2. The Correlation between Maslow's Hierarchy of Needs Pyramid and Human Rights within the Scope of Children and Women's Rights in Turkiye and India

Adv. Maral Gül Erol, Adv. Onur Emre Bakir

Ankara Bar Association, Turkiye.

2.1 Introduction:

The family is the foundation of society. The family is one of the most important institutions of social life. The state and the laws are obliged to take the necessary measures to ensure the peace and well-being of the family and to protect the children. Education starts from the family, so the family plays an important role in integrating the individual into society. Children are the future of our countries. The better we educate them, the better our countries will develop. The most important condition for receiving a good education is, of course, that states provide every individual with the right to education equally. This is stated in the Universal Declaration of Human Rights of December 10, 1948 ¹, the relevant article is 26, this article declared:

- 1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- 2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- 3. Parents have a prior right to choose the kind of education that shall be given to their children.

However, according to Article 2 of the Additional Protocol of the European Convention on Human Rights dated 20.03.1952; "No person shall be denied the right to education. In the

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¹ General Assembly resolution 217 A, 10 December 1948- *The Universal Declaration of Human Rights (UDHR)* is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. The UDHR is widely recognized as having inspired, and paved the way for, the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels (all containing references to it in their preambles).

exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."2

The second, and no less important, requirement for a good education is to grow up in a peaceful family environment. We will try to explain this second condition with "Maslow's Hierarchy Pyramid of Needs" ³ and the Universal Declaration of Human Rights⁴.

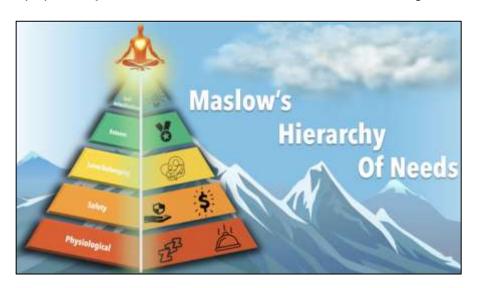


Figure 2.1: Maslow's Hierarchy Pyramid of Needs

In Maslow's pyramid of the hierarchy of needs, there are five levels in very general terms. Maslow classifies the needs of individuals under certain categories. These categories are as follows:

1. Physiological Requirements: Basic needs for survival, these include breathing, food, water, sexuality, sleep, a healthy metabolism and excretion.

² Additional Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, Paris, 20.III.1952

³ Maslow, Abraham H. (1943). "A theory of human motivation". Psychological Review. 50 (4): 370– 396. Maslow's theory, or Maslow's hierarchy of needs, is a theory of human psychology that was proposed and developed by the American psychologist Abraham Maslow in a study published in 1943.

⁴ Yacine Ait Kaci (YAK), illustrated edition of the Universal Declaration of Human Rights (UDHR), 2015: The Universal Declaration of Human Rights remains as relevant today as it was on the day in 1948 that it was proclaimed and adopted by the United Nations General Assembly. The extraordinary vision and resolve of the drafters produced a document that, for the first time, articulated the rights and freedoms to which every human being is equally and inalienably entitled.

- 2. Security Requirements: Needs necessary to ensure the physical and emotional safety of the individual; elements such as physical safety, job security, material resources, moral values, family ties, health and property security are included in this category.
- 3. Needs for Belonging, Love, and Affection: The need for individuals to strengthen their emotional bonds with others; encompasses needs related to social relationships such as friendship, family relationships, and sexual intimacy.
- **4. Respect Requirements: An** individual's respect requirements for himself and his environment, such as self-esteem, self-confidence, education, success, respect for others and by others, are included in this category.
- **5. Self-Realization Needs: A** high level of spiritual and intellectual needs that aim to maximize an individual's potential, such as being virtuous, creative, internally consistent, problem-solving, unbiased, and accepting truths, belong to this category.

According to Maslow, the factor that determines the level of need of the individual at that moment is which need is lacks. These categories are a factor that determines the general level of personality development of the individual. For example, it is not unusual for an individual whose basic needs are not met to have a doctorate in education.

On the other hand, the United Nations Universal Declaration of Human Rights and the European Convention on Human Rights protect the provision of needs that must be met in terms of Maslow's Hierarchy of Needs Pyramid, by law. Namely; If we need to evaluate this thesis according to regulations of United Nations Universal Declaration of Human Rights, we will see that "Physiological element" which is at the most basic level of Maslow's Hierarchy of Needs Pyramid; is protected in Article 3 and Article 22 of the Universal Declaration of Human Rights.

Article 3 declares that, everyone has the right to life, liberty and security of person and Article 22 declares that everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

It is possible to evaluate Article 12 in terms of "Security Elements" of Maslow's Hierarchy of Needs Pyramid;

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation Everyone has the right to the protection of the law against such interference or attacks.

"In terms of the need for belonging, Maslow's Hierarchy of Needs Pyramid; It is possible to evaluate Article 16, according to this article;

- 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- 2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

The right to education, which is the most important element in terms of the need for "dignity and self-realization", could be evaluated within the scope of Article 26 of the Universal Declaration of Human Rights, which was mentioned above. No child has the opportunity to self-actualize, advance in a career, or pursue a degree in education without having their basic needs provided. The state should be responsible for fulfilling the basic needs of every individual. The development of countries depends on children's ability to access to good education. Every individual should be in an equal position in terms of benefiting from all rights. This is protected in Article 7 of the Universal Declaration of Human Rights. Article emphasizes that everyone is equal before the law and has the right to equal protection by the law without discrimination.

In order to Eliminate All Forms of Discrimination Against Women, the Convention on the Elimination of All Forms of Discrimination Against Women in short CEDAW, was adopted by the United Nations General Assembly in 1979. CEDAW came into force in 1981. CEDAW is one of the 9 basic human rights conventions at the United Nations in short UN, level. In countries that have ratified the treaty, CEDAW has proven invaluable in countering the effects of violence, poverty and lack of legal protection, as well as discrimination such as denial of access to inheritance, property rights and credit.

CEDAW was signed by Turkiye in 1985. The Council of Europe Convention on preventing and combating violence against women and domestic violence⁵ in short Istanbul Convention, which was opened for signature in Istanbul in May 2011 following CEDAW ⁶, is the first legally binding international document in this field. The first regulation in Turkiye's domestic law based on the Convention is the Law No.6284 on Protection of

⁵ Council of Europe *Convention on preventing and combating violence against women and domestic violence*, 2011. The purposes of İstanbul Convention are to:

a. protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;

b. contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;

c. design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;

d. promote international co- operation with a view to eliminating violence against women and domestic violence:

e. provide support and assistance to organisations and law enforcement agencies to effectively cooperate in order to adopt an integrated approach to eliminating violence against women and domestic violence.

⁶ General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 34/180 of 18 December 1979. For the purposes of the *CEDAW Convention*, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Family and Prevention of Violence against Women⁷. Therefore, in order to understand and implement the Istanbul Convention and Law No. 6284 on combating violence against women, it is necessary to first ground the relationship between gender and violence. In addition to being the first country to ratify the Istanbul Convention, Turkiye has also been a country that has taken rapid steps in its implementation. Undoubtedly, the most important step taken in this respect is the adoption of Law No. 6284. The Law, which was prepared and adopted less than a year after the signing of the Convention, was regulated with reference to the Istanbul Convention. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210), also known as the Istanbul Convention, was adopted on 7 April 2011 and entered into force on 1 August 2014. Turkiye terminated the Istanbul Convention as a result of the Presidential Decree No. 3718 published in the Official Gazette on March 20, 2021. However, Law No. 6284 on the Protection of the Family and Combating Violence Against Women remains in force.

On the other hand, the "Regulation on Violence Prevention and Monitoring Centers", which entered into force in 2016, should be counted among the legislative arrangements made on the prevention of violence against women. Violence Prevention and Monitoring Centers, called ŞÖNİM for short, are regulated in Article 14 of Law No. 6284 and play a major role in the protection of those who are subjected to violence.⁸

Eliminating the flaws in the judicial system and ensuring access to justice for disadvantaged groups is one of the first steps to be taken in the fight against violence. It is of great importance that legal aid mechanisms function effectively in order for women to access justice. For this purpose, the Gelincik Project, which was initiated by the Ankara Bar Association on April 2, 2011, is the first and only project that provides voluntary legal guidance and advocacy services to victims of violence against women.

Since the day it was founded, the Gelincik Center has stood by women who are victims of violence and has been their voice. As the first Bar Association organization operating in this field in Turkiye, a major step has been taken to ensure women's access to justice. This project provides important support in defending women's legal rights and plays an important role in the fight against violence. One of the important steps taken regarding women's rights in terms of Indian legislation is the approval of CEDAW on July 9, 1993. In India, castebased negative discrimination, which existed before 1948 and consisted of 4 basic classes, was prohibited by law. Caste-based negative discrimination was banned and protected as a constitutional right in the Indian Constitution in 1950 under Articles 14, 15, 16, 17 and 18.

⁷ Law On Protecting Family and Preventing Violence Against Women, Law No. 6284, 8/3/2012. The aim of this law is to protect the women, the children, the family members and the victims of stalking, who have been subject to the violence or at the risk of violence, and to regulate procedures and principles with regard to the measures of preventing the violence against those people.

⁸ Ankara Bar Association, Gelincik Center, "The Hand Reaching Out to Hope" Handbook for Guide and Volunteer Lawyers of Gelincik Center, 2023

⁹ The 4 Basic Caste Classes in the history of India are: "Brahmins, Kshatriyas, Vaishyas and Shudras"



Figure 2.2: Pyramid of the Caste System of India

According to the Constitution of independent India; we would like to emphasize the importance of caste-based negative discrimination, starting with the article that prohibits negative discrimination and is considered a milestone; Article 17; "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

Article 14 is about equal protection. The State shall not deny the equality of any person before the law or the equal protection of the law in the territory of India.

Article 15 states prohibition of discrimination on the basis of religion, race, caste, sex or place of birth. The State shall not discriminate against any citizen solely on the basis of religion, race, caste, sex, place of birth, or any of the above.

No citizen shall be subject solely to any disability, obligation, restriction or condition relating to, on account of religion, race, caste, sex, place of birth, or any of the following: access to shops, public restaurants, hotels, and places of public entertainment; The use of roads, and public resorts held from government funds or allocated for the use of the general public. Article does not prevent the State from making special arrangements for women and children.

Article 16 is about equal opportunities in public employment issues. Equality of opportunity shall be ensured for all citizens in matters related to appointment or employment to any post affiliated with the state. No citizen shall be discriminated against in relation to any employment or post attached to the State, solely on account of religion, race, caste, sex, ancestry, place of birth or any of the thereof.

Article 18, in short is about removal of titles. No title shall be conferred by the state that is not a military or academic privilege. No person holding any office of the State shall accept any gift, salary or any office from any foreign State without the consent of the President of the Republic.

In the Constitution of India, discrimination based on fundamental differences such as caste, religion, race, gender and place of birth is prohibited but not limited to the articles listed above, and legal safeguards are provided against such discrimination. In particular, the abolition of the "caste system", which deepened social inequalities in society, paved the way for citizens to benefit from public spaces on the basis of equal rights, equal opportunities in employment, and the creation of special regulations for women and children. These regulations are important regulations that strengthen the legal framework to ensure social equality in India.

Another regulation in India in terms of preventing discrimination is; "The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 No. 33 OF 1989 [11th September, 1989.]" It is the law. This law is considered an important step in the protection of the most disadvantaged groups in India.

The main objective of the Law is to protect the rights of disadvantaged groups and to provide a legal mechanism against crimes such as social injustice, violence and discrimination committed against them. The law explicitly criminalizes many forms of persecution against these groups, such as verbal insults, physical violence, exclusion, economic exploitation, and sexual assaults. The law was passed at a time when caste discrimination and social inequality were a serious problem in India.

A very important development in India in terms of non-discrimination against women is the case of "Vineeta Sharma vs. Rakesh Sharma (2020) 9 SCC 1". This case involves an important judgment on Hindu Inheritance Law in India. The Court held that the Hindu Succession Act, Section 6 of 1956 was amended. It decided that the amendment made in 2005 should be applied retrospectively. This amendment also gives women the right to inherit. With the 2005 amendment, women gained the right to inherit on an equal basis with men. It was emphasized that women and men should have equal rights in inheritance. The decision contributed to women's economic empowerment and gender equality. This decision was an important step in terms of gender equality and guaranteeing women's rights in Hindu Inheritance Law.

The Protection of Women from Domestic Violence Act, 2005, with its original name: Protection of Women from Domestic Violence Act, 2005, or PWDVA for short, is a law enacted in India to protect women from domestic violence and harassment. This law contains provisions for the protection of women from various forms of domestic violence, such as physical, psychological, economic and sexual harassment. The law was approved by the Indian government in 2005 and is considered an important milestone in the struggle for women's rights in India. The law covers not only physical violence, but also emotional, psychological, sexual and economic violence.

The law provides legal protection for women to combat violence they face in their homes or living spaces. Women can request protection by reporting domestic violence to the police. Courts may issue temporary or permanent protection orders to women who have been subjected to violence. This commandment includes keeping the perpetrator away from the woman and providing the necessary security. Women can turn to a protection officer when they face domestic violence.

This officer assists the woman who is a victim of violence and ensures that the necessary procedures are initiated. In addition, a lawsuit can be filed. The law also stipulates that women who are victims can be placed in shelters for protection when they are victims of violence. In addition, various support and assistance mechanisms have been established for women to gain their economic independence.

The aim of the law is to contribute to gender equality by protecting women's fundamental rights and safety, to ensure that women lead a safe life away from violence and bullying, and to make both women and society more aware of domestic violence. This law aims to make domestic violence more visible in India, supporting victims and holding perpetrators accountable. However, there are also some difficulties and shortcomings in practice; For example, there may be problems such as the fact that laws are not always applied effectively or that women have limited access to their legal rights in some regions. Overall, the PWDVA 2005 is an important law in India that provides women with legal protection against domestic violence.

2.2 Types of Violence:

- 1. Physical violence: Physical attacks such as hitting, pushing, beating women.
- **2. Psychological/emotional violence**: Underestimating, humiliating, intimidating or threatening women.
- 3. Sexual violence: Non-consensual sexual intercourse or sexual harassment.
- **4. Economic violence**: Restricting women's financial resources, preventing them from earning an independent income.

The United Nations General Assembly has designated November 25 as International Day to raise awareness about all forms of violence against women.

The family is a bridge between the individual and the society in the care and upbringing of children, the acquisition of cultural identity and values to new generations, and the transfer of historical and social consciousness. A healthy family structure is the most valuable treasure a person can have in life.¹⁰

According to Jean-Jasques Rousseau, the relationship between the family and the state structure is contained in the following transmissions: 11 "The oldest and only natural of all societies is the family community. Here, children remain attached to the father as long as they need to be cared for and protected. When this need disappears, the natural bond also dissolves. Children who are freed from the obligation not to break their father's word, the father who throws off the burden of taking care of the children, all suddenly gain independence. Still, if they stay together, it means that they are no longer staying by force of nature, but of their own accord.

¹⁰ Kürşad DEMİRUTKU, T.R. Ministry of Family and Social Services, *The Role of the Family in the Acquisition of Values*, 2016.

¹¹ Tuğba CANBULUT, Turkiye, *The Concept of Family In Rousseau*, 2018.

The family itself exists only through a contract.¹² So what is the status of women in the family? In our opinion, Women in the Family undertake the task of being the most basic building block that holds the family together.

Women in society; In the eyes of both parents and children with the role of motherhood, she is a self-sacrificing, sacred and indispensable individual who dedicates her life to her family and child and loves her child without expecting anything in return. The return the family members, the mother is the one who holds the family together and is the pillar of the family. The mother, who is the only parent in the family, should be stronger than the mother who lives with her husband; He is perceived as an individual who clings to life for his child and is in constant struggle". If

The Commission on the Status of Women (CSW) within the United Nations is the principal global intergovernmental body dedicated solely to promoting gender equality, women's rights and empowerment. It is a functional commission of the Economic and Social Council (ECOSOC) and was established by ECOSOC resolution 11(II) of 21 June 1946.

India is a member of the sixty-ninth session of the Commission on the Status of Women (2025).

In Turkiye, there is the General Directorate on the Status of Women within the Ministry of Family and Social Services to carry out studies to protect and strengthen the integrity of the family and increase social welfare.

The brief history of the General Directorate on the Status of Women is as follows; The Family Research Institute, which was established under the Prime Ministry with the Decree Law No. 396 in 1989, was transformed into the General Directorate of Family and Social Research under the Prime Ministry with the Law No. 5256 in 2004.

The General Directorate of Women's Status and Problems, which was established under the Prime Ministry with the Decree Law No. 422 in 1990 in order to strengthen the status of women and protect their rights, was restructured in 2004 with the Law No. 5251.

Turkiye and India are the founder member of the United Nations. In the case of violation of the fundamental rights and freedoms of women and children of India and Turkiye, women and children will be able to sue the case in local courts as well as apply to international courts. In terms of the procedure for applying to the European Court of Human Rights; According to Article 35 of the European Convention on Human Rights, the applicant must exhaust domestic remedies and apply to the court within 4 months after the date of the final decision. In addition, according to the same article, unsigned applications and applications

¹² Jean Jacques Rousseau. Trans. Aziz Yardimli. Idea Publishing House. Istanbul. *The Social Contract*. 2011. P.4.

¹³ Mehmet AVCI, Sinan Gira Qualitative Research on the Place of Women in Domestic Decision Mechanisms-

¹⁴ Feyzioğlu and Kuşcuoğlu, 2011.

that are the same as the events previously decided by the court or another international judicial organization and do not contain new events are rejected and the application must be made directly to the court.

The language used in the application to the court is irrelevant. Everyone has the right to apply in their own language. In addition, it is possible to apply to the court in person.

We recommend that you review the application conditions regarding the application through the official website, you can find detailed requirements at the following link: https://www.echr.coe.int/documents/d/echr/rule 47 eng.

The results of the decisions of the ECHR can be followed by typing the application number on the web address: http://www.echr.coe.int/ECHR/EN/hudoc .

In order to ensure that those who cannot afford it are not deprived of the right to file a lawsuit, a legal aid institution has been established by the State authority for full access to justice for vulnerable groups. In this context; It is expected that people with insufficient financial means will be exempted from litigation fees and costs and that a lawyer will be appointed free of charge by the Bar Association. Therefore, if you are a victim of violence and cannot afford it, we would like to remind you that access to a legal aid is one of the most basic human rights.

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