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## Discussions and Developments During the Preparation of The Turkish Civil Laws Accepted in 1926, 2001

*1926, 2001 Yıllarında Kabul Edilen Türk Medenî Kanunlarının Hazırlanışı  
Sırasında Yapılan Tartışmalar ve Yaşanan Gelişmeler*

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### Abstract

Mustafa Kemal Pasha, the founder of the Republic of Turkey, which aims to create a modern state and society, and Mahmut Esat Bozkurt, the Minister of Justice. They made a legal revolution to implement the "Law of Persons", "Family Law," "Law of Inheritance", "Law of Property" and "Law of Obligations". For this purpose, the "Civil Law Commission" was established among various law commissions established by the Ministry of Justice. The commission, which started its work for the "Turkish Law Medina" (TKM), decided to take the civil law of a country in Western Europe as it is. In line with this decision, the "Swiss Civil Code" was taken as a whole with some changes and translated by the scientific committee. On February 17, 1926, the articles of TKM were accepted by voting one by one in the Turkish Grand National Assembly (TBMM). As a complement to this law, the Swiss Code of Obligations was also fully adopted, adopted and voted in the Grand National Assembly of Turkey on April 22, 1926, and both laws entered into force on October 4, 1926. Switzerland has made innovations in the "Civil Code" (MK) in accordance with its social needs and structure, and has created a number of new institutions. In Turkish society, which has a different cultural and social structure, it has been decided to implement a new CC instead of going through revision due to its unique characteristics and needs. Harmonization with the acquis during the candidacy negotiations with the European Union (EU) has been an important factor in taking this decision. The new CC studies were carried out on a very wide platform, and finally the draft was accepted in the Grand National Assembly of Turkey on November 2, 2001, and entered into force on January 1, 2002.

**Keywords:** Old Civil Code, New Civil Code, law, equality, right.

### Öz

Çağdaş bir devlet ve toplum oluşturmayı hedefleyen Türkiye Cumhuriyeti Devletinin kurucusu Mustafa Kemal Paşa ve Adalet Bakanı Mahmut Esat Bozkurt. "Kişiler Hukuku", "Aile Hukuku", "Miras Hukuku", "Eşya Hukuku" ve "Borçlar Hukukunu" hayata geçirmek için hukuk devrimi yapmışlardır. Bu amaçla Adalet Bakanlığı tarafından kurulan çeşitli hukuk komisyonları içinde "Medenî Hukuk Komisyonu" da oluşturulmuştur. "Türk Kanunu Medinesi" (TKM) için çalışmalarına başlayan komisyon tarafından Batı Avrupa'daki bir ülkenin medeni kanunun olduğu gibi alınmasına karar verilmiştir. Bu karar doğrultusunda

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“İsviçre Medeni Kanunu” bazı değişikliklerle bir bütün olarak alınmış ve bilim kurulunda tercümesi yapılmıştır. 17 Şubat 1926’da Türkiye Büyük Millet Meclisi’nde (TBMM) TKM’nin maddeleri tek tek oylanarak kabul edilmiştir. Bu kanun tamamlayıcısı olarak yine İsviçre Borçlar Kanunu da tam olarak alınmış, kabul edilmiş ve TBMM’de oylanarak 22 Nisan 1926’da kabul edilmiş ve her iki kanun 4 Ekim 1926’da yürürlüğe girmiştir. İsviçre, kendi toplum ihtiyaçlarına ve yapısına uygun bir şekilde “Medeni Kanun’da” (MK) yeniliklere gitmiş, yeni birtakım kurumlar oluşturmuştur. Farklı bir kültür ve toplum yapısına sahip olan Türkiye toplumunda kendine özgü özellikleri ve ihtiyaçları nedeniyle revizyona gitmek yerine yeni bir MK’nın hayata geçirilmesine karar verilmiştir. Avrupa Birliği (AB) ile adaylık müzakereleri sürecinde müktesebata uyum çalışmaları bu kararın alınmasında önemli bir etken olmuştur. Yeni MK çalışmaları çok geniş platformda yapılmış sonunda tasarı TBMM’de 2 Kasım 2001’de kabul edilmiş, 1 Ocak 2002’de yürürlüğe girmiştir.

**Anahtar kelimeler:** Eski Medeni Kanun, Yeni Medeni Kanun, hukuk, eşitlik, hak.

## Introduction

In the pre-Islamic era, equality between men and women was prevalent in Turkish society. The Turkish family structure was based on monogamy, with the husband having only one wife. Despite the head of the family being male, women still held a respected position in the family. Women had the right to dispose of their own property and also had the right to divorce. Gender equality was not only present within the family, but also within society and in matters of state. This approach continued during important meetings such as councils, national defense, and education. However, this societal structure changed after the acceptance of Islam. Islamic law made the family structure based on male dominance and allowed men to have up to four wives, resulting in a polygamous family structure. Women were considered unnecessary during the marriage contract, and only a male representative was necessary. Although women had the right to divorce without cause, there were specific rules that had to be followed. In Islam, women had the right to legal standing and capability to act. However, under the law, all expenses were the husband’s responsibility, including medical, treatment, and nutritional expenses. The only exception to equal inheritance rights for women was between brothers and sisters, where equal sharing was allowed (Reyhani, 2014, s. 179).

During the Ottoman Empire period, there was no comprehensive, public and scientific Civil Code with clear rules (Saki, 1934, s. 5). The legal system of the Ottoman Empire, which had a theocratic state structure, contained religious rules. Although civil law relations were regulated according to the rules of Islamic law, a legal system covering the entire Ottoman society consisting of different nations could not be formed. Especially non-Muslim communities of different religions and cultures applied the rules of their own religion. As in all areas, dualism was experienced and unity could not be formed in the field of law. Modern legal development in the Ottoman Empire began during the Tanzimat period. One of the reasons for this effort was to regulate economic relations with European countries, and the other was political relationships. To achieve this, efforts were made to modernize Islamic law, which were put into practice. One of these was the “Mecelle-i Ahkam-ı Adliye (MAA)”, which was completed in 1876 and prepared by Ahmet Cevdet Pasha from 1869, and the other was the “Hukuk-ı Aile Kararnamesi”, which was accepted in 1917 (Özsunay, 2017, s. 45).

The reason for the need for a Civil Code in Ottoman society and the implementation of MAA was the lack of judges who could adjust the fiqh norm that would be used in resolving disputes in newly established judicial bodies to the disputes in front of them. Furthermore, the need for a new law arose due to the non-acceptance of testimony by non-Muslims and foreigners against Muslims in the Shariah Courts. Before the preparation of MAA, Ali Fuad Pasha suggested the translation and adoption of the

French Civil Code. This was thought to eliminate the chaos in the Ottoman Empire, which consisted of different communities. For this purpose, it was decided that the French Civil Code should first be translated into Arabic and then into Ottoman. However, Ahmet Cevdet Pasha believed that a law that complied with the customs and traditions of society was necessary instead of the French Civil Code. A commission was established to work towards this goal. Copies of MAA were prepared according to the Hanafi school of thought and sent to the Nizamiye Sharia Courts with the approval of the sultan. Consisting of 1851 articles and published in an introduction and 16 books, MAA did not include family and inheritance law. It contained provisions on debts, property, and procedural law (Karahasanoglu; Osmanaoglu, 2011, s. 102, 104. 348-350). Due to its foundation being based on religion, MAA substances that are resistant to change and do not allow for development have been a topic of discussion among various groups (Saymen, 1946, p. 5). MAA has been heavily criticized for having too many articles for a Civil Code, having uncertain articles based on fiqh procedures, basing its rules only on the Hanafi school of thought even though there were four schools in Islam, and not having any articles on personal, family, inheritance law, and property rights, which were necessary in modern Civil Law (Ekinci, 2019, s. 348-350). Another critique of MAA is that although it was prepared to benefit from Nizamiye courts, its provisions regarding family and inheritance law were not included in the authority of the Sharia Courts (Şenel, 2022, s. 76).

The Law on Family Rights (HAK), which was in effect from October 25, 1917, to June 19, 1919 and prepared by taking into account all communities in personal, family, and inheritance law, was applied for a longer period in countries such as Syria and Lebanon after the Ottoman Empire. Although it was in effect for a short time, it was not easy for the HAK to create a political innovation by surpassing the rules of Islam, and it faced some obstacles. Therefore, the HAK was not enacted as a law by the Meclisi Mebusan and was put into effect as a Decree-Law, which resulted in its short life span. Consisting of a total of 157 articles, the HAK was not regulated according to a school of thought like MAA and had provisions that could meet the needs of that time (Çeker, 1999, s. 10-11).

With the HAK, sectarian courts were abolished, and non-Muslims were allowed to be tried in Sharia Courts only according to their own religious rules. The Law on Family Rights, which had the feature of being a first in Islamic law, brought many innovations that caused changes in social life. Polygamy was restricted, women were granted the right to legal divorce in certain circumstances, and a minimum age limit was accepted in marriage. Moreover, it was ensured that marriage was announced in advance, the control of the state in marriage and divorce was made secure, and divorce was subject to being reported to the court by the spouse within a certain period. One critique of the HAK was that it only regulated marriage and divorce in family law, while child custody, guardianship, alimony, and property regime were not regulated. Moreover, non-Muslim communities also criticized the decree-law, as only Jews and Christians were considered as non-Muslim citizens. This was because the most influential non-Muslims in the Ottoman Empire were taken into account. Although the decree-law was prepared based on the principles of the Hanafi school of thought, the legal unity sought to be achieved through the decree-law could not be fully established (Şenel, 2022, s. 77-78 ve Yurtseven, 2003, s. 216-217). In our study, we benefited from both primary and secondary sources, aiming to reveal the discussions and developments regarding the Civil Codes of 1926 and 2001.

## Civil Law

In society, the rules that regulate individuals' behavior and relationships, and that are mandatory to comply with as set by the government, are called law (Oguzman, 1975, p.1). Civil law (CL), on the other hand, covers the widest area of private law, forms the basis of private law, and regulates personal, family, inheritance, property, and debt relationships (Oztan, 2021, p. 109). Civil law (CL) is the branch of law that regulates personal, family, inheritance, property, and debt relationships. CL, which forms the basis of Western law, is expressed as "Jus sivile," meaning citizen law. It is called "droit çivil" in French, "dritto çivile" in Italian, and "Zivilrecht" or "Bürgerliches Recht" in German. CL is the law that regulates a person's entire life, starting from their birth to their death, provided they are born healthy. In general, CL is an important branch of law that regulates personal, family, inheritance, property, and debt relationships (Velidedeoğlu, 1956, s. 3-4). Mustafa Kemal Atatürk, the founder of the new Turkish Republic, wanted to use the legal developments in the West to modernize his country. In his opening speech at the Law School, he stated his intention to create new legal principles and a new generation of lawyers to replace the outdated ones. *"The time has come to attempt to create a new legal foundation to satisfy the mentality and needs of this great work. The establishment of new legal principles and a new generation of lawyers is an unquestionable imperative in today's Republic of Turkey. We need to create entirely new laws and attempt to eradicate the old legal principles"* (Velidedeoğlu, 1956, s. 80).

## The Turkish Civil Code Of 1926

With the signing of the Treaty of Lausanne, capitulations were abolished, and significant changes were made to the judiciary and legal system. In 1923, the Ministry of Justice established committees to modernize the laws in effect at the time. These committees, tasked with proposing amendments to the existing legislation, included the Mecelle Vccibat Commission and the Mecelle Ahval-i Şahsiye Commission. They were instructed to draw upon the "Akam-ı Fıkhiyye ve Hukukiye" and to take advantage of the practices accepted by various other countries. One of the committees' other tasks was to determine legal concepts and expressions. By 1924, the committees had gone on to revise the sections of the Civil Code related to inheritance, guardianship, marriage, and divorce, and had drafted a 200-article Law of Obligations. The length of the committee's work drew criticism, and in 1925, at the request of the Minister of Justice, Mahmut Esat, their duties were terminated. Bozkurt decided that Turkey should acquire the most advanced laws of the West and train lawyers to enforce these laws. Many groups opposed the acquisition of Western laws. Mustafa Necati, who served briefly as Minister of Justice, stated that *"laws that are tied to national values but also embody contemporary values should be passed, and that this should not be done in a copy-paste or imitation manner"* (Şenel, 2022, s. 80). Mustafa Kemal Pasha also expressed his desire to implement a "national Civil Code" in his speeches about the Civil Code. During the opening ceremony of the Ankara Law School on November 5, 1925, Mustafa Kemal Pasha emphasized the necessity of keeping pace with the civilized world and emphasized the need to take the necessary steps to keep up with the modern and secular world (Koçak, 2019, s. 87-88). On November 1, 1925, in the second term of the Turkish National Assembly's third legislative year, the government submitted a proposal on "Judicial Reforms." Mustafa Kemal Pasha announced in the opening speech of the new legislative year that laws would be enacted to reorganize individual and societal life (İnce, 2009, <http://hurriyet.com.tr>).

The majority of those who participated in the committee work on the Civil Code believed that the country's traditions and customs should be taken into account in the laws to be enacted. Seyyid Bey, a former Minister of Justice, also held this view.

According to him, all Eastern and Western European jurists share the common view that a country's laws should be in line with its traditions and customs. Therefore, Seyyid Bey, who cautioned against hastiness in drafting laws, argued that it was a mistake to adopt the Swiss Civil Code as it was translated and accepted, as it could not be called the Turkish Civil Code of the City. However, some jurists, including Mahmut Esat Bozkurt, believed that the Islamic legal provisions in force in Turkey did not meet the country's needs. As a result, the laws that Turkey, a member of the civilized world, must enforce for modern life are internationally recognized laws (Dursunüst, 2009, s. 163). Turkey is committed to adopting Swiss, French, and other advanced Western countries' laws as a whole, translating them, and implementing them to meet national needs. Mahmut Esat Bozkurt, who had accepted Western superiority and had part of his education in Switzerland, had worked hard to establish the most appropriate laws to be passed and implemented for newly-established Turkey's Westernization. The removal of the Caliphate and Sharia courts in 1924 marked a significant development in the secularization of law. It was thought that the adoption of the Swiss Civil Code, which had been determined by the founding cadres of the new Turkish state in accordance with the people's will, would be beneficial to the people. However, some people opposed to the law argued that some of its provisions were contrary to societal values. Yusuf Kemal Bey, a member of parliament from Sinop, argued that the law, which was deemed appropriate for Turkish society, could be criticized for being inconsistent with tradition, but that innovations should be accepted and traditions and customs should be adjusted accordingly (Taş, 2018, s. 659).

The Swiss Civil Code and its supplementary law, the Law of Obligations, adopted in Turkey, where Western European laws were adopted, were translated into Turkish, and some of their provisions were adapted to Turkey's social structure. The 743rd Law on Turkish Civil Code, which was discussed as a whole rather than article by article in the Turkish National Assembly, was adopted on February 17, 1926. Additionally, the 818th Law on the Law of Obligations was approved on April 22, 1926, while the 864th Law on the Application of the Civil Code's Form, Validity, and Procedure for Transition from Old Law to New Law was approved on May 29, 1926. All three laws came into effect on October 4, 1926. Following its implementation, comments were made that "the law taken from conservative Switzerland had a revolutionary character for Turkey and met the needs of the Turkish society." (Oğuzman ve Barlas, 2014, s. 26, 27). In response to the criticism directed at Turkish Civil Code, Mustafa Kemal Pasha made the following statement about the law:

*"Currently, there is no established Turkish Civil Code, only the Mecelle exists... The Republic has made it necessary to quickly create and implement a new Turkish Civil Code that is compliant with the demands of the revolution and modern civilization's requirements to rescue Turkish justice from chaos, poverty, and the primitive state it had been in. For this purpose, the Turkish Civil Code was enacted due to the Kavanini, embodying the most recent, excellent, and people-centered elements of the Swiss Civil Code... This task was accomplished by a special committee composed of distinguished Turkish jurists" (Velidedeoğlu, 1956, s. 81).*

With the enforcement of a law that has liberated and empowered women the most in social revolutions, reshaped societal life, and conformed to contemporary norms, Turkey has experienced a turning point in women's rights. Mustafa Kemal Pasha planned a social life that ensured the equal enjoyment of civil rights by women and men. This situation is a project related to the new Turkish society and state. The following tools were used for this purpose: *"Nationalization (creating a national society and national state), secularization (liberating the state and society from religious ideology and rules), and*

*democratization (establishing a regime of national sovereignty within the limits of the national-secular state and society) or modernization.*" (Tanör, 2006, s. 326).

According to Hasan Ali Yücel, one of the Ministers of National Education at the time, the Civil Code brought significant innovations and progress in women's rights that had been neglected for centuries. Polygamy came to an end in marriage, and women's place was clearly defined in family life (İstanbul Üniversitesi, 1944, s. 1). The year 1926 was the greatest revolution for women and the year in which they obtained their rights. Women gained contemporary rights with the Civil Code. Additionally, women took their place in the contemporary and secular society and family law. The Turkish Civil Code, consisting of 937 articles, had five parts: "General Provisions," "Property Law," "Obligations Law," "Family Law," and "Inheritance Law." Individual/personal law was included in the first part, "General Provisions." (Velidedeoğlu, 1956, s. 99). In 1926, few countries in the world granted women rights, and with the TKM, Turkish women received and began practicing their rights. Women had equal rights with men in family law, inheritance, and all other rights. However, women were able to get married with an official wedding ceremony and could file for divorce in court. Men were allowed to marry a woman and gain the freedom to marry a second time if they were to divorce. Women also had the right to divorce, as well as the rights to alimony, custody, guardianship, and other endless rights (Arıkan, 2009, s. 51-52). According to comments made in 2001 on the 40th anniversary of TKM, the old law inherited from the Ottoman Empire was cut off and the reasons that could lead to a regression were eliminated. One comment stated that the foundation of the adopted law came from Roman law, and the road taken from 1926 onwards through the law was not 40 years long (Ayiter, 1966, s. 151-152).

Attempts to make changes to the Turkish Civil Code (TCC) have been made in 1951, 1971, and 1984, which were argued to perpetuate the male-dominated social structure, but the necessary outcomes could not be achieved (Yarar, 2007, p. 209). Demands for change regarding the TCC have increased with the feminist movement in Turkey, which began in the 1980s and gained momentum concerning gender equality and women's social identity (Çelik, 2012, p. 155). However, Turkey has become a party to many international treaties, and they have been incorporated into domestic law. The treaties, which have become a part of the law, have been discussed in the Grand National Assembly of Turkey (TBMM) (TBMM, 1999, p. 182). The treaties, which are based on the Universal Declaration of Human Rights (UDHR), have at their core an approach that is against discriminations based on religion, language, gender, philosophical belief, race, and a commitment to equality (Ayata, Dilek, & Öder, 2010, p. 23). Among the treaties, the "Convention on the Elimination of All Forms of Discrimination against Women" (CEDAW) stands out, as its primary objective was to ensure gender equality in all aspects of social life (Örücü & Bakırtaş, 2012, p. 469).

On the 75th anniversary of the acceptance of TKM, the then President Ahmet Necdet Sezer stated that considering the conditions in which the law was accepted, it was a great legal revolution, but it needed to be rearranged according to the political, social, and cultural changes that occurred in the past 75 years. Additionally, the then Prime Minister Bülent Ecevit emphasized that TKM, which was acquired for the Turkish society under the leadership of Atatürk, was a significant step towards legal unity and equality for all citizens in the country. A rally was held in Ankara Tandoğan with a group of about 1000 people, including female members of parliament from DSP, lawyers from the Ankara Bar Association, and 50 NGOs, under the slogan "From Darkness to Light: Civil Law". The joint communiqué stated that the 1926 Civil Code was the most contemporary law of

that time, which allowed the Turkish society to live in a modern and revolutionary structure (Küçük, 2001, [http:// www.hurriyet.com.tr](http://www.hurriyet.com.tr)).

In the 95th anniversary of the adoption of TKM, the changes in family structure were very important. Equality between men and women has been ensured in vital matters such as testifying in courts, inheritance and divorce. By making the civil marriage compulsory in marriages, the principle of monogamy was adopted. However, women have gained the right to enter the profession they want, and conditions have been created for gains in the political field in favor of women (Sözcü, 2001, <https://www.sozcu.com.tr>). Women gained the right to elect and be elected to the membership and chairmanship of the municipal council, the village council of elders and the headman. Afterwards, he gained the right to be a member of parliament and to elect a deputy.

The changes made in the political and social life resulted in changes in the 1926 TKM. Attempts to change the law began in 1951 and continued in 1971 and 1984, but the actual change started to take place in the late 1990s. The most significant reason for these developments was the women's movement that started all around the world in the 1980s. These movements gained momentum in the 1990s by institutionalizing and changing their form to collaborate with the public. According to Article 159, a woman could engage in work and art only with the permission of her husband. However, if the husband did not permit her to work, the woman could apply to the court, and if the court found that her work would not harm the family unity, she could be allowed to work (Feri, <https://akilfikir.net/kadinlarin-calisma-hakki/>; Kormaz; Korkut, 2012, p. 44). A female artist filed a lawsuit against her husband who did not allow her to work by referring to the relevant article, and the case was taken to the Constitutional Court. The Constitutional Court found the female plaintiff to be justified by referring to everyone's equality before the law without discrimination based on gender. In its reasoned decision, it emphasized that the freedom to work should not be restricted purely based on gender. Additionally, it ruled that Article 159 of the Civil Code was contrary to the principle of equality and the Constitution (T.C. Official Gazette, 1992, p.6). Specifically in 1994-1998, through lobby efforts carried out by NGOs, the proposal for the amendment of TKM was sent to the parliament for review. The impact of globalization and Turkey's acceptance into the European Union in 1999 was instrumental in making changes to TKM possible. From the different political and ideological perspectives of the Coalition Government. A new Civil Code was put into effect, and the impact of global developments and foreign policy became essential (Yarar, 2007, s. 212-213).

### 2001 Turkish Civil Law of 2001

During the discussions on the new Civil Code, Orhan Bıçakçoğlu, a member of parliament from the Nationalist Movement Party (MHP), suggested that instead of changing the 1926 TKM, a new Civil Code should be written for the year 2001. Erol Al, a member of parliament from the Democratic Left Party (DSP), stated that TKM, accepted in 1926, was the most comprehensive project and revolution that brought together the individuals of the new state with the concept of citizenship and honored them with their rights and freedoms. Al pointed out that the most significant innovation was that the language had been Turkish-ized in the new Civil Code (TBMM TD, 2001, s. 723). However, the members of the Virtue Party (FP) objected to the general justification in the proposal, claiming that there were elements that discredited religion.<sup>1</sup> FP also criticized

<sup>1</sup> Kılıçoğlu, 2016, s. 216-217. (Esbab-ı Mucibe Layiha, which is considered as a general justification and given importance by Mahmut Esat Bozkurt, the Deputy Courthouse of the most criticized period, is an important

the use of Turkish words such as “olay” instead of “vaka” and “olgu” instead of “vaka” in the new legislation instead of the usual legal language. FP member Nazlı Ilıcak stated that she did not understand the meaning of “olgu” and that the language could not be changed suddenly, and it would be more appropriate to teach law students how to use it. The chairman of the 35-person science commission that prepared the proposal, Turgut Akıntürk, the Dean of the Law Faculty of Başkent University, emphasized that when teaching students, they also act as interpreters. The draft proposal for the renewal of the 1926 Civil Code in the Turkish Grand National Assembly Justice Committee was expedited to be completed by February 17, the same date the first Civil Code was adopted. During these discussions, Democratic Left Party (DSP) Trabzon Deputy and Justice Minister Hikmet Sami Türk stressed that the Civil Code was not only a law, but also an important element that ensures legal unity (Hürriyet, 2001, <https://www.hurriyet.com.tr>). The debate on the “Law on the Implementation and Application of the Turkish Civil Code and the Justice Committee Report” was initiated by MP Turhan Güven and his colleagues. One criticism of the 1,030 article Civil Code was its language. MP Yasin Hatiboğlu argued that the language and new regulations did not reflect Turkish legal culture. MP Işıl Saygın explained that a new Civil Code was passed in 2001 to replace the 1926 Civil Code, which was a symbol of the Turkish legal revolution. She argued that the new code was simplified and adjusted for current conditions while also improving the rights of women in the “family law” section. The most controversial topic of the law was on “property regimes,” and couples were required to make a property agreement to solve the issue of property acquired during marriage (TBMM TD, 2001, s. 124-125).

In Turkey, as in the world, there have been reactions to eliminate gender-based discrimination and limitations preventing women’s access to political, economic, cultural, civil, and other human rights and basic freedoms based on gender equality (Tuskan, 2007, s. 561-566). There have been many reactions in public opinion and various international institutions, with whom we are affiliated through various agreements, to change the Civil Code to improve women’s social status in the family and society. Since its adoption, critics have argued that the Civil Code did not adapt to society’s social and economic needs, despite nine amendments made between 1926 and 2001 (TBMM TD, 2001, s. 214-215). Women’s Federation, Turkish Women’s Union, Turkish Mothers Association, Women’s Rights Protection Association, Aegean Women’s Solidarity Foundation, Izmir Bar Women’s Rights Commission, and Istanbul Secretary Association have all urged for the implementation of the new Civil Code. They have also expressed concern about Turkey’s failure to fulfill its obligations despite signing international agreements. Women who wanted the MK draft, which was being worked on but never legalized, to pass in the GNAT had planned to hold a rally in Istanbul but this was not approved by the governor (Hürriyet, 2002, s. 1). Women’s associations, as well as political parties’ women’s branches and women’s organizations, gathered in Dolmabahçe with balloons that read “I Want a Civil Life” and banners saying “A 100% Civil Code,” trying to make their voices heard (Küçük, 2001, [www.hurriyet.com.tr](http://www.hurriyet.com.tr)).

Reports were presented on the committees formed within the Turkish Grand National Assembly during the 57th government term. The 1030-article Civil Code, developed in collaboration between NGOs and the government, was adopted through the law no. 4721 on November 22, 2001 and published in the Official Gazette No. 24607 on December 8, 2001 (T.C. RG, 2001, <https://www.resmigazete.gov.tr>). It went into effect on

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section that explains why TKM is needed and what are the differences between religious rules and legal rules. This section was especially criticized by conservatives.)



January 1, 2002. The Civil Code consists of four books, with each book divided into sections and further detailed in chapters. The first book deals with "Personal Law," the second book with "Family Law," the third book with "Inheritance Law," and the fourth book with "Property Law." (TBMM TD, 2001, s. 79 ve Milli Gazete 2001, s. 1, 11 ve Cumhuriyet, 2001, s. 18)

The new Civil Code brought significant changes to family and women's lives in Turkish society. Following two years of work, the law (Milliyet, 2001, s. 1, 7) which underwent a complete overhaul, granted equal speaking rights to both men and women and abolished the requirement for women to obtain permission from their husbands to work.

The provision that stated the husband was the head of the family was removed, and instead, the law now stipulates that both spouses should make joint decisions on home selection (Millî Gazete, 2001, s. 1, 11). According to the new law, both men and women must be at least 17 years old to get married; however, in exceptional circumstances, a judge can authorize the marriage of persons over 16 years of age. After marriage, women can keep their original surname before adding their husband's surname. Children born out of wedlock can now receive an equal share of inheritance, and humiliating behavior during divorce can be considered as a reason under the new law. Moreover, men, like women, can demand spousal support under the new law. Parents who have children already can also adopt under the Civil Code, which sets the adoption age limit to 30 (Cumhuriyet, 2001, s. 18). Criticism for the new law mainly focused on issues regarding "property regimes" and "family leadership." (Millî Gazete, 2002, s. 19). Under the old law, if disputes arose between spouses, such as choosing a name for their child or selecting a home, the husband's word was final. Critics argued that the new law should have provided for the resolution of such disputes through mediation or alternative arrangements (Yeni Şafak, 2001, s.1). The new Civil Code, which ended gender discrimination and ensured women's equality with men in the family and society, was recognized as a law that regulates the rights and work of women (T. C. Aile ve Sosyal Politikalar Bakanlığı, 2015, s. 1-25).

### Conclusion

With the adoption of the Turkish Civil Code and its complement, the Law of Obligations, a significant revolution was carried out in creating a social order within the framework of the principle of the rule of law in the newly established Republic of Turkey. Because it complied with the principle of populism and could meet the needs of the Turkish society, the adoption of the Swiss Civil Code, the basis of the new law revolution, produced positive results in a short amount of time. However, debates emerged over the years about the language of the law and women's rights. In particular, due to the profound changes sought by Women's Non-Governmental Organizations, discussions have started in society regarding the renovation or complete alteration of the Civil Code. On the other hand, due to obligations under international agreements that Turkey is a party to and its EU candidacy, to comply with EU regulations, the Turkish Civil Code was adopted. The law, renewed through a significant consensus, contributed significantly to restructuring Turkish society and achieving gender equality. Discussions continue on how to develop the Turkish Civil Code to meet the changing country and world conditions, as well as improving women's and children's rights in a way that satisfies society's requirements.

## References

TBMM TD, C 72, B 9, 18 Ekim 2001, 214-215.

TBMM TD, C 73, B 12, 25 Ekim 2001, 723.

TBMM TD, C 76, B 24, 22 Kasım 2001, 79.

TBMM TD, C 77, B 29, 3 Aralık 2001, 124-125.

TBMM TD, Cilt 1, Birleşim 11, 6.6.1999, s. 182.

## Books And Articles

Arıkan, G. (2009). Yasalarda Kadın Hakları. Ankara: *Barolar Birliği Dergisi*, 49-62.

Ayiter, K. (1966). Türk Medeni Kanun'un 40'ncü Yılı 4 Ekim 1966. *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, (24)1, 151-154.

Çeker, O. (1999). Osmanlı Hukuk-i Aile Kararnâmesi, *Mehir Vakfı Yayınları*, (3).

Çelik, Ö. (2012). Kadınların İnsan Hakları. *Ankara Gazi Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi*, 14(1), 149-170.

Dursunüst, E. B. (2009). Kabul Dönemi Türk Kanunu-ı Medînesi. *Usûl İslam Araştırmaları (Studies of Usûl Islam)*, (12), 159-170.

Ekinci, E. B. (2019). Mecelle Hakkında Değerlendirmeler. *Adalet Dergisi*, (62-63), 335-356.

İstanbul Üniversitesi (1944). *Medeni Kanun XV. Yıl Dönümü İçin*. İstanbul Üniversitesi Yayınları, (245).

Gökçeççek, A., Dilek, S. E. ve Öder, B.E. (2010), *Kadın Hakları Uluslararası Hukuk ve Uygulama*. İstanbul Bilgi Üniversitesi Yayınları.

Karahasanoglu, S. ve Osmanagaoglu, C. (2011). Mecell-i Ahkam-ı Adliyye'nin Girişim ve Türk Hukuk Tarihi Açısından Önemi. *Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi* OTAM, (29), 93-124.

Kılıçoğlu, A. M. (2016). Medeni Kanunumuzu Nasıl Değiştirdik. İstanbul: *Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi*, (22), 1717-1757.

Koçak, D. (2019). 17 Şubat 1926'da Kabul Edilen Türk Medeni Kanunu'na Göre Türk Kadınının Hak ve Özgürlükleri. İstanbul: *Atatürk Dergisi*, (8)1, 79-98.

Korkmaz, A.ve Korkut, G. (2015). Türkiye'de Kadının İşgücüne Katılımının Belirleyicileri. *Isparta Süleyman Demirel Üniversitesi İktisadi ve İdari Bilimler Fkültesi Dergisi*, 17(2), 41-64.

Oğuzman, M. K. ve Barlas, N. (2014). *Medenî Hukuk Giriş Kaynaklar ve Temel Kavramlar*. İstanbul: Vedat Kitapçılık, (20).

Oğuzman, M. K. (1975). *Medenî Hukuk Giriş Dersleri*, İstanbul Üniversitesi Yayınları 2024 (449).

Örücü, A. İ. ve Bartaş, D. (2012). 6111 Sayılı Kanunun Cinsiyete Duyarlı Bütçeleme Perspektifinden Değerlendirilmesi. *Ankara Maliye Dergisi*, 162, 467-477.

Özsunay, E. (2017). Türkiye'de Yabancı Hukukun Benimsenmesi TMK ve TBK Bir "Hukuk Devrimi'nin Çağdaş Hukuk Hareketleri Işığında Değerlendirilmesi. *Medeni Kanun'un ve Günümüze Türk-İsviçre Medeni Hukuku, Medeni Kanun'un ve Borçlar Kanunu'nun 90. Yılı, Uluslararası Sempozyumu*, Şubat 2016, Yetkin Yayınları, (1), 45-65.

- Öztan, B. (2021). *Medenî Hukuk'un Temel Kavramları, Hukuka Giriş-Başlangıç Hükümleri-Kişiler Hukuku (Gerçek Kişiler-Tüzel Kişiler)-Aile Hukuku-Miras Hukuku-Eşya Hukuku*. Ankara: Yetkin Yayınları.
- Saki, A. (1934). *Medeni Kanunumuz Özü ve Fihrisi*. Akşam Matbaası.
- Saymen, H. F. (1946), *Notlu Türk Kanunu Medenisi ve Borçlar Kanunu ile Tatbikat Kanunu ve Alakalı Diğer Kanun, Nizamname, Talimatname, v.s.*, İstanbul: İsmail Akgün Matbaası.
- T. C. Aile ve Sosyal Politikalar Bakanlığı Kadının Statüsü Genel Müdürlüğü. (2015). *Türkiye'de Kadın*. Ankara: BMM Basımevi.
- Tanör, B. (2006). *Ottoman-Turkish Constitutional Developments, (1789-1980)*. İstanbul: Yapı Kredi Yayınları (15).
- Taş, E. (2018). Kabul Sürecinde Türk Medeni Kanunu'na Yönelik Bazı Eleştiriler. *Bingöl Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, (8)16, 648-670.
- Tuskan, A. A. (2014). "Kadın Hakları ve Yeni Medeni Kanun". *İstanbul Barosu Dergisi*, (81), 2, 2007, 561-566
- Velidedeoğlu, H. V. (1956). *Türk Medenî Hukuku Umumî Esaslar*. İstanbul Üniversitesi Hukuk Fakültesi Yayınları (I) 6.
- Yarar, B. (2007). Bir Momral Düzenleme Biçimi Olarak Medeni Kanun'un Aile Hukukunun Arkeolojisi. *Öneri Dergisi*, 7(6), 209-224.
- Yurtseven, Y. (2003). 1917 Tarihli Hukuki Aile Kararnamesi ve Osmanlı Aile Hukukuna Getirdiği Yenilikler. Konya: *Selçuk Üniversitesi Hukuk Fakültesi Dergisi*, (11.-2), (SÜ Hukuk Fakültesi 20. Yıl Armağanı), 199-250.
- Yüksel, S. R. (2014). Türk Medeni Kanunu Bakımından Kadın Erkek Eşitliği. Ankara: *Gazi Üniversitesi Hukuk Fakültesi Dergisi*, XVIII, 175-200.

### Periodicals

- Hürriyet, Kadınların Sesi Daha Gür Çıkmalı, 16 Ocak 20021.
- Millî Gazete, Erkeğin reisliği bugün bitiyor, 1 Ocak 2002.
- Milliyet, 76 Yıllık Medeni Yasa Değişti, 23 Kasım 2001.
- Hürriyet, Kadınların Sesi Daha Gür Çıkmalı, 16 Ocak 20021.
- Cumhuriyet, Medenî Hukukta Yeni Dönem, 23 Kasım 2001.
- Cumhuriyet, Medenî Hukukta Yeni Dönem, 23 Kasım 2001.
- Milli Gazete, Medeni Kanun Yasalaştı, 23 Kasım 2001.
- Millî Gazete, Reislige Veda, 23 Kasım 2001.
- T.C. Resmî Gazete (Official Gasette, Anayasa Mahkemesi Kararı, 2 Temmuz 1992, 21272.

### Internet Resources

- Feri, M. (2023). 18 Yıl Önce Bugün: Kadınlar Kocalarından İzin Almadan Çalışma Hakkını Nihayet Kazandılar, Akıl Fikir Müessesesi, <https://akilfikir.net/kadinlarin-calisma-hakki/> (Date of access: 26. 05. 2023).
- İnce, Ö. (2022). Medenî Kanun Kabul (1926), *Hürriyet*, 17 February 2009, <http://hurriyet.com.tr> (Date of access: 30. 03. 2022)

- Küçük, M. (2018). 15 Kişilik Kadın Mitingi, Hürriyet, 18 February 2001, <http://www.hurriyet.com.tr/15-kisilik-kadin-mitingi-39227183> (Date of access: 23. 06. 2018)
- Hürriyet, Medeni Kanun Görüşmelerinde Din Tartışması, 10 Ocak 2001. <https://www.hurriyet.com.tr/gundem/medeni-kanun-gorusmelerinde-din-tartismasi-39214702> (Date of access: 23.6.2018).
- Sözcü, Medeni Kanun'un 95. Yıl Dönümü, 17 February 2021. <https://www.sozcu.com.tr/gundem/turk-medeni-kanununun-95-yil-donumu-6264365> (Date of access: 21.03.2022.,
- Şenel, N. U. (2022). Türk Batılılaşmasında Medeni Kanun'un Önemi, Uludağ Üniversitesi, pp. 77-78. [acikerisim.uludag.edu.tr](http://acikerisim.uludag.edu.tr) (Date of access: 31.03.2022).
- T.C. Resmî Gazete, 4721 Türk Medeni Kanunu, 8 Aralık 2001, <https://www.resmigazete.gov.tr/eskiler/2001/12/20011208.htm#1> (Accessed on, (Date of access: 31 Mart 2022).
- Yeni Şafak, Bu da Medeni Gariplik, 24 Kasım 2001,1. <https://www.yenisafak.com/arsiv/2001/kasim/24/p2.html> (Date of access: 20 Mart 2016).