

# “Accessing Justice for Women in the Kurdish Regions”

## Background and Context of the Project

### *The Kurdish Regions*

Kurds are indigenous to the mountainous regions that span Turkey, Iraq, Iran, Syria, and parts of the former Soviet Union; an area afflicted by some of the gravest human rights violations in recent history. Numbering more than 30 million, they represent the largest ethnic group without a State in the world and the fourth largest ethnic group in the Middle East. Although a plethora of international legislation exists for their protection, as national governments and the international community acknowledge, impoverishment and human rights abuse in these regions is pervasive. However, state-sponsored discrimination, the root cause of violations in these regions, is all too often ignored.

Insecurity – be it personal, local, national, regional – is endemic in the Kurdish regions. Rooted in systematic discrimination against an entire ethnic group, inhabitants from all walks of life, Kurds or non-Kurds, women or men, girls or boys, live in fear of imminent violence, no matter which side of the political spectrum they stand. In the name of security or the ‘integrity of the state’, people living there are commonly arbitrarily detained, tortured and even killed. Women are misused as symbols of family honour.

Across the regions, there is inadequate provision of the most basic needs. Under -investment in the Kurdish regions has led to a lack of suitable housing, healthcare, basic nutrition and access to education, and many people remain impoverished, undereducated or lacking in formal education. Due to several barriers to public communication in mother tongue, many who only speak Kurdish find themselves unemployed. The situation is more acute for women, who subjected to daily aggression and prejudice, are most vulnerable to poverty. Without equal rights to communicate and to organise as a group, and lacking awareness about their rights and the human rights mechanisms, education and training available, those living in the Kurdish regions face severe obstacles in challenging the discriminatory state practices, which perpetuate their deprivation.

Amidst ongoing conflict and insecurity, human rights concepts and structures face neglect when they are most in need of being strengthened. The absence of a vibrant human rights culture is not only a result of ongoing conflict in the region, but is also one of the major factors causing it. As the opportunity to begin constructive dialogue towards a peaceful resolution is increasingly being recognized by both state and non-state parties to the conflict, the KHRP is ever hopeful that its work will help to pave the way for lasting, positive change in the Kurdish regions.



### *Specific Problems Women Face*

Women in the Kurdish regions of Turkey, as in other parts of the country and in many areas of the world, operate in a social context defined by patriarchy. Women face harassment and violence not only outside of the home – for example, in their dealings with the security services – but often also from others within their own families. According to research conducted by the Prime Ministry Directorate General on the Status of Women in 2008, the findings of which were released in February 2009, four out of ten women in Turkey are beaten by their husbands and one in ten reports having been beaten during pregnancy.

Women are also affected by customary and religious practices including early and forced marriages and polygamy, as well as honour crimes. It has been documented that honour killings tend to be more prevalent in south-east and eastern areas of the country, particularly among Kurdish communities. As well as encouraging violence and other offences against women in the first place, the patriarchal social framework also makes reporting crimes, particularly violent and sexual offences, very difficult.



### *Access to Justice*

Despite some positive reforms, women in the Kurdish regions face an array of barriers that seriously hamper their access to the justice system.

- Women are often discouraged from filing complaints against perpetrators of domestic violence and other offences because of a lack of awareness of their rights
- Even when women do file complaints with the authorities, officials routinely refuse to take their case seriously and fail to implement the protective measures that are theoretically available to them
- Further obstacles include language barriers, severe failings in the provision of legal aid and serious shortcomings in medical examinations of alleged victims of abuse.
- More generally, women's access to justice in the Kurdish region, and the willingness and ability of women to take advantage of the protections that are available to them, is severely hampered by a widespread lack of awareness of their rights. KHRP has found that this lack of awareness is particularly common for women living in rural areas because of the particular dominance of patriarchal values in such areas
- This lack of awareness is exacerbated by restricted access to education and high levels of illiteracy amongst women in the Kurdish region. The rate of illiteracy amongst women in south-eastern Turkey is around 40 per cent, far higher than the national average of about 20 per cent. Many women who apply for legal advice and legal aid have either never been to school, or else left school without completing their primary education.
- Even where women do overcome such barriers and file complaints about offences committed against them, officials are frequently wilfully uncooperative. KHRP field research has found that the police, who are the first resort in cases of domestic violence, usually fail to investigate women's complaints. Instead of informing victims about their rights under the Family Protection Law, they are reportedly generally reluctant to get involved and instead encourage women to resolve the issue themselves within the context of their own family. In most cases, the police refuse even to record women's complaints.
- Besides the failure of the authorities to take women's complaints seriously and implement relevant protective legislation, language barriers present another fundamental obstacle to women's access to justice in the Kurdish region. Throughout the country, Turkish is the language of official administration and those who do not speak Turkish are effectively barred from accessing public services.
- No satisfactory translation service is provided for Kurdish speakers in police stations, during meetings with public prosecutors or in court proceedings. Instead, court staff, lawyers and police officers are usually appointed to act as translators. This arrangement stands in the way of due process and seriously threatens the right of non-Turkish speakers to a fair hearing. The language barrier in this context is particularly detrimental to the rights of women in the Kurdish region of Turkey in light of the limited access to education and high rate of illiteracy mentioned previously.

### *Steps towards Reform*

The Turkish authorities have taken some steps in recent years to address violations of women's rights, including signing and ratifying international human rights instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its first optional protocol.

Turkey has also taken significant legislative steps in cooperation with the EU, including annulling Article 159 of the Civil Code, which previously held that women must gain consent from their husbands in order to work away from home, and repealing Article 438 of the Criminal Code, which provided for a one-third reduction in sentences for rape in cases where the victim was a sex worker. The Family Protection Law was also introduced in 1998, providing for protective measures to be applied when women face domestic violence.

Such reforms, however, while certainly welcome, are rendered largely ineffective by a widespread lack of implementation. Unsurprisingly, the barriers outlined above and the failure to implement or enforce protective measures has contributed to a deep sense of mistrust in the justice system amongst women in the Kurdish regions of Turkey. Until such problems are addressed, many women will continue to choose not even to report domestic violence and other offences against them, in the belief that the perpetrators will anyway not be brought to justice.



### Project Activities

KHRP's long term and continued presence in the Kurdish region has earned us the trust and respect of those most in need of help. With support from the international community, KHRP can continue to help advance the rights and equal participation of easily marginalised communities in a tactical and sustainable way. The consistent application of these complementary tactics will maximise the reach and long-term impact of KHRP's work:

- KHRP will bring strategic cases to the European court of Human Rights, whose judgements will help governments to make necessary legislative changes in order to strengthen the state's observance of fundamental human rights and protect women vis-à-vis the international human rights treaties to which they are party;

- In-country trainings help to develop capacity for human rights enforcement in the regions and provide a platform for discussing shared experience and tactics in dealing with violence against women. Each training includes from 25-30 participants made up of mixed gender to ensure that men take part and understand the problems facing women;
- Trial observations and fact-finding missions will send international monitors to carry out independent investigations to lend much-needed support to survivors and compile a historic record of what is happening for the world to see;
- The production and translation of KHRP's research and documentation of the current situation for women helps to inform and educate the region's inhabitants as well as the international community;
- Finally, public awareness and engagement will keep the situation on the international agenda.

### **Project Objectives**

- Women and men are made aware of women's rights and better understand them. Women and others learn how to access their rights using domestic and/or international human rights instruments.
- Women who have been victims of human rights abuse benefit from legal redress & there is an overall qualitative improvement to the human rights environment
- There will be greater legal capacity on the part of in-country lawyers & human rights defenders to bring their own legal complaints on behalf of women who are victims/ survivors of human rights abuse before domestic & international human rights instruments.
- Those aiming to speak out and protect the rights of women are able to operate in a climate more amenable to compliance with human rights.
- Overcome the prevailing notion that certain human rights violations are cultural, especially regarding the realisation of women's rights. Women and men will work together on issues concerning women, so that rather than be treated as a separate area, women's rights are integrated into all areas of human rights debate.
- Improved public awareness internationally of the human rights violations suffered by women living in the Kurdish regions.
- Maintain international pressure against the governments in the project countries to promote & protect the human rights of women and men alike in the Kurdish regions & beyond.

### Achievements to Date in Accessing Justice for Women

- Through its multi-disciplinary approach, the KHRP has successfully won legal redress on behalf of hundreds of survivors, and has dramatically reduced the incidence of human rights violations. Landmark KHRP cases include *Aydin v. Turkey* which revolutionised the status of rape in international law by classifying rape by or with the acquiescence of state actors as 'torture' rather than merely as a criminal act, despite its common use as a systematic method of warfare in times of conflict. This case encouraged other survivors of sexual violence to come forward.
- Regionally based Women's organisations have continued to improve their understanding of and access to rights and requests for more advanced trainings are being made
- By bringing forth new interpretations of the European Convention on Human Rights, KHRP has helped to make abstract human rights concepts more tangible and applicable to daily life, changing the way that rights are understood and talked about internationally.
- KHRP is proud to have been a founding member of the 'Charter for the Rights and Freedoms of Women in the Kurdish Regions & Diaspora' (KWC). This was jointly published with the Kurdish Women's Project in 2004 and translated into Kurmanji, Sorani, Turkish and Arabic languages. The KWC was launched in 2 public meetings, at the House of Lords in London (June), and at the Kurdistan National Assembly in Erbil (July) and was presented to the citizens of the Kurdish regions as well as to the UN, European Parliament, international and national human rights and women's rights organisations, political parties, cultural organisations and academic institutions in the regions and Diaspora.

