driven to crime and the establishment, duties and the authority of juvenile courts. The scope of the protection and security measures, and the method and authorized and assigned institutions in the implementation of these measures have been set out in detail.

The fundamental principals to be applied in pursuit of the protection of the child’s rights in accordance with article 4 of the act;

- a) Guaranteeing the rights of the child, to live, develop, to be protected and their rights of participation,
- b) Looking after the interests and well being of the child,
- c) Ensuring that the child and their family are nor subjected o discrimination,
- d) To ensure the participation of the child and their family in the decision making process by providing information,
- e) To ensure a coordinated effort between the child’s family and the public institutions, and the NGO’s,
- f) To implement and execute just, rapid and effective procedures based on human rights,
- g) To show due diligence for the child’s situation during the investigation and the prosecution process,
- h) During taking and implementation of the decision to support the education and training of the child and the development of its personality and societal responsibility in accordance with their age and development,
- i) To resort to freedom restricting measures or imprisonment as a last resort in the case of children,
- j) When taking a decision for an injunction, placing of the child in care or an institution should used as a last resort, and to ensure that communal responsibility is shared in reaching a decision and its application,
- k) To ensure that the children are cared for and are held separately in institutions, they are placed in as a result of an injunction,

1) Taking of measures to ensure that the identity of the child is not determined by others in execution of procedures and the verdict given on the child.

In article 5 of the Act the protective and supportive measures for children in need of protection have been outlined in 5 sections. These are measures for consultancy, education, maintenance, health and accommodation. The measures are intended to protect the child firstly in its own family environment.

Article 29 of the act, the setting up of a child bureau has been proposed at the Public Prosecutors Offices and the duties of this department have been specified in article 30.

2) TURKISH SOCIAL SERVICE AND CHILDREN'S PROTECTION INSTITUTION ACT (NO 2828)

This act was accepted by TBMM on 24.5.1983. The act covers the social services provided to families, children, aged people and others that need help, maintenance and assistance and the basis and procedures associated with the institution (Social Service and Children's Protection Institution SHÇEK) setup to provide these services and its duties, authorities and responsibilities and its activities.

The act defines the concept of "Social Services" as a systemized, programmed integrated services that aims to eliminate the material, spiritual and social deprivation that is created due to personal or familial and environmental conditions or conditions that are outside of the control of people and to meet their resultant needs, and to assist in the prevention and resolution of social deprivation and to enhance and raise their standards of living.

Within the scope of this act; the children that are defined as "Children in need of Protection" are those that;

- are orphaned or have lost a parent,
- mother or father or both are not known,
- has been abandoned by a parent or both parents

- has been neglected by their parents and that have been defencelessly exposed to prostitution, beggary, alcoholism or narcotics and all social dangers and bad habits and have been left on their own and whose bodily, spiritual and moral development or whose individual security is in danger.

1.1.2 Identified Limitations / Gaps in Action Plans

1) SPECIAL SESSION ON CHILDREN WORLD NATIONAL ACTION PLAN

After the United Nations “Special Session on Children” in 2002, in the wide scope meeting held in October 2002, it was decided to formulate a national action plan. Four work groups that were in accordance with the priorities of the Special Session on Children and corresponding to a specific subject of the National Action Plan were created. These priorities were defined as; The Support of Healthy Lifestyle, Support of High Quality Education, Protection against Exploitation, Abuse, Violence and the fight against HIV/AIDS. The final version of the National Action Plan (NAP) was approved at the beginning of June 2004 by the public authorities, NGO's and the children themselves in person.

2005 was accepted as the beginning of the National Action Plan and 2010 and 2015 have been defined as milestones. The National Action Plan is inviting the state, NGO's, children, families, and society to use a few of the strategies. Amongst the key critical approaches and policies that need to be developed are; the enhancement of the application, the reinforcement of the state and the NGO'S in order to monitor children's rights, to strengthen awareness of children's rights and to initiate a social mobilization in order increase the differentiation in the public opinion and raising basic education to 12.

2) PROGRESS REPORTS

In accordance with the article 44 of the United Nations Children's Rights Convention, the member nations undertake to present a report in the first two years of the of the convention becoming valid to outline the measures they have taken in order to enforce and apply the rights defined and the progress made on taking advantage of these rights and then to repeat the report every five years afterwards.

Turkish Social Service and Children Protection Institution General Directorate has been selected as the “Coordinator Institution” responsible for the monitoring of the implementation of the Convention. The first National Report prepared in accordance with article 44 of the Children’s Rights, under the coordination of the Turkish Social Service and Children Protection Institution General Directorate and with the contribution of relevant public institutions, local authorities, universities and NGO’s, was presented by a delegation consisting of representatives from the relevant NGO’s and the related sector representatives was presented to the Committee on 21 May 2001,.

Afterwards the Integrated Progress Report covering the 2nd and 3rd periods that included 2001-2006 period and the years following, was completed in August 2009.

Convention also specifies an obligation to prepare a similar report on Sale of Children, Child Prostitution and Child Pornography as stated in the Optional Protocol Article 12. Turkey presented its first report in May 200. Reporting activity is being conducted by the coordination of the Social Service and Children Protection Institution General Directorate.

3) GRAND NATIONAL ASSEMBLY OF TURKIYE CHILDREN’S RIGHTS MONITORING COMMITTEE

In the period after the signing of Children’s Rights Convention by Grand National Assembly of Turkiye, is executing its auditing duty by means of investigative commissions in addition to the Acts passed for the implementation of Children’s Rights Convention, protection and development of their rights. In this context, the Children’s Rights Monitoring Committee has been setup under the auspices of Grand National Assembly of Turkiye, which contained representatives from all political parties. The Committee will monitor United Nations Children’s Rights Convention implementation in Turkey and the implementation of the legislation and will report on the process and will provide recommendations for the making good of deficiencies. Members of parliament that are members of the committee, through the periodic meetings and by carrying our research on topics reported by the children or defenders of children’s rights or that are on the public’s agenda will prepare reports containing their proposals and views. It is suggested that the Committee’s work is supplemented by the Social Service and Children Protection Institution General Directorate that is responsible for

monitoring the United Nations Children's Rights Conventions implementation, UNICEF, universities and other NGO's.

4) CHILD PROTECTION COMMISSIONS

Child protection commissions that have been setup within the context of the Children's Protection Act, at the provinces and boroughs, are continuing their activities. Child protection commissions are composed of the highest civilian authorities at the provinces and boroughs as their president and municipality, the bar, health directorates and youth and sports directorate, social services directorate, national education directorate, police and military police representatives as members.

1.1.3 Other Provisions About CAN, which may be included in:

- Civil Laws
- Criminal Laws
- Policies, Etc..

1) TURKISH CIVIL CODE (dated 22.11.2001 and act no 4721)

Turkish Civil Code that came into force in 2002 takes into account the child's views on subjects such as custody, protection of the child and adoption. It also has provisions that ease the adoption process.

Establishing Personal Relationship with the Child

Any parent which does not have custody of the child, has right to request the establishment personal relationship with their child. (art.323) each parent is obligated not to damage the other parents' relationship with the child and not to prevent its upbringing and training. If the well being of the child is endangered due to personal relationships or of any parent used this right in violation of the legal provisions or if they do not take serious interest in the child or if there are other important reasons then the right to establish personal relationships may be refused or rescinded. (art.324)

The Right of Custody and Its Use

The custody of a minor is in the hands of the parents. It can be overturned if there is a legal reason. (art.335) While the marriage is intact both parents use the custody jointly. (art.336) Parents are also obligated to show care and interest to their step children that are minors. (art.338)The required finances for the maintenance, education and protection are met by the father.(art.327) The obligation of the father and mother for maintenance continues until the child reaches adulthood.(art.328) The parents take and implement decisions on the maintenance and education of the child by taking into account the child's interests. The parents allow the child to organize its life in proportion to the child maturity; his views are taken into account on important subjects.(art.339) the parents educate the child in accordance with their means and they provide for and protect its physical, mental spiritual, moral and communal development. (art.340)

Protection of the Child and Measure Taken:

If the child's interests and development is endangered and if the parents are not able take measures to remedy the situation or if they are unable to deal with the situation, the presiding judge will take the appropriate measures for the protection of the child.(art.346) these measures, which leave custody with the parents but are meant to support the family to secure the child's protection, cover; provision of guidance and counselling to the family, warning to the parents or issuance of directives or being subjected to control, assigning a guardian to the child.

If the child's physical and mental development is found to be endangered or if the child is spiritually abandoned, then the judge may place the child in a foster family or in an institution. If the presence of the child is disturbing the peace and well being of the family to an unreasonable extent and if there are no other remedies available, then the judge upon request of the child or from the parents then the judge may take the measures as well. If the parents or the child does not have the means to finance these remedies then the cost is met by the state. (art.347)

Not obtaining Results from the Measures Taken

If results are not obtained from measures taken for the protection of the child or if it is understood in advance that these measures will be inadequate, the judge may rescind custody under the following conditions:

1. The inexperience, sickness, disability or being in a different location or a similar reason as a result of which the custody requirements are not met as specified.
2. The lack of adequate interest by the parents or grossly neglecting their responsibilities.

If custody from both parents is rescinded then the child is assigned a guardian.

Unless stated otherwise the abolishment of the custody covers not only existing children but those to be born in the future as well. (art.348)

Where the custody has been rescinded, the obligation of the parents to meet the child's maintenance and education expenses remains in force. If the parents are financially deprived then the expenses are met by the state. (art.350)

2) PROTECTION OF THE FAMILY ACT (dated 14.1.1998 and act number 4320)

Where family members that share the same abode are exposed to physical or mental family violence and where this has been notified to the authorities, and then in addition to the measure specified by the Turkish Civil Code, then the Family Court has the duty to take the measures specified in the act. The act enables rapid response to situations that involve neglect or exploitation.

3) TURKISH CRIMINAL CODE (dated 01.06.2005 and act number 5237)

The act contains not only many provisions in favour of the children also some against. For example article 31 of the Turkish Criminal Code, includes children in the Criminal Justice System under the title of "Age Eligibility". Thus the principles that were guaranteed by international conventions that Children would be tried by special juvenile authorities by means of specific legislation and procedures" has been violated.

The act contains many provisions that are positive from the perspective of children that are victims. For example "the sexual exploitation of children" has been dealt with under its own heading and committing of certain crimes against is considered as an aggravating cause. In the section titled international crimes, the transfer of children by force from one group to the

other is considered a genocide crime (art.76) and sexual exploitation of children have been deemed as crimes against humanity (art.77).

The act places importance of the protection of the child in the family. There provisions on the subject under the heading "Crimes Against the Family Order" (between articles 231 – 234). In this section, the neglect and exploitation of the child by family individuals or other people who are responsible for the maintenance and well being of the child has also been defined as a criminal act.

In this sections maltreatment of the child, or misuse of authority over the child, the physical and emotional exploitation of the child, violation of obligations arising from family law, changing of ancestry, and abduction and kidnapping of children are also subject to criminal proceedings. These provisions in the Criminal Code overlap with other legislation and supplement them.

In sexual crimes related to children In the Optional Protocol of the Rights of the Child Convention, provisions have been added for the prevention of Sale of Children, Prostitution and Pornography. Sexual assault against children incurs heavier sentences.(art.102) the sexual exploitation of the children has been treated under a separate heading in the act.(art.103) The manner in which the crime was committed and the identity of the perpetrator has a an aggravating effect in the passing of the sentence. Sexual relations with a minor is also defined as a separate crime and is punished accordingly.(art.104)

In the section titled "Crimes Against Public Morality" various crimes of an exploitative nature that are committed against children are defined and their sanctions are specified. In this context, criminal sanctions related to child pornography and the presentation of products with pornographic content to children is specified in article 226 under the heading of pornography. The pandering of children for prostitution has been defined in article 227 and where this crime is committed by persons which are responsible for the protection and the upkeep of the child, then this is accepted as an aggravating reason which results in a heavier sentence. Article 228 deals with provision of premises for children to gamble and article 229 for using of children to beg. The sanctions against persons that present substances that are harmful to health such as chemicals or present it for their consumption is dealt in article 194.

In the act committing of certain crimes against children is also of importance in the determination on the sentence. In the crimes listed below if the victim is a child then this aggravates the crime:

Human trade (art.80), premeditated murder (art.82), premeditated grievous bodily harm (art.87), experiments on humans (art.90), torture (art.94), cruelty (art.96), violation protection and guardianship (art.97, m.98), sexual assault (art.102), depriving a person of their freedom (art.109), looting (149), not informing the committing of a crime (art.278 - 280).

4) CRIMINAL COURT ACT (dated 1.6.2006 and act number 5271)

The Criminal Court Act has resulted in new provisions in favour of children that are victims. According to the act, it is compulsory to have audio visual recording during the testimony of children. (art.52) The child whose psychology has been disturbed by the crime that was committed can be listened to once during the investigation and the prosecution. During the testimony of a child victim as witnesses a psychologist, psychiatrist or a medical and educational consultant must be present. (art.236) If the victim is under 18, a solicitor is assigned from the bar without them having request one. (art.234) Where there is strong suspicion on the perpetration of a crime involving sexual exploitation or sexual assault, this may be used as a reason for arrest. (art.100)

5) PROTECTION OF MINORS FROM OBSCENE LITERATURE (act number 1117)

The act was accepted on, 21.06.1927. After it came into force many amendments were made to the act during the years of 1986 and 2004.

The act aims to restrict or control the publication of periodic or non periodic material that endangers the spiritual integrity of minors. The act specified the methods to be used in the evaluation or the restriction of such publications and the sanctions to be applied to those that publish such material.

In Turkey all activities related to the protection of children are fundamentally carried out by the state. The Turkish Social Service and Children's Protection Institution (TSSCPI), is the main institution that has the authority and is responsible for the main child protection issues

in the child protection framework. TSSCPI cooperates with other state institutions and NGO's in the execution of its activities.

Any person that neglects or exploits children can be penalized in accordance with the Turkish Penal Code. If this person is the child's parent or guardian, the custody or guardianship is revoked. As a result everyone that is aware of neglect or exploitation can inform the Public Prosecutors office or the police. The Public Prosecutors office gathers all evidence including the forensic medicine institution report and starts litigation against the person in question. During the investigation and proceedings the child is represented by a solicitor without the need for any official complaint from the victim or their legal representative.

Everyone who is aware of child neglect or exploit is obligated to inform the relevant institutions within the limits of the situation and to assist. Persons not complying with the obligation to inform and assist the victim can be penalized in accordance with the provisions of Turkish Penal Code article 98. Persons not informing the committal of a any crime can be also be penalized in accordance with the provisions of TPC article 278 and if the victim is a child then the sentence will be increased by half. ⁱ

A the same time the authorities in charge of the protection of the child can inform the Provincial Directorate of The Turkish Social Service and Children's Protection Institution or the Governor's office in order to have the child placed under care. These notifications can be made in writing or verbally, by the child or by relevant persons. The evaluations of the applications or the notifications are carried out by the TSSCPI experts.

The measures to be taken in relation to the care, maintenance and observation of the child are specified by the Family Court. These measures are meant to provide support to the family while leaving the custody of the child with the family and typically involve, first of all the provision of guidance and counseling to the parents, issuance of orders or edicts and their subsequent inspection and control and assigning a guardian to the child.

Where the development of the child is seriously threatened, the court may decide to place the child with a foster family or a child care institution. The request for the implementation of

these measures may emanate from the child itself or the parents. The verdicts of the Family Courts in respect of protection and prevention are implemented by The Social Service and Children's Protection Institution and associated costs are met by the state.

If the expected results are not obtained from the other measures taken for the protection of the child or if it's understood in advance that these measures will be insufficient, the court can decide to rescind the custody of both parents or either of the parents. Where the parents have not shown the required degree of interest in the child and where have grossly neglected their responsibilities, will result in lifting of the custody. If the custody of the parents is lifted then a guardian will be assigned to the child. ⁱⁱ

In addition to the measures specified in the Turkish Civil Code, if children submit complaints in person or upon notification from the Public Prosecutor, the courts intervene and pass a verdict to protect the child. The implementation of the verdict is monitored and if the persons involved violate the protection order, then punitive proceedings are started without the need for a complaint submission.

In situations that require emergency aid or where the recipient of the aid requires immediate social support in person the child or people in its immediate vicinity, they can use the toll free TSSCPI number 183 to ask for assistance. The calls are received by expert personnel and they can either direct the enquirer by providing alternative solutions or can ensure the caller is reached in person and the situation is intervened at its source and protective measures are taken.

In the provinces the Social Services Provincial Directorate acts in the name of The Social Service and Children's Protection Institution which has the responsibility for the determination of children in need of protection, and executes the necessary measures. The determination of children in need of protection and placing them under care is carried out in accordance with the provisions of relevant regulations. According to this; Local Authorities, Health Institutions and Institutes, Village Elders Offices, General Security Forces and the Municipal Police are responsible for the identification and notification of children in need. Also the TSSCPI Provincial Directorates accept articles that appear in the press and media on children in need of protection as official complaint and are obligated to investigate the

allegations. Also all educational institutions, NGO's and the public are obligated to inform the Social Service and Children's Protection Institution of children in need of protection.ⁱⁱⁱ

If a social worker can't be found at the Social Services Provincial Directorate then the detailed investigation in the child and its family is carried out by occupational personnel assigned by the Provincial Directorate in accordance with the provisions of the relevant legislation and a Social Investigation Report is prepared and is forwarded to the relevant court with supporting documents for processing.

If the child's situation requires immediate intervention then the "Emergency Gubernatorial Approval" is obtained and the child is placed under protection and the proceedings for the order for protection are initiated and the courts are applied to within one month at the latest. Where the conditions that necessitated the placing of the child under protection are removed, the Social Investigation Report that will be prepared is taken into account and with the approval of the Provincial Directorate the court can remove the protection order.

In accordance with the provisions of Act number 2828 and Act number 5395 on the Child Protection Act, related to the "maintenance measures", the children are first evaluated in terms of the alternative service models (assistance in kind, foster family, adoption etc) and placing the child in an institution is considered as a last measure and the children are placed under care in accordance with their age and sex.

The TSSCPI houses three different types of institutions aimed at children in need of protection or being driven to crime: Children's Homes, Bringing up Homes, Children and Youth Centers.

Children's Homes are social service institutions with overnight accommodation for 0-12 age group children in need of protection to enable and promote their physical, educational and psycho-social development and to impart good habits to enable a healthy personality. If necessary female children in need of protection that have completed 12 years of age are also permitted to stay at these facilities. In Children's Homes children over the age of 6 start their elementary school education. Throughout Turkey there are over 100 such facilities. The Children's Homes are split into 2 types, 0-6 age group and 7-12 age groups.

The Bringing up Homes are social service institutions for the 13–18 age group children in need of protection, to protect, maintain, and the bring them up by enabling them to acquire a trade or an occupation and to transform them into persons that can contribute to society. As of 2006 there are 112 Bringing up Homes throughout Turkey.

Children and Youth Centers are social service institutions that work on a boarder or daily attendance basis with the aim of rehabilitation of children that are products of family conflict, neglect, sickness, bad habits, poverty, abandonment and have been forced into the street, for a temporary period, and to ensure they can be reclaimed as socially well adjusted citizens of society.

TSSCPI is the only legal institution that is authorized in adoption procedures, both nationally and internationally. Of the children in the TSSCPI facilities that are suitable for adoption are placed with families that have been identified by the social worker. Every year approximately 500 children are adopted and move into new homes.^{iv}

Also in the Foster Family application that was developed to ensure that the children under the auspices of TSSCPI facilities can be brought up in family environment, the children are living with families that have met the prerequisites and this is continually monitored and inspected by the institution.

In addition to official state units that are involved directly or indirectly in the subject of child neglect or exploitation there are also other institutions that are involved at various stages. These are the bar associations, municipalities and NGO's.

Within the Ankara and Istanbul bar association there are Children's Rights Centers and Children's Rights Commissions. Also in many provincial bar associations like Adana, Bursa, Diyarbakır, and İzmir there are Children's Rights Commissions.^v

In some of the provincial and borough municipalities work on children in need of protection is being carried out. For example Istanbul, Ankara, İzmir and Bursa Metropolitan Municipalities are engaged in joint project to rehabilitate homeless children and to reclaim them as useful members of society.

Some of the foundations and associations that are active in the field of prevention child neglect or exploitation and are generally active in the field of Children's Rights are as follows:

- Turkish Children in Need of Protection Foundation <http://www.koruncuk.org/>
- Association for the Prevention of Child Neglect or Abuse
- Agenda Association for the Promotion, Spreading, Application and Monitoring of Applications of Children's Rights <http://www.gundemcocuk.org/>
- Social Services Experts Association (SHUD) <http://www.shudernegi.org/>
- Freedom for the Children Foundation Turkey (TCYOV) <http://www.tcyov.org/index.asp>
- International Child Centre Association (ICC) <http://www.icc.org.tr/>
- Umut Children's Association
- Child and Data Security Association <http://cbgd.org/>
- Child Health Association <http://www.cocuksagligidernegi.org/>
- Protection and Rehabilitation of the Child from Abuse Association

ⁱ <http://www.mevzuat.adalet.gov.tr/html/1414.html>

ⁱⁱ <http://www.mevzuat.adalet.gov.tr/html/1156.html>

ⁱⁱⁱ The regulation on the identification of children in need of protection taking and gerdirme of verdicts on their protection <http://www.mevzuat.adalet.gov.tr/html/20276.html>

^{iv} SHÇEK, http://www.shcek.gov.tr/hizmetler/cocuk/Evlat_Edinme_Hizmetleri.asp

^v Ankara Bar Association, <http://www.ankarabarsu.org.tr/Merkezler/CHM/>