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**Access to Justice for Women Members of Indigenous, Rural and Religios Communities**

(Turkish Cypriot Women; Women who refuse to live their lives as shadows).

Life is full of experiences, good and bad. This is such an unbeliveable experience for me, to be here in such an amazing country before such a distinguished audience.

Today, the topic of my presentation is; Turkish Cypriot Women; Women who refuse to live their lives as shadows.

We all know that, shadows can not determine their own directions, they have to follow their masters' footsteps. You may ask how an individual can live life as a shadow and what is the relevance of this with today's topic?

I will try to give some answers through my presentation today.

First of all, I want to give you some information about my country so you can put yourself into my shoes. Cyprus is very small island in the east of the Mediterranean Sea. It has two major communities, Turkish Cypriots and Greek Cypriots.

The early history of Cyprus goes as far back as 3000 BC. Since the early days Cyprus always changed hands amongst the powerfull states of the area. Some of the known owners of the island were; Phonecians, Egyptians, Persians, Romans, Arabs, Lusignians, Venetians and Ottomans. Cyprus was ruled over 350 years by the Ottoman Empire. In 1878 Ottomans assigned Cyprus to Britain and until 1960 it was a British colony.

The destiny was about to change with the foundations of the Republic of Cyprus in 1960. Turkish and Greek Cypriots were the co-founders of this Republic.

The Cyprus Republic came to an end for Cypriots in 1974 with intercommunal problems and in 1983, Turkish Cypriots set up a state called the Turkish Republic of Northern Cyprus or T.R.N.C. Today, the TRNC is not recognised by any state except for Turkey. At this point, to sum up the history of Cyprus, it can be seen clearly that Turkish Cypriots lost the control over their own destiny for about 45 years and their unknow future is bound by the mistakes and promises of other countries.

Turkish Cypriots live and work in the north part of the island. North Cyprus has a population of just over 200,000, a surface area of about 3000km<sup>2</sup>.

North Cyprus is a moslem country but unlike other moslem countries

we are not ruled by Sharia laws or Islamic rules. As you can see from our population we live in a small part of the island, therefore, it can not be said that our rural parts are isolated from the urban areas. Turkish Cypriots for centuries were seen and treated as minority in Cyprus and Turkish women were always at the front during the wars to protect their community's rights and to make the Turkish Cypriots's voice heard by the world. Maybe this was the reason why they never had the chance to fight for their own rights as they were fighting for their children's future.

Although, we are an isolated country with limitations on economic, social, cultural and political development, North Cyprus was listed as 53<sup>rd</sup> among 174 countries in the world classification with respect to the human Development Index(HDI), carried out by the United Nations Development Program (UNDP) in 1996. This index consists of life expectancy at birth (as an indicator of the capacity of leading a long and healthy life), adult literacy; combined primary, secondary, and tertiary school enrollments (as an indicator of acquiring information and participating in society); and income per capital (as in indicator of the capacity to access necessary resources for a good standard of living).

I will not go into all the details of this index, however I would like to emphasize that the adult literacy rate 96% (this percentage is very similar to European Community member countries such as Malta, or Portugal). Another factor, like the combined school enrollment is 74.1% which is again very similar to the figures from developed countries.

The judiciary is composed of a two-tier court structure- the lower Courts known as District courts (trial courts) and the Supreme (or High) Court. North Cyprus is divided into 5 District and each district has its own district court. The Supreme Court is located in the capital city of TRNC, Nicosia, and it also acts as Constitutional Court, Appeal Court for both Criminal and Civil Cases and Administrative Court. As I mentioned above, although Turkish Cypriots are Moslem, in our governmental and judicial System, Islamic Laws do not play any role. We do not have any Religious Court or Special ad hoc courts. Therefore, we can easily say that, we live in a Moslem State Which practices Anglo Saxon System of Law.

Equality of women before the law is one of the fundamental principles of our constitution. But there is no legal aid available. Often, it is a long and expensive process. Eventhough more people are seeking help through the Courts, there is a stigma towards women who are seen in Court. It is not desired action a woman should take. It is often thought of the last step.

The commitment towards achieving and maintaining women's rights is reflected, first and foremost in the legal system. The most important laws that supports gender equality are, The Constitution, The Criminal Law, The Family Law, Public Servants

Law, Teachers Law, Social Security Law, Nationality Law and Retirement Law. In order to narrow down my speech to the issues of Discrimination and violence against women, I will deal with 3 of these laws today.

In 1985 Constitution emphasises the importance of gender equality with article 8, which says "everyone without any form of discrimination is equal according to the laws".

Criminal Code, Cap 154, sections 144 to 176, sets out offences committed against children and females. Crimes such as rape and abduction and offences especially against males and females under the age of 13, unnatural offences including sodomy, carry severe penalties, including life sentences. One of the significant amendments to the Criminal Law in 1989 has been to section 169. The change legalises abortion under certain circumstances.

Family Law is one of the most important Laws that supports gender equality and it gives the court wide powers in dealing with domestic violence incidents and discrimination against women. In 1996 the TRNC Assembly ratified the Cedaw<sup>1</sup> Convention and in 1998 after exhaustive efforts by women's organisations, the new Family Law, Law 1/98, was passed which, for the first time, made provision for rights within the family unit and rights to matrimonial property.

Before the 1998 statute, the old turkish Family Law (based on Moslem Religios Law) came into force in 1954 and provisions pertaining to marriage were codified by the civil Law. The old Family Law, in essence reiterated the notion of the superiority of the Moslem male as the bread winner and provider of income, woman put in third place, after the children. Under the old law the husband choose the place of residence for the family and was considered the head of the matrimonial home. This is no longer the case under the new law. The new law stipulates that the equality of the sexes in the maintenance of a union is based on equality and mutual respect towards the sanctity of marriage and to the raising of children.

In 1 98 Family Law, Section 36 gives the court the power to issue injuctions to protect women from domestic violence or attempts at violence in any shape or form before or after divorce. The judge of the family court has wide discretionary powers to protect the victimized spouse. The Judge can issue interm injuctions and protection orders preventing disturbance, threats or injury in any way to the wife and can also order that the husband should not come within a 100 metre radious of the wife. The judge can order the husband to leave the matrimonial home, and fine or send him to prison if he persists.

In the event of a divorce even a party who has custody of her

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1 The Convention on the Elimination of All forms of discrimination Against Women. The Legislative Assembly of the T.R.N.C. Ratified CEDAW under Law 5/96 on March 1996.

child cannot take the child out of the country without the other party's consent. If no consent is given, the party with custody can apply to court for leave ex parte.

Most of the judges, legislators and leaders of the legal profession are men and their decisions and pronouncements reflect male beliefs about females. I believe that, they are the major sources of sexist complacency and male dominations, including the techniques used in ensuring female subordination.

I can say it with great pride that women play an important role in our legal system. Maybe even more than most of the developed countries in the world. There are 33 judges including the 8 Supreme Court judges and out of 33 judges 16 are women. You can easily see that almost the half of the judges in my country are women and we are all members of IAWJ. None of our male colleagues are members of any such International Organisation.

While the numbers are showing us that half of the courts judges are women, on the other side of the bench there are 624 registered advocates and 261 of them are women. Although the ratio of female lawyers to male lawyers is not as high as it is with the judges, it is still an important number for women representation. So it is not unusual scene in North Cyprus courts that all the parties are women including the judge, advocates (both plaintiff and defendant) and the parties. In a court like this, no surprisingly that majority of the court staff including the chief registrar, and most of the registrars in district courts are women.

Now, I would like to analyse, Turkish Cypriot women's Access to Justice referring to some statistics. There are not any Statistics regarding women and men plaintiffs and defendants. I conducted a limited study trying to produce statistics regarding the lower courts, where there are many more cases compared with Appeal cases. It needs a more comprehensive study but is unavailable at present. Having said that however, it is probably safe to assume that lower courts involve more or less the same percentages.

(STATISTICS TABLES)

Here we have 4 datas, which indicate the Supreme Court cases, such as Administrative Cases, Appeal Court for Civil cases and Criminal Cases and Constitutional cases; First column shows us the years. My starting point is the year 1983 since the TRNC was set up in this year. The 2<sup>nd</sup> column shows the number of female plaintiffs, the 3<sup>rd</sup> column shows, number of female defendants are female and the last one shows total number of cases in a year.

In terms of Administratives Cases, which at the present, take place in the High court (though this may vange if the proposal to open the lower courts to administrative cases comes to life), women are not non-existent but they follow the same trend in Administrative cases as in other high court access. In

administrative cases, of course, a person goes to court to challenge an administrative decision, therefore, the defendant is state or the Administrative authority and so we do not find individual women (or men) as defendants.

When we look at the Civil Appeal Cases, shows very little participation by female plaintiffs though numbers are also slightly higher for female defendants. Cases involving females both as plaintiffs and defendants are even smaller. When we look at female participation and see that it is very little, we have to bear in mind that of course the rest of the participants are all male.

In Criminal Appeal Cases, by their nature criminal Cases involve the state and therefore in lower courts the applicant is always the state<sup>2</sup>. When we look at the statistics Crimes committed by women are much lesser than the crimes committed by men. The cases in lower Criminal courts involve very few women compare to men.

However, we find presence of women in Appeal Cases either as convicts (convicted at lower court and appealing against Conviction or sentence) or the state (public prosecutor) appealing against acquittal and/or sentence.

In Constitutional cases, we have the same picture as in the other cases. Again there are very few women either as Plaintiff or Defendant.

In my opinion, Law is not responsible alone but conventions and habits are also responsible for the fact that Turkish Cypriot women are not fully enjoying their rights of access to the Courts as much as their counter parts. I am saying this because, there are no obstacles for women not to apply to the courts and technically they have equal rights and opportunities before the courts. Since our rural and urban areas are not very different from each other and even women in the villages can work and benefit from social security opportunities. I don't think the reason for women not to apply to the courts is financial.

From my own observations, if there is a matter which effects a family and this matter has to be taken to the court, the person who applies to the court is usually the husband. Women do not seem to prefer going to court, because going to court, giving evidence in the court, discussing the matter before the court or even arguing the matter with the other party does not attract women. Most probably, this is because of lack of confidence, the way of life that they are living and because women are still under the influence of male domination and norms in the society we live in.

Although, law is capable of influencing our ways of life, I believe, education which is based on equality is also very

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<sup>2</sup> Private criminal proceedings are theoretically there for the citizen to exercise though it is not a much used procedure by the man either.

important and children have to be educated in the ideas of equality and mutual respect and this can only be done by their mothers at home and teachers at school.

Turkish Cypriot mothers are refusing to live their lives as shadows and they are doing this by encouraging their daughters to get adequate education and take positions in government and the judiciary.

To sum up, as man is the subject of law and the national legislator, this acceptance and respect determines the end product, the problem therefore is not finding paper formulae but of exercising the law-making power wisely, and ensuring the access to justice for all women must be the most important concern of governments. I would like to end my words with Libanius's words; "It is easy for kings to make laws because they have the power to do this, but it is easy to make useful laws because for this intelligence is needed."<sup>3</sup>

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