



İstanbul Sözleşmesi
Türkiye İzleme Platformu

**Shadow NGO Report
on Turkey's First Report
on legislative and other measures giving effect to
the provisions of the Council of Europe
Convention on Preventing and Combating
Violence against Women and Domestic Violence**

*for submission to the GREVIO Committee
September 2017*

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Istanbul Convention Monitoring Platform¹

¹ The list of the 81 Members of İstanbul Convention Monitoring Platform can be found at Annex 1.

Foreword

This shadow report was prepared in collaboration with women's organizations in Turkey for the evaluation of the implementation of Istanbul Convention in Turkey by GREVIO committee this year. The report was drafted by 8 and endorsed by 81 women's and LGBTIQ organizations to outline the emerging issues related to violence against women and the defects and malpractices with regards to the implementation of the Convention.

Under the coordination of Purple Roof Women's Shelters Association, we first started to come together to share tasks and agree on the time plan in order to prepare the report till the end of May, which was the deadline for the submission of the state report. However, as we found out later, Turkey delayed the submission till July without informing the CSOs, thus we had to decide to proceed to draft the NGO report without seeing the state's report.

Additionally, the General Directorate on the Status of Women (GDSW), who is in charge of writing the Report sent out the GREVIO questionnaire to several women's NGOs by the end of April, demanding the answers by May the 5th. The women's rights NGOs, who are members of the Istanbul Convention Monitoring Platform drafted a joint letter to GDSW, underlying that the GREVIO committee had addressed the State as responsible for answering these questions and for the reporting process to be more productive, inclusive and participatory, the state should adopt a methodology which will include independent women's and LGBTIQ organizations into the process in a more meaningful way.

The organizations which undertook the challenging task of writing this report in a very short time frame, fulfilled this process by commitment and hard work, without any financial resources alongside their already existing workload. The drafting, editing and translation of this report almost took 5 months, meanwhile the oppression on civil society, has become ever excruciating in Turkey.

We would like to reaffirm our commitment to contribute to the review process of the Istanbul Convention for its full implementation in Turkey, which we find as a very effective instrument to combat against violence against women. Although we have tried to give an extensive account on VAW in Turkey and the implementation of the Istanbul Convention, there are some issues and articles that had to be left out of the scope of this report.

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Adıyaman Association for the Research and Analysis of Women’s Issues - Adıyaman Kadın Sorunlarını Araştırma ve Çözüm Derneği (AKSAÇ)
Adıyaman Young Women Entrepreneurs and Employment Association - Adıyaman Genç Kuşak Girişimci Kadınlar ve İstihdam Derneği
Adıyaman Anatolia Businesswomen’s Association - Adıyaman Anadolu İş Kadınları Derneği
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Ayvalık Independent Women’s Initiative – Ayvalık Bağımsız Kadın İnisiyatifi
Independent Women’s Association – Mersin - Bağımsız Kadın Derneği-Mersin
Buca Evka -1 Women, Culture and Solidarity Association – Buca Evka –1 Kadın Kültür ve Dayanışma Derneği (BEKEV)
Mor Salkım Women’s Solidarity Association - Mor Salkım Kadın Dayanışma Derneği
Ceren Women’s Association Workers (which is shutdown) – Kapatılan Ceren Kadın Derneği Emekçileri
Association for Struggle Against Sexual Violence – Cinsel Şiddetle Mücadele Derneği
Association for Gender Equality Watch - Cinsiyet Eşitliği İzleme Derneği (CEİD)
Çanakkale Association for the Utilization of Women’s Handicrafts - Çanakkale Kadın El Emegini Değerlendirme Derneği (ELDER)
Edirne Women’s Counseling Centre Association - Edirne Kadın Merkezi Danışma Derneği
Association for Women with Disabilities- Engelli Kadın Derneği
EŞİTİZ – Equality Monitoring Women’s Group - Eşitlik İzleme Kadın Grubu
Equal Life Association - Eşit Yaşam Derneği
Working Group on Woman Home-Based Workers - Ev Eksenli Çalışan Kadınlar Grubu
Housewives Solidarity and Development Association - Ev Kadınları Kültür ve Dayanışma Derneği (EVKAD)
Femin & Art International Women Artists Association - Femin & Art Uluslararası Kadın Sanatçılar Derneği
Filmmor Women’s Cooperative - Filmmor Kadın Kooperatifi
Rightfull Women Platform - Haklı Kadın Platformu
İstanbul Women Organizations Union – İstanbul Kadın Kuruluşları Birliği
İstanbul LGBTT Solidarity Association - İstanbul LGBTT Dayanışma Derneği
İzmir Independent Women’s Initiative - İzmir Bağımsız Kadın İnisiyatifi
İzmir Bar Association Centre for Women’s Rights and Law Research - İzmir Barosu Kadın Hakları ve Hukuk Araştırmaları Merkezi
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İzmir Women’s Solidarity Association - İzmir Kadın Dayanışma Derneği
Platform for Urgent Action Against Femicide - Kadın Cinayetlerine Karşı Acil Önlem Platformu
Women’s Studies Association - Kadın Çalışmaları Derneği

² These women’s organizations has been shut down with statutory decrees after the declared state of emergency in the aftermath of the failed coup attempt.

Women's Education and Labor Association - Kadın Eğitim ve İstihdam Derneği
Social Equality with Women and Men Association - Kadın Erkek Birlikte Sosyal Eşitlik Derneği (KEBSED)
Women for Women's Human Rights – New Ways (WWHR) - Kadının İnsan Hakları -Yeni Çözümler Derneği (KİH-YÇ)
Women's Legal Aid Centre - Kadınlara Hukuki Destek Merkezi (KAHDEM)
Foundation for Women's Solidarity – Kadın Dayanışma Vakfı
Women's Solidarity Foundation - Kadınlarla Dayanışma Vakfı (KADAV)
Women's Labor and Employment Initiative - Kadın Emegi İstihdamı Girişimi (KEİG)
Women Writers Association – Kadın Yazarlar Derneği
Black Sea Women's Solidarity Association - Karadeniz Kadın Dayanışma Derneği (KarKad-Der)
Karya Women's Association – Karya Kadın Derneği
The Association for the Support of Women Candidates - Kadın Adayları Destekleme Derneği (KA-DER)
The Association for the Support of Women Candidates Ankara branch – Kadın Adayları Destekleme Derneği (KA-DER) Ankara Şubesi
Gender Equality Association - Kadın Erkek Eşitliği Derneği (KAZETEDER)
Women's Centre Foundation - Kadın Merkezi Vakfı (KAMER)
Kaos Gay and Lesbian Cultural Research and Solidarity Association – Kaos Gey ve Lezbiyen Kültürel Araştırmalar ve Dayanışma Derneği (KaosGL)
Cappadocia Women's Solidarity Association - Kapadokya Kadın Dayanışma Derneği
Independent Women's Newspaper - Bağımsız Kadın Gazetesi (KAZETE)
Red Pepper Association - Kırmızı Biber Derneği
Red Umbrella Sexual Health and Human Rights Association - Kırmızı Şemsiye Cinsel Sağlık ve İnsan Hakları Derneği
Lambdaİstanbul LGBTI Solidarity Association - Lambdaİstanbul LGBTİ Dayanışma Derneği
Mavigöl Women's Association - Mavigöl Kadın Derneği
Media Watch Group - Medya İzleme Grubu (MEDİZ)
Mersin LGBT 7 Colours Education and Research Association – Mersin LGBT 7 Renk Eğitim ve Araştırma Derneği
Purple Roof Women's Shelter Foundation - Mor Çatı Kadın Sığınağı Vakfı
Purple Hand Eskişehir LGBT - MorEl Eskişehir LGBT
Ordu Association for Empowering Women – Ordu Kadını Güçlendirme Derneği
Pink Life LBTT Solidarity Association - Pembe Hayat LBTT Dayanışma Derneği
Petrol-İş Trade Union Women's Magazine - Petrol-İş Sendikası Kadın Dergisi
Selis Women's Association's Workers (which is shutdown) – Kapatılan Selis Kadın Derneği Emekçileri
Women without Borders – Sınır Tanımayan Kadınlar
İzmir Black Pink Triangle Association - Siyah Pembe Üçgen İzmir Derneği
Association for the Study of Social Policies, Gender Identity and Sexual Orientation - Sosyal Politikalar Cinsiyet Kimliği ve Cinsel Yönelim Çalışmaları Derneği (SPoD LBTTİ)
The Socialist Women's Assembly – Sosyalist Kadın Meclisi (SKM)
Trabzon Association for Women's Advancement and Communication – Trabzon Kadın Gelişim ve İletişim Derneği
Transsexual Counseling Centre - Trans Danışma Merkezi (T-DER)
Turkish Mothers Association Trabzon Branch - Türk Anneler Derneği Trabzon Şubesi
Turkish Women's Union - Türk Kadınlar Birliği
Turkish University Graduate Women's Association - Türk Üniversiteli Kadınlar Derneği (TÜKD)
Turkish Medical Association Women Physicians Branch - Türk Tabipler Birliği Kadın Hekimler Kolu
Federation of Women's Associations of Turkey - Türkiye Kadın Dernekleri Federasyonu

Flying Broom Women Communication and Research Association - Uçan Süpürge Kadın İletişim ve Araştırma Derneği
Urfa Living Space Women's Solidarity Association – Urfa Yaşamevi Kadın Dayanışma Derneği
Life Cooperative for Women, Environment, Culture, and Management/Operation - Yaşam Kadın Çevre Kültür ve İşletme Kooperatifi (YAKA-KOOP)
Life Women's Centre Association - Yaşam Kadın Merkezi Derneği
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Van Saray District Association for the Modernisation, Preservation and Strengthening of Women, Children and Family Relations – Van Saray İlçesi Kadın Çocuk ve Aile İlişkilerini Geliştirme Modernleştirme Koruma ve Güçlendirme Derneği
Women's Initiative for Peace between Greece and Turkey (WINPEACE) - Türkiye Yunanistan Kadınları Barış Girişimi

Abbreviations

AKP- Justice and Development Party

VAW- Violence against Women

EU- European Union

The Divorce Commission- The Parliament Research Commission Founded to Investigate the Factors Which Threaten the Unity of Family and Divorce Incidents and to Make Recommendations Concerning the Strengthening of the Institution of Family

GONGOs- Government Organized Non-governmental Organizations

Law No. 6284- Act of Family Protection and Prevention of Violence Against Women

MoFSP - The Ministry of Family and Social Policies

GDSW - Directorate General Directorate on the Status of Women

TPC- Turkish Penal Code

VPMC- Violence Prevention and Monitoring Centres

FEP- Family Education Program Implementation and Dissemination Project

The Domestic Violence Project- the Technical Assistance Project for Women's Shelters Against Domestic Violence

RTÜK-The Radio and Television Supreme Council

TEA-Turkish Employment Agency

Alo 183- Hotline for Social Support to Family, Women, Children, People with Disabilities, Relatives of Martyrs and Veterans

ÇİM - Children Monitoring Centre

CMK - The Code of Criminal Procedure

HUAK - The Code on Reconciliation in Legal Disputes

LFIP - Law on Foreigners and International Protection

The Directorate General of Migration Management

AFAD - Republic of Turkey Prime Ministry Disaster and Emergency Management Presidency

UNHCR - United Nations High Commissioner for Refugees

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CHAPTER I- Purposes, definitions, equality and non-discrimination, general obligations

Articles 1 and 2- Purposes of the convention and its scope

Both at the time of the signing of the Convention and since, the independent women's movement has had to put a lot of effort to ensure the implementation of the Convention. The agendas concerning the Convention of Justice and Development Party (AKP) governments have been very far from implementing the provisions of the Convention due to a lack of political will, allocation of insufficient or limited resources and decreasing and limited level of relations and co-operation sustained with independent women's organizations.

As of today, the ruling AKP has been carrying out the role of Government continually and single-handedly since 3 November 2002. In 2002 shortly before AKP came to power, the women's movement's decades-long struggle resulted in some major amendments in the Civil Code. In 2004, the Turkish Penal Code (TPC) was amended following the Penal Code Campaign that had been started and undertaken by the women's movement before AKP came to power. Those amendments came into force in 2005. Both of the Codes in question used to contain articles that were far from treating women as individuals and were against equality. Almost all of these articles were removed from the new Civil and Penal Codes. In the 15 years of AKP governments the latest positive legal regulation that came into force influenced by the women's movement was the Law on the Protection of Family and Prevention of Violence against Women in 2012. Today, there is considerable difficulty in terms of enforcing the laws in question and a serious drawback concerning the AKP governments made clear by their intensive interventions to change the egalitarian aspects and articles of these laws. The legal regulations that were introduced to maintain equality are being turned into sexist practices, concepts are being rendered empty and anti-women practices are being undertaken. For example, the amendments made in the relevant article of the Constitution concerning equality in 2004 and 2010 allowed "positive discrimination/affirmative action" to be used to achieve gender equality; but these actions are left non-compulsory. AKP's version of positive discrimination and affirmative action is to implement "pink buses" (which serve only women; men are not allowed) which by isolating women from society end up emphasizing gender inequality and working against the goals of equality. There is no trust in the judicial system any more, with the Government easily appointing people close to its ideology thus interfering with and effectively leaving no independent judiciary. The discrimination in the judiciary against women, the court decisions of impunity for perpetrators, the reduction in sentencing for good behaviour or severe provocation, and release pending trial in cases of violence and harassment against women are ordinary and extremely worrisome.³

Independent women's organizations have clearly felt the lack of political will for the elimination of violence against women (VAW) and gender inequality in the legal changes AKP have brought about since 2002. However, in recent years this lack of political will has turned into systematic steps against equality and the fight for it. While AKP, from the first day it came to power, has been a political party without a belief in gender equality, in its first years of government this aspect of the party could not be directly reflected in its policies due to the influence of the power of women's movement, international pressure and the European Union (EU) accession process. Since 2010, however, this situation has changed completely in a way that is visible in the public eye. The founders and directors of AKP, public officers and people in decision making posts have started to voice their opinions openly and argue that men and women cannot be equals. They have also tried to justify their arguments by using religious claims arguably proper to Sunni Islam, effectively pursuing policies against the interests of women.

³ For more information please see: http://bianet.org/system/uploads/1/files/attachments/000/001/944/original/BI%CC%87ANET_Shadow_Report__GREVIO_Eng.pdf?1499264804.

In 2011, despite the objections of women's organizations, the then Prime Minister Recep Tayyip Erdoğan declared that instead of a Ministry of Women and Family Affairs, a Ministry of Family and Social Policies would be instituted, on the grounds that "We, [AKP] is a conservative democratic party. The family is important for us." Omitting 'Women' from the name of the ministry was not just a symbolic gesture but also a solid sign of the Government giving priority to family-oriented policies. Since 2002, the policies undertaken by AKP governments, such as the treatment of women as non-equal individuals or citizens and their acknowledgement only as the "second sex", their confinement within the family, the policies concerning women being reduced down to social assistance, with sexist prejudices being consolidated in the discourse of Government, have started a social transformation, playing a significant role in the increase of all sorts of aggression towards women. The dramatic increase in violence and discrimination against women including the murder of women (today termed "gendercide"), or underage and forced marriages, raise serious obstacles to women living safely under the protection of basic human rights. The Government denies an increase in the murder of women on the grounds that there is no prior data collected on the subject. Despite the lack of reliable data, it can be observed that both the discourses and policies justifying gender inequality and unjust mitigation concerning provocation and good conduct in legal prosecutions end up encouraging men to commit murder.

The most concrete version of this approach can be found in the May 2016 report shared by "The Parliament Research Commission Founded to Investigate the Factors Which Threaten the Unity of Family and Divorce Incidents and to Make Recommendations Concerning the Strengthening of the Institution of Family," established in the Turkish Grand National Assembly (TBMM) at the outset of 2016. Publicly known as the Divorce Commission, this report, in line with AKP's persistent emphasis on their "necessity of reinforcing the family" argument, can be taken to be a sign of the ideology that encourages turning a blind eye to the violence against women and discrimination against women as individuals for the sake of maintaining the unity of the family. Criticized severely by the independent women's organizations, this report includes suggestions of compulsory consultancy and implementation of conciliation in cases of divorce, the criterion of "consent" in sexual acts with children and possible marriages in cases of abuse between the perpetrator and the victim, which by implication saves the perpetrator from legal punishment, the shortening of the period for restraining orders down to fifteen days for the accused that can be demanded by women in cases of violence (on the grounds of preventing damage to the accused), cases of Family Law including violence against women to be seen in closed sessions to protect "the unity of the family" (thereby de facto excluding women's organizations from such cases).⁴

The discourses of AKP government officers and the motion in 2016 to amend Article 103 of the TPC "The Sexual Abuse of Children" made it clear that this report would not stay just as a report, since the amendments suggested a delay in punishment and its complete withdrawal after five years in the case of marriage between the perpetrator and the child facing violence. Independent women's organizations successfully prevented this motion from passing into law but they are not as optimistic about the other suggestions of the Divorce Commission not becoming law in the future. By the time we have been working to finalize this report, two new legislations, which contradict the Convention, were submitted to the parliament.⁵

⁴ A text in English on the Divorce Committee is available on this site:

<http://independentturkey.org/divorce-commission-looks-to-strip-womens-rights/>

⁵ One of them is the recent draft law on the civil registration services which includes a proposition to allow "muftis", religious civil servants within the body of Turkey's Directorate of Religious Affairs to register marriages, with the justification to "ease citizens' marriage procedures, ensuring they receive services in an easier and faster way". The other one is the new draft law on victim rights, which is argued to be prepared to make Turkish legislation in accordance with the Istanbul Convention. However, the draft law defines the term "victim" from an obviously gender blind perspective and proposes a set of problematic amendments in relation to women's custody and alimony rights. Both of these legislations are offering certain disadvantages for women and they are issues that were raised in the Divorce Commission Report.

The ground for all these steps is constructed in AKP discourse in which it is consistently and clearly stated that there is no such thing as gender equality, man and woman can only be complementary to each other, that their so-called natures are different, and that it is more important to achieve justice than equality. These family oriented approaches and policies which take their reference from the Sunni Islamic notion of gender justice which can only be achieved with regard to the maxim of “man and woman acting according to their traditional roles”, do not treat women as independent individuals and do not allow them to lead a life away from violence. It becomes more and more difficult for women in Turkey to be able to make a life and living for themselves independent of family. Women activists who address the risks of the discourses of “fitrat” [nature] and justice instead of equality, imposed by the Government and popularised by Government-Organized Non-Governmental Organizations (GONGOs), face legal investigations.⁶

Besides, the reliability of independent women’s organizations, which for decades have been working for the recognition of women’s human rights and the elimination of VAW with significant achievements, is being put to test in the eyes of the public. The Minister of Justice Bekir Bozdağ stated in April 2016 “we should seriously reconsider how appropriate it is for the state to come between husband and wife with all its police and soldiers and judges and psychologists and social workers and experts... We need to seriously address this. And we need to do it irrespective of the criticisms of women’s organizations.” This statement once more condoned violence against women under cover of the ideology of the unity of the family. It was also an explicit statement of political will being in abeyance concerning the combating violence against women. In addition, women’s organizations of great experience in this field have become objects of attempted discredit.⁷

The AKP government also worked hard to achieve some public support for all these discourses and weaken independent women’s organizations’ decades-long struggle by indirectly establishing alternative women’s organizations. The Government works in collaboration with these alternative organizations and highlights their activities. In short, they have been active and involved in founding and supporting GONGOs. One significant example of such GONGOs is Women and Democracy Association (KADEM), President Recep Tayyip Erdoğan’s daughter Sümeyye Erdoğan Bayraktar being its vice-president. The channels of collaboration and communication with the state

⁶ In 2015 the daughter of the president Recep Tayyip Erdoğan, Sümeyye Erdoğan who became the vice chair of Woman and Democracy Association (KADEM) sued a women’s rights activist Pınar İlkkaracan on the basis of an article she published in KAZETE. İlkkaracan argued in the article that the term “gender justice” introduced and popularised by KADEM was in fact conceptualized by Vatican in the early 1990s. The case was dismissed but the pressure on women’s rights activists and organizations continued.

http://www.cumhuriyet.com.tr/haber/sokak/309487/Bu_defa_esitlik_galip_geldi.html

In 2017 then prime minister Binali Yıldırım sued Women’s Organizations Federation of Turkey (TKDF) on the basis that they criticised the prime minister’s statement in a tweet concerning a woman who was assaulted on a public bus because she was wearing shorts. TKDF’s objection to the case referencing CEDAW and the Istanbul Convention was dismissed and the case started to be seen and still continues.

http://www.cumhuriyet.com.tr/haber/turkiye/659440/Basbakanliktan_mirildanma_davasi.html

As we were preparing this report, ten women’s rights and human rights activists have been detained on 5th of July and taken into custody during a training workshop in Büyükdada, Istanbul. The operation against them was undertaken in secrecy. Following their lawyers’ attendance to the case, the detention period was extended to seven days. On 11 July, this period was extended for another seven days. Finally on 18 July they appeared in court and six of them were arrested on charge of “being a member of an armed terrorist organization” while the remaining four were released conditionally with the requirement of judicial control and a ban to leave the country. A few days later, detention orders were issued against four human rights defenders that were released on probation. As of today, two of them were released again on probation while eight activists are still detained.

https://www.washingtonpost.com/world/europe/reports-turkey-detains-12-human-rights-activists-in-raid/2017/07/05/786ce5ba-61c6-11e7-80a2-8c226031ac3f_story.html?utm_term=.777bbc65cdaf

<https://www.theguardian.com/world/2017/jul/18/turkey-holds-six-rights-activists-on-charges-of-aiding-terror-group>

⁷ <http://www.cnnturk.com/turkiye/bekir-bozdogdan-tartisilacak-sozler>

and spheres hard-won by the intense advocacy of independent women's organizations since the 1980s are being appropriated by these GONGOs with each passing day. The state clearly gives preference to GONGOs when it is a matter of working together, leaving the independent women's movement out of the loops of communication and collaboration.⁸

Besides, since 21 July 2016 Turkey has been living under conditions of the state of emergency and, in accordance with that, the Government acquired the power to pass statutory decrees without seeking parliament's consent. These decrees in many respects create human rights violations and allow the Government to take restrictive steps. Within this framework, all sorts of expression of opposition are being put under pressure and silenced: the closure of some women's organizations; the closure of women's centres and shelters, where previously important work had been underway to keep women away from violence and help them build independent lives, by trustees appointed to municipalities by the Government; and the appropriation by the Government of documents concerning women who consulted these institutions.

Regarding all these points, it is clear that Turkey has not been implementing the Convention according to its principles and proper to the full scope and purposes as outlined in detail in its first and second articles and the Government's attitude is obviously far from showing the political determination and will to implement the provisions of the Convention.

Recommendations

- Turkey has to show the same decisiveness that it showed in being the first country to sign and ratify the Convention. It has to come up with policies so as to make the Convention's scope and purposes its own and implement them with political will.
- The independence of the judiciary should be secured and necessary steps should be taken to issue decisions that are true to the Convention. Within this framework, the training of legal practitioners and members of the judiciary should be monitored to achieve the right impact in practice and directives to this effect should be issued. Furthermore, the independence and impartiality of judges and their awareness of gender equality should be assured.
- The sanctions against public officers who act in violation of the Convention should be effectively implemented and not be seen as a formality.
- The discriminatory political statements, which are discordant in relation to the scope and purposes of the Convention and aim to restrain women according to gender roles, should be abandoned regardless of religious, traditional and customary excuses.
- Turkey should start treating women as autonomous individuals and not as parts of family in legislative and law enforcement processes and take immediate and necessary steps to eliminate violence and protect their rights within the family.
- Turkey should stop excluding, ignoring and pressurising independent women's organizations with decades-long experience in violence against women. The sponsoring of GONGOs by the state should be given up and the communication and collaboration channels with independent women's organizations should be restored to their previous status.
- The often-announced news and rumours concerning discontent of the political will being a party to the Convention and possible withdrawal of signature from it is worrisome. Turkey should renew its commitment to the terms of the Convention clearly and distinctly.

⁸ Some instances of this case experienced by the independent women's organizations will be shared later in the report.

Article 3- Definitions

Despite all the efforts of women's organizations, the references to the concept of gender were taken out at the last minute of Law No. 6284, "Act of Family Protection and Prevention of Violence Against Women", the law which is taken to be the basis for Turkey's combat VAW. Independent women's organizations agree on the view that the reason for this omission lies in the concept of gender including LGBTIQ's but no further official explanation was provided.

Recommendation

- The concept of "gender" is used to think about the ways to understand and eliminate inequality in a global sense. Both the concept of "gender" and the term "gender equality" should be incorporated in the vocabulary of Turkish law.

Article 4- Fundamental rights, equality and non-discrimination

As mentioned under Articles 1 and 2 above, gender equality in principle exists in Article 10 of the Constitution but not in governmental discourses or practices. On the contrary, the concept of gender equality is altered and corroded. Furthermore, as will be detailed in the upcoming chapters, migrant, refugee, disabled women, women living in cities of Kurdish majority, lesbians and transsexuals are heavily discriminated against contrary to discourses of equality, with excuses of legal regulations, processes of military conflict and implicit discriminatory practices. Because of all these, indeed, it is quite impossible to carry equality into effect. Moreover, inequality is sometimes put into effect in the guise of positive discrimination. The violence that occurs in the private sphere is deliberately excluded from state inspection on the basis of "the unity and sacredness" of the family.

Law No. 6284, the law which is taken to be the basis for Turkey's combat VAW, does not include discrimination clauses, as were part of the Convention. A simple comparison between the article in the Constitution of the Republic of Turkey which regulates non-discrimination and Article 4 of the Convention which prohibits discrimination reveals that there is no provision for prohibiting discrimination against gender, nationality, ethnicity, minority, property, birth, age, sexual orientation, sex, state of health, disability, the state of being a migrant or refugee in the Turkish Constitution.⁹

Besides, although the State presented the Human Rights and Equality Institution of Turkey (TIHEK) founded in 2016 as a mechanism available for persons facing discrimination in its own report, in truth the constitution of the institution in question was prepared without any input or participation of the NGOs working in the field, excludes many fields of discrimination, does not comply with international standards, and therefore faced objections from the NGOs.¹⁰ The Institution code does not give any reference to gender equality and does not consider sexual orientation and gender identity to be among the grounds of discrimination. Social status likewise is not considered to be among the grounds of discrimination in the Code, thereby leaving non-Turkish citizens and asylum seekers outside its reach. The institution does not accept individual applications concerning human rights violations. It is not autonomous and all the members of the legislating board are appointed by the Cabinet and the President. Given all these features and characteristics, it does not meet international standards.

Recommendation

⁹ The detailed information the violence and multiple discrimination that LGBTIQ individuals have to be faced based on gender will be annexed to this shadow report.

¹⁰ <http://www.sivilsayfalar.org/stklardan-insan-haklari-ve-esitlik-kurumu-tasarisina-itiraz/>

- Gender, nationality, ethnicity, minority, property, birth, age, sexual orientation, gender identity, state of health, disability, the state of being a migrant or refugee should be stated clearly as conditions concerning which discrimination is banned according to Article 10 of the Constitution.

Article 5 and 6- State obligations and due diligence, gender-sensitive policies

Following the appointment of trustees (kayyım) to municipalities in place of elected mayors in Kurdish-majority regions since 2015, these trustees started closing down counselling centres for women that were functioning under these municipalities and halted ongoing work concerning VAW on the basis of unnecessary expense. We take these steps to be exemplary of state officials taking advantage of the lack of political will on the issue and undermining the work done in the name of gender equality, thereby appropriating the discourse against gender equality as state policy. Especially in the last few years, it would not be wrong to claim that there is no system or state mechanism that ensures the trustworthiness and accountability of public officials. All of this results in non-intervention therefore encouraging VAW, but it also contradicts the obligation of extra care in such cases. Public officers see no harm in tolerating VAW and cases of impunity for perpetrators continue to increase.

The state seeks to fulfil its responsibility and liability concerning violence against women by non-state actors with limited projects and activities of mindfulness.

In light of the above, it is difficult to say that AKP governments are putting into effect the evaluation and implementation of the Convention with a gender-sensitive perspective. As will be handled in detail in the following chapters of this report, most work done to conform to the terms of the Convention proved to be perfunctory and moreover resulted in the confining of women within religion- and society-based gender roles. Moreover, despite actively ignoring violence against women, some initiatives were presented under the guise of positive discrimination. It is difficult to say with any confidence that government officials who openly declare a non-belief in gender equality would take the most effective steps towards fulfilling the Convention's provisions in terms of implementing and strengthening it.

Recommendations

- It should not be forgotten that the discourses of senior politicians reflect on all state mechanisms and therefore necessary steps should be taken to achieve accord between the terms of the Convention and the discourses and practices of both senior politicians and state officials of all ranks. The discourses insulting to women and divisive between men and women should be abandoned in order to initiate the necessary transformation in society which would serve to prevent violence against women.
- Even within the context of the conditions of the state of emergency, Turkey should act in accordance with its commitments concerning the provision of human rights for women and the elimination of VAW.

CHAPTER II – Integrative policies and data collection

Article 7 – Comprehensive and co-ordinated policies

Turkey, right after it signed Istanbul Convention without any reservations in May 2011, has shut down and replaced the Ministry of Women and Family Affairs with the Ministry of Family and Social Policies (MoFSP). As many women's organizations have pointed out, this decision reflects the Government's perspective on gender and women's rights, which reveal its desire to define

women only in terms of their role within the family rather than accepting them as individuals/citizens. National Gender Equality Action Plan was published for the last time for the years 2008-13 and since then any other kind of action plan has not been published. Besides, in almost all activities concerning the empowerment of women organized by the Directorate General on the Status of Women (GDSW), working under the MoFSP, the approach is that women are only the caregivers within their families rather than individuals with their own subjectivity. The gender equality modules have been removed from the awareness raising trainings organized by GDSW for public officials.¹¹ Moreover, it has been noted that MoFSP together with GONGOs are aiming to replace the term “gender equality” with the term “gender justice”, with the circulation of which they aim to undermine the view that men and women are equal as individuals.

By May 2016 the Divorce Commission, established in the parliament in January of the same year, published a 445-page long report.¹² The report suggested a huge backlash in women’s and children’s rights. Although it was clearly stated as being against the Istanbul Convention, among the suggestions were the compulsory enforcement of some alternative dispute resolution methods like mediation and negotiation in cases of domestic violence, and closed sessions in courts for cases relating to family law for “protection of the privacy of family.” The report also suggested limiting women’s right to alimony by treating the duration of marriage as a criterion and appointing religious faculty graduates as family consultants in order to give such consultancies a religious outlook and perspective. Furthermore, the practice of chemical castration as a punishment for crimes of sexual assault, harassment and exploitation or intercourse with a minor was first mentioned in this report. This suggestion was made into a regulation and published in the Official Gazette that came into force in July 2016 in the “Regulation Concerning Treatment for Prisoners of Crimes Against Sexual Immunity and Other Liabilities”.¹³ Another suggestion of the report was about Article 103 of the TPC, which regulates the crimes related to the sexual abuse of children. The Commission also proposed those convicted to be able to benefit from probation provided they have an “unproblematic” and “successful” marriage for five years to the children whom they abused or raped.¹⁴ The Government annexed this proposal to the draft law which prescribed amendments in Article 103 of the TPC that was brought to the parliament. The proposal received important social reaction. The Government had to withdraw this motion in response to this reaction but their attempt to pass it as a part of “omnibus bill”—such suggestions of the Divorce Commission report continue to be put in omnibus bill— proves that the Government’s action plan concerning VAW is composed only of the suggestions of the Divorce Commission report and the constant backlash on women’s rights from an extremely male dominant perspective is highly worrisome.

National Action Plan on Combating Violence against Women (2016-20)

Following the expiration of the application period of the National Action Plan on Combating Violence against Women (2012-15), GDSW prepared but did not publish the National Action Plan on Combating Violence against Women (2016-20)¹⁵ until quite late (in December 2016). The plan was prepared without the assistance of experienced women’s and LGBTIQ organizations working

¹¹ For the shadow report prepared by CEDAW STYK to be presented at the 64th CEDAW Meeting as a response to Turkey’s 7th Periodical Report, see

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TUR/INT_CEDAW_NGO_TUR_24253_E.pdf

¹² For the full report, see <https://www.tbmm.gov.tr/sirasayi/donem26/yil01/ss399.pdf>

¹³ For detailed information, see *Kadınlarla Mor Bülten*, October 2016, Issue 26, “Kimyasal Hadım Yasası Cinsel Saldırı Suçlarını Meşrulaştırıyor”,

http://www.kadinininsanhaklari.org/wp-content/uploads/2016/10/KIHYC_MorBulten26_20.10.16_web.pdf

¹⁴ The press release titled “Farkında Mıyız” published by EŞİTİZ on the subject can be found via this link: <http://www.keig.org/?p=3230>

¹⁵ For the Action Plan see:

<http://kadininstatusu.aile.gov.tr/data/585d231c369dc55714513399/Kad%C4%B1na%20Y%C3%B6nelik%20C5%9Eiddetle%20M%C3%BCcadele%20Ulusal%20Eylem%20Plan%C4%B1%202016-2020.pdf>

on the area of VAW as they were deliberately left out of the process of the exchange of opinions, assessment and preparation. No feedback on 2012-15 action plan, the outcomes of its activities and goals, information concerning the output of its activities or whether or not its goals were achieved were shared either with the public or women's organizations. Besides, 2015 had been the last year that an activity report on the responsible administrative structure was published and since then no activity report was announced even if it was prepared.¹⁶

In addition to this, the action plan did not contain detailed and satisfactory information concerning the content of the goals that had been specified. For example, under the goal of Legislative Arrangements, it is stated that "necessary amendments will be made and secondary legislation will be enacted in order to reinforce the Law No. 6284 in practice", but no concrete information was provided as to what these "necessary changes" might be. Under the goal of creating awareness and mental transformation, again it is stated that "the organization of activities such as seminars and workshops for representatives of all institutions and organizations working on the issue of violence against women in collaboration will be ensured" but it was left undefined as to how any such collaboration would be possible given the representatives of independent NGOs were not even consulted during the process of the preparation of the action plan. Also, it was expressed in the action plan that Violence Prevention and Monitoring Centres (VPMC) which came into operation in 2012 would be extended to all the cities, their capacities would be developed and their services would be standardised but no further analysis, report or research concerning their operations was included.

Turkey claimed that the tenth Development Plan included sections concerning prevention of violence and discrimination against women in the state report presented to GREVIO.¹⁷ But on close inspection, it is noticeable that the issues concerning women and gender are dealt with under the heading of "Family and Woman" and treat women as care givers of the families instead of individuals and citizens. There are 25 programmes under "Transformation Programmes with Priority" but only two of them include emphases concerning women. These two programmes are "The Protection of Family and Structure of Dynamic Population" and "The Activation of the Labour Market". The first of these programmes in question emphasizes the role of women as mothers and caregivers and the second, the low percentage of women's participation in the labour force and possible incentives that might raise these numbers. The obvious contradiction between the recommendations of these two programmes, of women taking on the duties of care and in-house services on the one hand and the necessary support for women participating in the labour force on the other, suggest that women would only be supported in such participation provided they take up "more flexible", and part-time, freelance or domestic jobs.

Recommendations

- The basis of the combating VAW should be redefined from a gender sensitive perspective which acknowledges that the source of the problem is gender inequality. A realistic and critical approach should be developed to the concept of family which would not ignore the fact that violence is mostly produced within the family or in close relations. The main goal of this work should be to provide for women to become more powerful and have independent lives with equal access to human rights and not a popularisation of conservative and religious values. The state should embrace these principles and develop integrative policies to that effect in its combating VAW.

¹⁶ <http://kadininstatusu.aile.gov.tr/uygulamalar/kadina-yonelik-siddetle-mucadele>

¹⁷ Baseline Report presented by the Turkish State to GREVIO, 3 July 2017, p. 1.

- The National Action Plan on Combating Violence against Women should be prepared transparently in consultation with and in the direction of the opinions of women's and LGBTIQ organizations which have considerable accumulation of experience spanning many years and knowledge in the field. The projected activities in the action plan likewise should be realized in cooperation with independent NGOs.
- The new Gender Equality Action Plan should be prepared and published with regard to the contributions of all partners, above all women's and LGBTIQ organizations.
- A results report including the information concerning how the intended activities within the context of 2012-15 action plan transpired, which goals have been achieved and which have not, the method according to which the work was carried out and the public institutions and NGOs that were included in the process should urgently be shared with the public.
- The Government should give up on preparing reports and holding commission meetings which explicitly violate women's and human rights and fulfill its duties concerning the combating VAW in line with the Istanbul Convention and start putting them into practice as soon as possible.
- Systematically and efficiently working consultancy mechanisms in which organizations working on LGBTIQ and women's rights can meaningfully participate should be established at once in order to implement integrative policies.

Article 8 – Financial resources

Financial resources

The budget of MoFSP under which GDSW - the institution appointed to work specifically on VAW and for the coordination of the implementation of the Istanbul Convention in general - ranks as sixth among other ministries with 4% of the overall budget in 2017.¹⁸ The Minister of Family and Social Policies, Fatma Betül Sayan Kaya, declared that 4% of the overall budget of 24,303,358,000 TRY, that is 20,519,581,000 TRY, was allocated to social assistance.¹⁹ Similarly, in 2016 approximately 62% of the budget allowance (15,222,282,500 TRY of 24,799,651,000 TRY) was transferred to the Head Office of Social Assistance.²⁰ This amount of 15,222,282,500 TRY is almost equivalent to half of the 32,000,000,000 TRY that the Republic of Turkey has spent on social assistance in 2016.²¹

While a significant part of the budget of the ministry is allocated to social assistance, GDSW, the special body for the governance of the ministry responsible for “working towards [...] preventing all forms of violence against women”, only got 0.038% (9,501.00 TRY out of the total sum of 24,799,651,000) of the overall budget of this ministry in 2016.²² The unequal distribution of

¹⁸ MoFSP official website.

<http://aile.gov.tr/haberler/bakanligimiz-tahsis-edilen-kaynaklarin-yaklasik-yuzde-95i-sosyal-yardim-ve-sosyal-hizmetlerde-kullanilacaktir>. Last access: 2 June 2017.

The ministry claimed to be among the top five ministries for biggest budgets but did not indicate any source for this. It is highly probable that this ranking belongs to the year 2016. We have obtained the information concerning their sixth place from the above given URL in the endnote, which is a news article concerning the minister's speech about the 2017 budget from their official website.

¹⁹ MoFSP official website.

<http://aile.gov.tr/haberler/bakanligimiz-tahsis-edilen-kaynaklarin-yaklasik-yuzde-95i-sosyal-yardim-ve-sosyal-hizmetlerde-kullanilacaktir>. Last access: 2 June 2017.

²⁰ MoFSP Activity Report 2016, p. 46.

²¹ MoFSP Activity Report 2016, p. 48.

²² MoFSP Activity Report 2016, p. 46.

resources in question has increased over the years: according to the financial data for the year 2013, which was published in 2013-17 Strategic Plan of the MoFSP, the share of the Head Office of Social Assistance is close to 63% (9,282,872,945 TRY) of the overall budget of 14,732,738,500 TRY whereas GDSW and “Women’s Guesthouses”²³ were allocated approximately 0.07% (11,585,600 TRY) and 1.1% (162,320,500 TRY) respectively.²⁴ This data reveals the fact that despite its increasing share in the overall budget, MoFSP’s main sphere of influence and activity has been transformed over the years into social assistance.

The mentality governing social assistance is explicitly in line with government policies concerning women: the ministry’s social assistance programme has six main headings (family assistance, education assistance, health services assistance, assistance for elderly and people with disabilities, project support and employment assistance) and there are 35 sub-groups under these six main headings.²⁵ None of these main groups or sub-groups is directly or indirectly related to women as subjects facing violence. In line with this, a significant part of the expenses is related to the protection/insurance of the unity of the family and the promotion of in-marriage reproduction. This can also be seen in connection with the Family Education Programme (FEP), returning to the family and homestay support activities (also marriage support in this context), Dowry Account and State Contribution Application, conditional health services (health and pregnancy), birth support, etc.²⁶

Human Resources

Another point concerning the current state of affairs is the significant number of subcontractor workers employed in the governance of the ministry despite it being against the Istanbul Convention. The then minister of MoFSP Sema Ramazanoğlu while making a statement about the data for the year declared that “in 100 women’s guesthouses 1840 personnel are on duty, 518 of which are full time, 207 are contracted, 1025 are commissioned and 90 are part-time”.²⁷ This statement proves that more than half of the workers are subcontracted. The situation in question creates problems in terms of “services that require training and experience”.²⁸

The performance results for the year 2016 show the projected number of members of professionals to be employed was 300 whereas the number of employed was only 55 and the projected number of assistant specialists was 55 and actual employment remained at 38.²⁹

Transparency

Another crucial issue concerns transparency. The access to comprehensible data on financial resources is extremely difficult considering the level of internet literacy and the capability of using computers. The dissemination and the extensiveness of this data are insufficient. The information given in *The Institutional Financial Affairs and Expectations Report* and *The Activity Report* is not clear and some information (for example, the collaborating institutions, the research being funded, etc.) lacks transparency. In particular, quantitative data remains incomprehensible for financial table illiterates. Explanations concerning this data are insufficient.

²³ “Women’s guesthouses” exists in 2016 financial data as a separate item. (MoFSP Activity Report 2016, p. 46)

²⁴ MoFSP 2013-2017 Strategic Plan, p. 70.

²⁵ MoFSP Activity Report 2016, p. 49.

²⁶ MoFSP Activity Report 2016.

²⁷ Parliament Official Website.

https://www.google.com.tr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=0ahUKEwjOhL3E3J_UAhUFDCwKHTNGDHMQFggMAM&url=http%3A%2F%2Fwww.meclishaber.gov.tr%2Fdevelop%2Fowa%2Fdosya.getir%3FpDosyaAdi%3DF580594699_plan.doc&usq=AFQjCNECSPEApRnfNnnStVPtvGoAvfl4w&sig2=iimRH4co3Zsrn8iDUunhAQ. Last access: 2 June 2017.

²⁸ KESK official website:

<http://www.kesk.org.tr/2016/02/27/2016-butcesi-esitsizlikleri-artiran-cinsiyetci-bir-butcedir/> Last access: 2 June 2017.

²⁹ MoFSP Activity report 2016, p. 148.

Recommendations

- The current state of affairs concerning a significant part of MoFSP's budget being allocated for social assistance should be changed and the share of financial resources allocated to general and specialist support services intended for the improvement of the lives of women and children who are subjected to violence and long-term work to eliminate VAW should be increased.
- A transition to a gender-sensitive budgeting system should be made, with a more comprehensive and integrative approach being adopted while defining needs so as to ensure that the resources are distributed gender-sensitively.
- For both the budget and the monitoring work it is very important that, starting from the public sector, the awareness of all partners on the topic of a gender-sensitive budget should be raised and their capacity should be improved. Resources should be transferred to this area.
- Both in terms of the projected and the actual budget, the state should be transparent, with the data on financial resources being regularly shared with the public and prepared with a view to all levels of financial literacy.
- The current employment policy for public offices responsible for the combat VAW should be changed. Instead of easy to circulate subcontractors, full-time personnel with longer termed contracts would affect positively the quality of work and increase the efficiency of output.
- The budget allocated for activities towards collaborations with non-state actors and civil society and for training of the personnel working in public offices responsible for combat VAW should be increased.

Article 9 – Non-governmental Organizations and Civil Society

Women's organizations in Turkey have been carrying out advocacy work for legal changes and the improvement of the implementations that would contribute towards achieving gender equality, developing pressure groups and organizing campaigns of demonstration. Many important achievements such as ensuring full equality throughout the Turkish Civil Code, securing of sexual and bodily rights in the TPC, the enactment of Law No. 6284, and the establishment of the Committee of Equal Opportunities for Men and Women in the Turkish Parliament are all made possible by the organized work that the independent women's movement has put forward.

In the last few years these rights, achieved through immense struggles are attempted to be taken away. Under the State of Emergency measures a number of women's organizations³⁰ have been shut down, due to the appointment of trustees to replace opposition mayors to the cities with dense Kurdish populations women's consultancy centres under these municipalities were shut down, women were fired from their jobs, GONGOs have emerged and women are constantly restrained into traditional gender roles, with the promotion of "gender justice" discourses instead of state policies encouraging gender equality.

Nine women's organizations, most of which were constituencies of the Assembly of Women's Shelters and Solidarity Centres, were shut down in November 2016 under a statutory decree. First

³⁰ <http://bianet.org/bianet/toplumsal-cinsiyet/180798-kadin-dernekleri-kapatildi-hangi-calismalar-yarida-kaldi>

the activities of Adıyaman Women's Life Association, Bursa Panayır Women's Solidarity Association, Ceren Women's Organization, Gökkuşuğu Women's Organization, KJA, Muş Women's Roof Organization, Muş Women's Organization, Selis Women's Organization and Van Women's Organization were suspended; then they were shut down and all their assets in were confiscated. The act of shutting down of these women's organizations which have been fighting back at male violence for years in their particular regions and showing exemplary solidarity with women is an attack against women's will to struggle against violence. With this intervention, many cities ceased to have any consultancy centres for women to apply to when being subjected to violence. Apart from these, the public authorities in many cities had also suspended ongoing work in collaboration with independent women's organizations such as the existing protocols have been cancelled. The civil society space has shrunk considerably. Women's rights activists have been detained and pressed charges. Furthermore, women's organizations have been left out of the decision-making processes and have had to struggle with GONGOs as of which the state is in continuous collaboration with.

Since the failed coup attempt of 15 July 2016, media outlets have been shut down with statutory decrees, the freedom of expression has been under attack and many academics have been dismissed, with some arrested. In many cities, the public officials employed in public units responsible for combat VAW who have been working closely with women's organizations are discharged and officials from the Directorate of Religious Affairs are appointed in technical boards. Experienced women's organizations in the area of VAW have ceased to be able to partake in City Coordination Boards. Independent women's organizations have to put up a battle and demonstrate intense effort and persistence to maintain their relations and collaborations with related state organs.

The current state of affairs in the Southeast Region is even more dramatic. On 11 September 2016, state-appointed trustees took the place of 86 elected mayors in municipalities of dense Kurdish population, 34 women co-mayors were arrested and 43 women's centres working within these municipalities were shut down. Many women's centres that were not shut down, were forced to change their codes of conduct, being turned into places where marriage ceremonies take place or Quran recitation courses are held. The Head of Department of Policies for Women, directorates of women and women's shelters working within these municipalities were shut down. As a result there has been a considerable increase in cases of sexual assault, sexual abuse, suicide, attempted suicide, prostitution and drug abuse.³¹ Due to the current lack of preventative and rehabilitative mechanisms, the situation for women is getting worse everyday. State-supported GONGOs, KADEM prominent among them, replace the independent women's organizations and open new branches in these areas, being allocated all the resources of now-closed organizations and associations in order to be utilized as tools for long-term socio-political transformation.

To conclude, as long as the state of emergence continues it does not seem possible for the state to be actively involved in any kind of collaboration or consultation process with independent women's organizations, and a meaningful civil society participation in such processes seem less than viable. The violations of human rights set an imminent threat to independent women's organizations and the activists in terms of their future and freedom and they are justifiably worried. But despite these conditions, independent women's organizations and activists continue their work independently, maintaining solidarity and trying to keep their relations with the state mostly within the framework of advocating for international conventions and mechanisms such as CEDAW and the Istanbul Convention.

³¹ https://www.evrensel.net/yazi/79245/kayyimlarin-el-koydugu-kazanimler-hepimizin?&utm_source=bulten&utm_medium=bulten&utm_campaign=bulten

Recommendations

- The state of emergency measures, which generates massive human rights violations that especially affect women and LGBTIQ members of society, should be terminated as soon as possible.
- The requirements of the Istanbul Convention concerning co-operation with civil society should be fulfilled.
- Turkey should revert to the political atmosphere, which allows independent women's organizations to exist without feeling oppressed and the shut down women's organizations should be opened back with their losses compensated.
- International mechanisms should make the necessary call to the state, in order to establish a mechanism which will enable the participation of women's organizations and sanctions should be imposed where necessary.
- Independent women's organizations should be able to participate in legislative and executive processes related to women's rights in a meaningful way.

Article 10 – Co-ordinating Body

GDSW, functioning under MoFSP, is appointed as the coordinating body responsible for the implementation of the Istanbul Convention and the combat VAW and honor killings.³² Before moving onto GDSW's capacity, it is important to point to the fact that the institutions working on gender equality and women's rights in Turkey have been increasingly limited.

The activities and work concerning the advancement of women's rights began to be coordinated by GDSW, which was established in 1990 to function at the same time under the Prime Minister's Office and the Ministry of Woman and Family Affairs. In 2011, GDSW was annexed to the ASBP and its activities were reduced. This effectively meant that the mechanism for administering the coordination of issues related to VAW and women's human rights has been relegated from the level of ministry to the head office. As is indicated in the Article 8 of this Shadow Report, GDSW is disadvantaged in terms of its share of the budget, and compared to the other general directorates of MoFSP as well.

The objectives concerning the combat violence against women and the empowerment of women occupy a very limited space among the general administrative objectives of MoFSP. Only six out of 57 outlined objectives in the Table of Performance Results are about women in 2016 Activity Report of ASBP and only two of them (Objective 25 and 29) are about the combating VAW.³³

GDSW is also assigned to administer the co-ordination and co-operation with the stakeholders. However, the systematic relationship that GDSW had previously established with the women's movement in Turkey no longer exists neither in its work nor in its reports. Since the end of the 1990s and the beginning of the 2000s, independent women's organizations had been invited to direct, face-to-face meetings. Today, these invitations have stopped and only a limited number of organizations are asked to contribute through correspondence.³⁴

³² Directorate General on the Status of Women. 2016. National Action Plan for Combating Violence Against Women (2016-2020). Ankara. p. 20.

³³ MoFSP Activity Report 2016, pp. 148–56.

³⁴ Only some of the independent women's organizations were invited to contribute by correspondence to the official report under the framework of the Istanbul Convention in April 2017. The independent women's organizations among members of the Istanbul Convention Monitoring Platform sent a text criticising the method of communication which ruins the traditional bonds between the state and NGOs, excluding the latter.

The mere absence of an objective or an activity on the subject of international co-operations in the National Action Plan on Combating Violence Against Women shows that neither MoFSP nor GDSW have taken any notice of this aspect of the Istanbul Convention or at least plan to do so until 2020. It is worrisome in terms of Turkey's commitment to international processes to see that in the year 2016 GDSW had two unrealized events in its performance assessment: one of them was the regulations meeting on national legislations and the constitution in accordance with the Istanbul Convention and the other was the publicity meeting of CEDAW Concluding Observations.

Recommendations

- A Ministry of Women and Equality should be constituted.
- GDSW's capacity on budget, human resources together with its power of co-ordination and monitoring-assessment of other state institutions should be enhanced.
- Both in MoFSP and within the body of GDSW, more resources should be allocated to projects for the combating VAW in collaboration with civil society organizations and international co-operations.

Article 11 – Data collection and research

Population statistics

In order to identify various aspects of VAW, and investigate its causes, “Research on Domestic Violence Against Women in Turkey” was carried out in 2008³⁵ and 2014.³⁶ These studies in population were undertaken by Hacettepe University, Institute of Population Studies, with the financial support of MoFSP. The outcomes of the research, which was carried out in 2014, were obtained using qualitative and quantitative methods throughout Turkey. The research covers information on physical, sexual, and emotional (psychological) violence that women have been subjected to by their present or past husband/fiancee/partner/boyfriend as well as covering the forms of violence such as constraints against their right to education, participation in work life, and life style. The outcomes also focus on the institutional application processes for women to protect themselves against violence and opinions and recommendations related to Law No. 6284. In this research, stalking is identified as a form of violence for the first time. For the quantitative research, data was collected only from women, but for the qualitative research men convicted of physical violence against their partners were also consulted. Because only women with partners, husbands or fiancés were interviewed for these studies, women without partners who were subjected to male violence were excluded and no verifiable information about them could be found in this research. Besides, the outcomes of the research were not publicised because the ministry “did not want to take any questions”. It was only later when they were leaked to the media³⁷ that the reports were published on the MoFSP official website.

Administrative data

The data concerning violence against women is gathered by the UYAP system of the Ministry of Justice, POL-NET of the Ministry of Interior Affairs and General Command of the Gendarmerie.

Among the public institutions responsible for combating VAW, law enforcement agents are the first points for women and children to apply in cases of violence in Turkey. There is a standard form

³⁵ http://www.hips.hacettepe.edu.tr/eng/dokumanlar/2008-TDVAW_Main_Report.pdf

³⁶ http://tkaa2014.kadininstatusu.gov.tr/upload/Node/17982/files/TKAA_2014_Main_Report.pdf

³⁷ <http://www.diken.com.tr/sagir-sultan-duymasin-diye-gizlenmis-10-kadindan-dordu-siddet-magdurdu/>
<http://www.hurriyet.com.tr/kadin-siddete-karsi-yapayalniz-27978959>

used by law enforcement agents when taking applications but the data collected through these forms is not available to the public and we are not informed whether or not the related ministries conduct any analysis of it either.

The statistics of criminal justice in Turkey are accessible through the official websites of the Ministry of Justice Criminal Records and Statistics Head Office and Turkish Statistical Institute (TÜİK). Penal statistics, however, are composed of records kept on the bases of the defendant and the offense according to the TPC with articles and sub-clauses in special laws that contain criminal conviction; legal statistics on the other hand are composed of records kept on the UYAP system on the basis of the type of lawsuit. The (public) domestic violence criminal lawsuits can be filed at different courts and according to different laws, and not be seen as a distinct category among all criminal cases.

The divorce cases caused by domestic violence, for example, enter into legal statistics with no special mention of the cause and are recorded simply as divorce cases because statistical classification is done according to the type of case and not its cause. On the other hand, if a case of domestic violence is seen either in the criminal court or civil court of first instance, it is recorded as a crime against the family and as a violation of the Law No. 6284. The cases are filed in legal or court documents as mentioned above and/or specified as sexual assault, sexual abuse or murder, depending on the case. There is no actual data available on the number of cases brought to court on the basis of violence against the partner.³⁸

In the context of cities, VPMCs are assigned to put together electronic databases in order to monitor decisions concerning protective and preventive precautions. But VPMCs are currently unable to fulfill this duty, not to mention the fact that in many cities there is no such functioning body at all. Besides, in the report published by the Purple Roof Women's Shelter Foundation in January 2017 it was stated that, in a visit to Istanbul VPMC, they were told that there was no national standard as to how any statistic was collected by the forty-nine (49) VPMCs functioning throughout Turkey.³⁹ The activity report published by the Ministry confirmed that they did not have standard forms for data collection but that they have put it among their objectives for the coming year. The activity report included almost no data concerning either violence against women or the protective or preventive measures or mechanisms provided to women and children. It is however stated in The Action Plan for the Combating Violence Against Women prepared by MoFSP that a common database for the years between 2016-2020 would be put together.

Civil Society Institutions and Media Data

The women's organizations and independent media institutions regularly collect and publish data. Foundation for Women's Solidarity and Purple Roof Women's Shelter Foundation publishes data in their annual activity reports.⁴⁰ Moreover the constituents of the Assembly of Women's Shelters and Solidarity Centres periodically publish data concerning their activities.

Bianet, an independent media outlet, keeps a tally of information concerning murder, assault, rape, and harassment of women by collecting news from local and national newspapers and media news sites.⁴¹ But this data is only composed of events that were referred to by the media and, because the MoFSP, the Ministry of Justice and the Ministry of Internal Affairs –the ministry responsible for law enforcement– refuse to provide relevant information, it leaves out the femicides that were either

³⁸ <http://notus-asr.org/wp-content/uploads/2016/05/WAVECRFinal.pdf>

³⁹ <https://www.morcati.org.tr/attachments/article/403/veri-toplama-ve-yonetim-modellerine-karsilastirmali-bakis.pdf>

⁴⁰ https://www.morcati.org.tr/attachments/article/401/Mor_Cati_2016_Faaliyet_Raporu.pdf

<https://www.kadindayanismavakfi.org.tr/dosyalar/KADIN-DANIŞMA-MERKEZİ-2016-FAALİYET-RAPORU.pdf>

⁴¹ <https://bianet.org/english/women/172019-male-violence-2015-infographic>

not reported or reported as suicide. The tally of information kept by Bianet between the years 2010-2017 provides a database with categories concerning date, age, name, place, the type of relationship between the perpetrator and the women facing violence, the “claims/excuses” of the perpetrator and the process of violence leading up to the murder, as well as whether or not there was a recourse to public authorities and the state of the offender after the murder.⁴²

Furthermore, the Platform for We Shall Stop Women’s Murders publishes monthly data on femicides.⁴³

Recommendations

- The data recorded about the perpetrator and the victim should be separated with regard to sex, age, type of violence, the prevalence of type of violence, relationship between the offender and the victim, geographical location and disability in accordance with the Istanbul Convention. It should also include information about the fundamental reasons for these offences, their effects, the ratio of convictions, measures taken and their effectiveness. The state should act in accordance with its obligation to collect data on the violence against women and use this data as a tool to fight back against this violence. It should also generate a more comprehensive approach to data collecting and regularly undertake research.
- A database should be created in which the data collected by both state and NGOs should be processed with a sensitivity in regard to gender, sexual orientation and gender identity.
- All the data (including police records) that is collected should be publicly accessible with a view to the security and privacy of the women in question.
- Public court cases of VAW and domestic violence should be considered as a distinct category and recorded in the Statistics of National Criminal Procedures as such.
- In deciding on how to keep as well as what data is collected, methods that give consideration to the security and privacy of the women in question should be adopted.
- The data that is collected should make the combating violence against women visible with an emphasis on the support mechanisms that are provided and narratives of how these services are empowering women without imprisoning them in their victim status.

CHAPTER III- Prevention

Article 12 – General obligations

The Government’s conservative policies with regard to issues of VAW and inequalities between women and men as described in Chapter 1 of this report, is incompatible with the Convention’s “Prevention” heading which requires to promote changes in prejudices, gender stereotypes and gender-biased customs and traditions, and to eliminate discrimination against women. For this reason, it is necessary to be sceptical about the content, methodology, purpose and outcome of any action, policy or regulation that can be assessed within the scope of the obligations between Articles 12 and 17 of the Convention.

The Government has no integrated policies to eliminate violence against women through measures of detection, prevention and intervention. This deficiency is particularly important for Turkey specifically for pregnant women, women with children or disabilities, or women living in rural

⁴² <http://kadincinayetleri.org>

⁴³ <https://kadincinayetlerinidurduracagiz.net/kategori/veriler?sayfa=2>

areas, women belonging to ethnic minorities such as Kurdish women, women with special needs such as migrant women (especially Syrian), LGBTIQs, sex workers and elderly persons because it constitutes discrimination and therefore increases the risk of these women being subjected to violence. This is the result of the Government's lack of coherent and coordinated policies in the area of VAW, as set out in Chapter 2. The Government's policy is not to prevent, but to punish those who are perpetrators of violence through criminal law enforcement. Problems and deficiencies in the Penal Code and its implementation are included in Chapters 5 and 6.

Much like in other Council of Europe countries in Turkey too violence against women is worst and most widespread in homes and this fact has been backed up for many years by official data of the MoFSP.⁴⁴ However, as explained in previous chapters, the Government's preferred approach of protecting the family unit as opposed to the rights of women and their empowerment makes it impossible for the authorities to act with due diligence for the prevention of VAW. The general and discriminatory judicial passivity continues as named during the *Opuz* case at the ECHR. As a matter of fact, following the decision of *Opuz*, the *Durmaz*, *Civek*, *M.G.* and *Halime Kılıç* rulings of the ECHR also found that the Government did not take effective measures to prevent violence, to prevent the perpetrators from being violent again and to protect women from violence.

Within the scope of Domestic Violence Project implemented by GDSW, provincial coordination committees for violence against women were established in 26 provinces and provincial action plans were created. It is unclear whether these plans will be put into practice. Moreover, there is no independent unit to effectively monitor the implementation of these plans. The provincial coordination boards to combat violence which were established within the scope of the Prime Ministry Circular No. 2016/17, started to meet in 2009, prepared provincial action plans for the years 2010-2015, but these plans were never implemented. There are main problems in implementing the provincial action plans: the government does not allocate any financial resource from the central budget for their implementation and the institutions responsible for the implementation think that responsibility belongs to the MoFSP since there is no regulation and directive on the implementation of locally prepared documents like provincial action plans by local governing authorities and institutions.

Recommendations

- In order to eliminate discrimination against women, the overall theme of prevention activities must centre on altering gender-based roles, prejudices and traditions in society. The Government must change its approach and policies towards VAW with this perspective.
- Effective involvement of civil society should be ensured in the planning and implementing activities in national action plans and provincial action plans. In addition, budgeting and legislative amendments need to be made in order for the activities in these areas to be carried out. The institutions responsible for the activities should be clearly identified and monitored to ensure that their activities are implemented.

Articles 13, 14 and 15 – Awareness raising, education and the training of professionals

The approach of empowerment of the family is also the backbone of the raising awareness activities held in the context of this article. Therefore, these activities do not have the function of disseminating information on equality between women and men, non-stereotyped gender roles, and non-violent conflict resolution in interpersonal relationships as the Convention aims. On the contrary, the Government aims to maintain its traditional role sharing between men and women in

⁴⁴ <http://kadininstatusu.aile.gov.tr/uygulamalar/kadina-yonelik-aile-ici-siddet-arastirmasi>

all its rhetoric and practice, by assuming and clearly stating that men and women are not equal anyway.⁴⁵ The divorce commission report covered in Chapters 1 and 2 presents one of its most recent examples. Despite the increasing numbers of women who are subjected to violence including getting killed because they want to divorce, or after their divorce⁴⁶, the Government is targeting divorce rather than the ensuing violence. Almost all policies in the “family and women” section of the 10th Development Plan covering the years 2014-2018 are family-oriented; it is clearly stated that social and economic policies that are “complementary to and supportive of the protection and strengthening of the family” will be adopted.⁴⁷

A concrete demonstration of the Government’s policies for strengthening the family also constitutes the “Family Education Program Implementation and Dissemination Project” (FEP), which has been regularly implemented by the MoFSP since 2012. Within the scope of the project, which aims to create healthy and happy families, many resource books have been prepared for the education of trainers and participants. Although their website states that 26 civil society organizations have contributed to the preparation of the curriculum of these trainings, none of the 100 organizations, which are components of the Istanbul Convention Monitoring Platform have been consulted. This shortcoming manifests itself in the absence of a gender perspective in the project material and in domestic violence being mentioned on only one page out of hundreds. All training materials can be accessed from the project website.⁴⁸ It is evident that all this material was prepared with an attitude incompatible with the social realities of contemporary Turkey with an absence of gender, class, religious, urban/rural lifestyle, social status differences between the individuals who constitute a family unit.

In the National Action Plan for Combating Violence Against Women, which covers the period 2012-2015, the Government adopted a series of measures aimed at creating awareness and transforming mentality: educational activities for various social groups, preparation of materials, erasing expressions that reinforced discrimination against women from all educational materials including at university level, and the preparation of informative materials for sexual and reproductive health, violence against women and gender equality awareness for couples. In addition, many public officials were trained within the scope of in the Technical Assistance Project for Women’s Shelters Against Domestic Violence what is briefly known as the Domestic Violence Project⁴⁹ which was implemented between 27.12.2013-27.12.2016. It aimed to raise awareness and train public officials through the use of many publications. However, it is necessary to approach the contents and results of these activities with scepticism due to the reckless attitude of the Government to these issues. In addition, GDSW has ceased implementing awareness-raising activities in cooperation with independent women’s organizations.

It is known that primarily within the scope of the aforementioned project and the national action plan a number of trainings were organized for various groups of citizens in the framework of Article

⁴⁵ The CEDAW Committee expressed concern about Turkey in its conclusions on the report of the 7th term on 25.07.2016 as follows: “The Committee is concerned about the continuity of radical and discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and society. These judgments over-emphasize the traditional roles of women as mothers and wives and thus undermine women’s social status, autonomy, educational opportunities and professional careers, and at the same time constitute the main cause of sexual violence against women (par. 28).”

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTUR%2fCO%2f7&Lang=en

⁴⁶ <http://bianet.org/5/193/183249-infografik>

⁴⁷ 10th Development Plan (2014-2018), paragraph 250-257.

⁴⁸ <http://www.aep.gov.tr/> (General information about the project is also available in English).

⁴⁹ You can clearly see the Government’s emphasis on “the family” from the name of the title of the most comprehensive activity the Government undertook during this period.

14, as well as for professionals within the framework of Article 15. However, in the preparation and presentation of these materials, and in fact throughout all general preventive work for violence against women, in accordance with Article 9 of the Convention, the Government has at times not utilised the input of experienced independent women's organisations at all and at times included them only marginally. These organisations have sometimes not been invited at all or sometimes been invited at short notice so that they did not have enough time to prepare, and at other times the public authorities only invited GONGOs and the organisations which have close relations with the Government and left the rest out.⁵⁰ As independent women's organisations which know the mindset of the Government, we concern about the content of these trainings not to be appropriate. We are also concerned that the Government's incorporations with non-governmental organisations through mostly privileging the ones only have close ties with it, will especially in the eyes of the international community create the deceptive illusion that they are working with civil society.

As required by the Convention, there are no regulations that guarantee the continuity of the training provided for the training of professionals. The selection of the officials for the trainings is also random. For example, in the trainings given to law enforcement agents there are many special operations and special team members who do not work in the area of VAW. These people see the trainings as an opportunity to relax. In addition, there is no regulation that guarantees that the trained professionals will work with women who are subjected to violence, or that their training will be taken into consideration for promotion or reassignment purposes, or that whether they will participate in further trainings. According to the information we have received from women working as professionals in the field, especially after the coup attempt on July 15, 2016 the work places of a large portion of the professionals who participated in these trainings have been changed and some have even been removed from service altogether. According to the MoFSP's 2016 Activity Report⁵¹, after 15 July 2016, even in-house trainings (for example, trainings planned by the GDSW for 491 people) could not be realised and there have been deviations of up to 100% from targets. Finally, there is no monitoring procedure to measure the effectiveness of trainings and whether they are implemented or not, and no guidelines governing their implementation. Because of this, in spite of the number of professionals trained and the amount of resources allocated to this area, it is not possible to see the effects of training in practice. The lack of monitoring of the effectiveness of trainings also makes it impossible to restructure the training materials in accordance with developing needs.

Recommendations

- The Government should ensure effective participation of civil society in accordance with Article 9 for all preventive activities. Civil society refers specifically to independent women's organizations working in the field of violence against women and discrimination.
- With the understanding that the codes of conduct that constitute gender discrimination are set in place early on, the Government should eliminate gender discriminatory expressions

⁵⁰ A great many independent women's NGOs who have been active in the field of violence against women for years were excluded from the meeting of the Parliamentary Divorce Commission (5 February 2015) where they were supposed to be consulted.

<https://www.morcati.org.tr/tr/291-kadina-yonelik-siddet-kadin-orgutlerinin-bilgi-ve-deneyimi-yok-sayilarak-sonlandirilamaz>

The NGOs nominated for GREVIO membership by the MoFSP were not NGOs who have been working in this field for years but KADEM, an organization founded by the president's daughter, KASAD, an organization working in the field of health, not women but which has the prime minister's wife among its management, and AKDER, known for its fight against the headscarf ban.

<http://www.hurriyet.com.tr/turkiye-de-kadin-haklari-1-ileri-2-geri-36357047>

⁵¹ <http://www.aile.gov.tr/data/58b58e4c691407119c139239/2016FaaliyetRaporu.pdf>

from all formal and informal education curricula and must add courses about violence against women from a women's human rights and empowerment perspective.

- A regulation must be set up to guarantee that trained professionals will work with women facing violence, that their trainings will be taken into consideration for the later assignments and that they will participate in further trainings.

Article 16 - Preventative intervention and treatment programmes

It is evident that the programmes which have been aimed at perpetrators of violence are not geared towards perpetrators taking responsibility for their actions and changing their notions and behaviour towards women, thus they do not result in preventing the repetition of violence. There is no such programme for perpetrators of sexual violence. Yet in 2016 the number of indicted persons for alleged crimes against sexual inviolability is 35,155⁵² and the number of people who have committed sexual offences and are either detained or convicted is 15,226⁵³ according to the figures of the Ministry of Justice Directorate General of Prisons and Detention Houses dated 1 April 2016. Measures for preventive intervention are therefore urgently needed. Yet, proposals and investigations made at policy level go no further than reducing sexual violence to a "hormonal" problem and drafting legislation for such anti human-rights solutions as chemical castration.⁵⁴ The regulation for "the treatment and other obligations for those convicted of sexual crimes" prepared by the Ministry of Justice which came into effect on 26 July 2016 mirrors this view point and continues to ignore the fact that sexual crimes are a means of establishing domination over women and approaches them as illnesses which should be treated.⁵⁵

According to the information obtained from the MoFSP officials, the only program conducted against domestic violence perpetrators is the program which has been running in Ankara for the past 3 years managed by the Ankara Provincial Directorate of Family and Social Policies in accordance with Law No. 6284, for those perpetrators who have been seen fit to partake in "anger management" classes. This program is carried out by only two male social workers in a group workshop format. Until today, nearly 300 male perpetrators participated in this program. Not only has there been no civil society contribution to this venture, but there has been no forthcoming report, statement, declaration type information sharing for the benefit of civil society. There is no other such example of this kind of undertaking anywhere other than Ankara. Also, as far as we are aware no precautions have been taken in these programmes to prevent the creation of an unfounded sense of security instead of prioritizing women's safety and human rights. On the other hand, perpetrators being seen as becoming "victims" due to the restraining and protection orders that prohibits the perpetrators entering the residence of women, and various project proposals have come from official authorities to open living spaces with sports and health facilities especially for those who have been displaced from their places of abode.⁵⁶

Recommendations

- Considering the diverse needs of women and men, trainings on gender awareness and VAW targeting only men should be included and widespread in vocational training and in formal

⁵²http://www.adliscil.adalet.gov.tr/istatistik_2016/istatistik2016.pdf

⁵³<http://www.cte.adalet.gov.tr/>

⁵⁴<http://www.hurriyet.com.tr/tecavuzcuye-kimyasal-hadim-resmi-gazetede-yayinlandi-40170733>

⁵⁵ In the statement of the Turkish Medical Association, The Psychiatric Association of Turkey, Forensic Experts Association and Association for Sexual Education, Rehabilitation and Research öad a public declaration about this topic which stated that most of sexual violence perpetrators do not suffer from a disease that can be treated, and sexual crimes occur as result of exerting power or violence on another person.

<http://www.ttb.org.tr/index.php/Haberler/ortak-6242.html>

⁵⁶<http://bianet.org/bianet/kadin/156176-kadinlar-mucadele-ediyor-erkek-siddeti-yargilaniyor>

and informal education. These trainings must be planned and implemented with participation of independent women's organizations.

- Non-violent communication and non-violent conflict resolution methods should be included in educational curriculum, starting from pre-school education.
- Effective participation of independent women's organizations should be involved to the preparation of rehabilitation and treatment programs focusing on perpetrators. These programs must at certain periods be re-assessed utilising both independent impact assessments and the feedback from women.

Article 17 – Participation of the private sector and the media

The laws governing media publishing and related legislation prohibit gender discrimination. However, the number of the decisions taken by the Radio and Television Supreme Council (RTÜK) and the press cases about discrimination, reveal that there are very few sanctions the media has been subjected for gender discrimination. This shows that the media sector is making no efforts to support the achievement of gender equality, nor do they necessarily believe in it. When we look at how women and violence against women are portrayed in the media, especially television, we see that discriminatory practices such as sexism, objectification, humiliation and normalization of violence against women, can frequently be seen. This is one of the signs that the state has no local, regional or national policy on the prevention of violence against women in the media. Activities within the National Action Plans are ineffective in transforming the media industry. Like the aforementioned ventures aiming to prevent violence against women, no impact assessments were carried out.

Researches clearly show that it is vital that the media use a “language”, which is sensitive to gender equality, for the prevention of violence against women. It is mainly women's organisations together with human rights and professional organisations who are the driving force behind increasing visibility of femicides in public and in pushing for an action to preventing gender discrimination in the media with no significant contribution from the state. Civil Society has a number of different endeavours aiming to transform the macho, sexist language of the media which legitimises violence against women⁵⁷ and the press is being used effectively to disseminate them.⁵⁸

Within the State of Emergency measures, a lot of media companies have been shut down by statutory decrees claiming that they have ties or contact with terrorist organizations.⁵⁹ The closure of some media outlets that prioritized broadcasts about VAW will result in invisibility of the combating VAW and decreasing of gender-sensitive broadcasting. Also, many journalists who take gender-sensitive approaches in their news reporting have been arrested without a fair trial or been fired from their jobs. These developments are interpreted as the destruction of the tools women can use to ensure gender equality and to make sure the public receives information with a gender-

⁵⁷ Action Research and Report for Women's Murders

https://drive.google.com/open?id=0B_kd2m_p0SZCcFpuWEZaOEdNMW8

Bianet, Workshops with a focus on Gender Equality

<https://bianet.org/bianet/toplumsal-cinsiyet/184838-toplumsal-cinsiyet-odakli-habercilik-atolyesi-trabzon-da>

Rights Based Publishing in the Field of Sexual Violation by the Association for Struggle Against Sexual Violence

<http://cinselsiddetlemucadele.org/wp-content/uploads/2016/08/Medya-brosur.pdf>

Kaos GL Gender Equality Based Journalism

<https://bianet.org/bianet/medya/185276-toplumsal-cinsiyet-odakli-habercilik-atolyesi-diyarbakir-da>

⁵⁸ Guide for Communicating Women's Murders (Femicide) / Action Research and Report for Women's Murders

<http://www.filmmor.org/tr/basin/339-kadin-cinayetleri-onlenebilir-kampanya-kitap>

Guide for Gender Equality in News, Women's Commission of The Turkish Journalists Association

<http://www.tgc.org.tr/bildirgeler/cinsiyet-esitlikci-haber-kilavuzu.html>

⁵⁹ Official Gazette of the Republic of Turkey: <http://www.resmigazete.gov.tr/eskiler/2016/10/20161029-4.htm>

sensitive perspective. At the same time, social media was and continues to be restricted and barriers have been put up.⁶⁰ In general, these interventions directed towards freedom of expression limit the opportunities and means of combat VAW and discrimination.

Sexual harassment at work is a criminal offence according to the TPC According to the Labor Laws, in the private sector it can be a valid reason for the termination of a labour contract. In the same way, according to the Labor Laws, mobbing is also a justifiable cause for the termination of a labour contract. According to Circular No. 2011/2 of the Prime Ministry entitled “Prevention of Psychological Harassment (Mobbing) at Workplaces” published for employees in the public sector, the fight against psychological harassment at work is primarily the responsibility of the employer and employers must take all necessary precautions to ensure that employees are not subjected to harassment. However, not only is there no available data or conducted research in this field, but it is also not known how many violations have been the subject of official complaints or lawsuits. They contend with the MoFSP giving public personnel general seminars about domestic violence and violence against women. An informative guide on mobbing was issued by the Ministry of Labor and Social Security, and the “ALO 170” line was introduced to receive calls on this issue. Apart from these, the Government has no other preventive policies such as awareness raising activities, specifically for human resources staff.

Recommendations

- Guidelines and directives should be prepared with the involvement of civil society and professional organizations in order to increase sensitivity of the media sector on gender based violence and the prevention tools, and to transform the sexist and discriminatory language and discourse which legitimises VAW. There must be effective monitoring mechanisms that ensure the media sector applies these guidelines. RTÜK members should be trained on the subject and necessary changes should be made in the RTÜK and other relevant legislation.
- The Labor Laws, the Civil Servants Law and the TPC should all be amended to include all aspects of mobbing, including sexual harassment in the workplace. Data must be collected about women who are subjected to violence through mobbing, including sexual harassment in the workplace. The damage incurred by mobbing must be covered by the state if not by their employer.

CHAPTER IV- Protection and support

Articles 19 and 20 - Information and general support services

Women who are subjected to male violence need economic support to build an independent life free from the cycle of violence and away from it. Article 18 of the Istanbul Convention assures that responsible parties are under an obligation to aim for the empowerment of women subjected to violence so that they can gain economic independence. VPMCs, which are provincial consulting centres operating under MoFSP, have the legal authority and duty of providing support services,

⁶⁰ <http://www.tgc.org.tr/aciklamalar/1264-gazetecilik-meslek-orgutleri-dayanisma-toplantisi-duzenledi-gazetecilerin-tutuksuz-yargilanmasi-istendi.html>
<http://www.tgc.org.tr/aciklamalar/1361-tgc-dunya-basin-ozgurlugu-nedeniyle-aciklama-yapti.html>
<http://www.tgc.org.tr/aciklamalar/1379-turkiye-gazeteciler-cemiyeti-yonetim-kurulu-tehditler-gercek-gazetecileri-yildiramaz.html>

directing applicants to access the appropriate services and coordinating all service providers working in the area of VAW. Article 4 of the Basic Principles and Working Procedures Directive published in 2016 states that *“It is essential for the victim of violence and any accompanying children be provided with security and economic, legal, social and psychological support and empowerment”*. As institutions responsible for coordinating various avenues of financial support necessary for women facing violence and their children to lead independent lives the VPMCs are designed as “one-step” centralised institutions to combat VAW. However, the fragmented structure of the social service mechanism makes this “one step” system null and void.

Women often need support with paying their rents, child allowances, poverty subsidies and goods assistance following their quitting a violent environment. It is not enough for a woman to apply to VPMCs for accessing the appropriate support for herself and her children; she must also apply separately to other branches of social services, civilian and municipal authorities, and NGOs which can provide economic support. Not only does this system expose women to secondary victimization but also causes severe delays in accessing the support, which they urgently need. Women face an uphill battle as they try to obtain some financial aid the chances of which are fairly low.

However, women cannot benefit from these services unless they have a place of abode. Therefore, even if there is no security issue, women are forced to go into shelters due to a lack of alternatives as they do not have the means to start a life away from violence, they cannot afford a new place of abode and need the economic support on offer. According to the report of the Istanbul VPMC at the provincial coordination meeting held in Istanbul in 2016,⁶¹ 49% of the women applying to shelters do so because of economic reasons.

There is an intense demand for financial aid for poverty in Turkey. There is no mechanism to prioritise women who are impoverished due to violence accessing economic aid and all other services as fast as possible. Especially in densely populated cities it can take a long time to assess financial needs and to get the necessary support. After July 15, 2016, the immense number of discharge and change of work place/job of public officials and professionals and the extra workload caused by the services provided to the victims (the violence caused by failed coup d’etat) of families, and families with casualties has led to the disruption of women’s already limited access to these opportunities.

There is a protocol between VPMCs and the Turkish Employment Agency (TEA) in order to provide employment, vocational training and job referrals for women.⁶² When women apply to them they can be directed to either vocational training and/or jobs. However, this protocol is not sufficient as there are no effective policies on eliminating inequality and gender discrimination in the job market therefore it is not possible for women to earn their living and find safe jobs. To add to this, because the financial aids cease once they find a job and what they earn from their jobs alone is not sufficient to sustain themselves they end up working in precarious jobs with no social security coverage.

Another problem with women’s employment is that the need for children’s nurseries is often not met. It is virtually impossible to access free nursery services, especially for children under 3 years

⁶¹ This VPMC report has not been made public, it was only shared among the organizations who attended the Istanbul Provincial Coordination Meeting. The fact that data collected by public authorities in the field of VAW is not kept and the statistics are not shared with the public shows the information hierarchy and policy of the MoFSP which is the relevant authority on the subject.

⁶² TEA is a national organization working on the prevention of unemployment by finding jobs and workers, developing policy, creating, protecting, developing extensive employment opportunities, and organizing vocational trainings on the subject of employment.

of age. Article 50 of the Regulation on the Establishment and Operation Principles of Private Nurseries and Daycare Centres and Private Children's Clubs (Official Journal No. 29342) regulates that, the children of women who stay or had stayed at shelters are entitled to free care services. According to this article, 3% of the capacity of such institutions is allocated to the Provincial Directorate. In the previous regulation of 8 October 1996 (Official Journal No. 22781) of the same article, a larger share was allocated for free quotas: "The Provincial Directorate will utilise 5% free quota, for at least two children, in accordance with the capacities of the institutions" (Regulation 27). In the new regulation, the quota was reduced from 5% to 3%, and the quota for at least 2 children utilising free services was eliminated. Thus, private nurseries, day care and children's clubs with capacities of less than thirty-four (34) children have not obliged to allocate free legal quotas to the children of women at shelters.

There is inadequacy of free or low-cost, extensive, reliable psychological counseling centres to satisfy the needs of women and children who have been subjected to violence. In the few present institutions, high demand and lack of staff result in low service quality. Allocation of the budget to psychological services for perpetrators of violence from the limited share of GDSW also negatively affects quantity and quality of services provided to women and their children.

Women are not informed about their rights of access to legal benefits. Particularly the knowledge on the legal/administrative benefits designated in Law No. 6284, are not duly disseminated in the public by the relevant authorities. For example; women subjected to violence can only benefit from free health care when they demand it, and during this waiting period problems can arise. For example, since women have not informed about support services and protective measures, they are unaware that within the scope of Law No. 6284 they can be eligible for the free general health insurance system by applying for a legal protection orders. While every year about 100,000 people⁶³ apply for it, it is noteworthy that in 2016 only 84 people were given permission to utilise the general health insurance system.⁶⁴ Likely financial aid mechanism, adopted through Law No. 6284, is neither known well by women, nor implemented effectively by MoFSP /relevant authorities.

Recommendations

- Not all women who are subjected to violence may necessarily need to go to a shelter. Therefore, it is important that adoption of effective analyses methods to determine real needs of women and accompanied children and creating intermediary forms such as social housing, where women can safely stay, work and benefit from financial aid without having to go to a shelter or sufficient economic support must be promptly supplied.
- Coordination between institutions needs to be improved in providing general support services.
- To minimise the suffering from a secondary victimization, the coordinating agency should guarantee that the staff provide general support services should work with an approach that centralizes gender equality and the purpose of empowering women.
- The requests of women who have lived through violence are within the scope of social services and should be treated in a holistic manner as stated in Law No: 6284 and they should be evaluated separately to other groups who request the help of social services.

⁶³ See the Divorce Commission Report Line No: 717. 2015, pp. 298-290.

<https://www.tbmm.gov.tr/sirasayi/donem24/yil01/ss.717-bolum-1.pdf>

The Commission of the Turkish Parliament for the Integrity of the Family, minutes of the meeting on 2 March 2016, pp. 4-5. https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=1518

⁶⁴ The 2016 Activity Report of the Ministry for Family and Social Policies, pp. 58-59.

- Experienced psychologists and psychiatrists should regularly provide psychological support for women and children in shelters.
- Women should be effectively informed about all their rights at all institutions they apply to for support.
- Women and children who are subjected to violence should be provided with access to universal health insurance even if they do not request it.
- The legislation on free childcare rights should be improved in favour of women by making childcare more accessible, increase quotas and create concrete conditions for the implementation of legislation.

Article 21- Assistance in individual/collective complaints

Women pursuing/willing to pursue legal proceedings established to fight against Violence Against Women (VAW) do not receive sufficient legal aid and judicial assistance. Public officials have limited knowledge on these mechanisms and they are not in a position to inform women facing violence. Although *Opuz* judgment of the ECHR and the following domestic violence judgments are fully translated into Turkish, the government has not taken necessary steps to circulate them and promote their implementation. Thus, even the judges are not aware of these judgments and international legal standards on VAW. Similarly, some of the recommendations of CEDAW Committee to which Turkey is a party for 30 years and judgments of the aforementioned committee issued as a result of individual applications have not been translated into Turkish.

Recommendation

- The Regulations should be amended so that the judicial assistance services include applications to regional and international mechanisms. All judgments issued by these authorities should immediately be translated into Turkish and announced to legal bodies and other related parties. Regular trainings shall be conducted so that judges are updated about the judgments.

Article 22, 23, 24 and 25- Specialist support services

Women solidarity centres

Women Solidarity Centres giving social, legal and psychological support to women and children subjected to violence are neither widespread nor accessible in Turkey. The existing centres are affiliated to either independent women organizations or municipalities. As they mostly give support during working hours, women either apply to law enforcement agencies or wait for office hours when they require support out-of-hours.

Most of the municipalities open “Family Consultancy Centres” rather than establishing a separate unit for women who aspire to recovery from violence. Most of these centres do not have a policy directly in favour of women and they instead identify women with respect to the family and prioritize the protection and persistence of the family. Family Consultancy Centres, far from adapting social policies that promote equality of women and men, provide services that confine women to traditional gender roles under the discourse of “gender justice.”

Furthermore, women consultancy centres in municipalities that have started to be governed by trustees as of 2016 are shut down by these appointed trustees.⁶⁵ Besides, independent women

⁶⁵ Women consultancy centres and women centres conducting activities for women affiliated to city and/or county municipalities of Ağrı, Batman, Bitlis, Diyarbakır, Hakkari, Mardin, Mersin, Muş, Siirt, Şırnak, Tunceli, Urfa, Van are

organizations especially in cities largely populated by Kurdish people are shut down by means of statutory decree issued as part of the state of emergency, all property of these organizations are confiscated. Therefore, in many cities, there remains no women organization accessible to women and to monitor malpractices of state institutions and legal violations. Such developments, alongside with the family-oriented approach of state institutions are extremely preoccupying.⁶⁶

The main public institution to provide these services, in line with laws and regulations related to solidarity centres are VPMCs affiliated to the MoFSP. The Ministry defines these centres as follows: “VPMCs are centres working with required specialized staff prioritizing the employment of women social workers to support and monitor services to prevent violence and enhance efficient implementation of preventive measures. They conduct activities seven days/twenty-four hours in an integral system encompassing all related supportive organs under the same roof; give efficient and rapid services befitting human dignity aiming to economically, psychologically, legally and socially strengthen women.”⁶⁷

VPMCs were first founded in 2013 and they were active only in 14 pilot cities. As of December 2016, VPMCs serve in a total of 49 cities throughout Turkey. More than half of them conduct their services under conditions that are not compatible with the regulations. Furthermore, this number is considerably insufficient in a country of 81 cities and around 80 million of population. Each city requires a VPMC, while densely populated cities as Istanbul require more than one of them. The existing VPMCs are centres with insufficient number of specialized staff and accessibility problems and as such they cannot cover the needs of women. . It should be noted that, the physical conditions of VPMCs are also not proper to provide relevant services to women in terms of physical availability and design of the centres.

As there is a considerable number of women subjected to violence who demand such services, not enough of them receive economic, psychological, legal and social aid and there is also a shortage of social workers, lawyers and psychologists to support them. Although the services are claimed to be “integral” encompassing all related supportive organs, women are directed to different units to have access to required support. Women demanding shelter support are directed to police forces for “security” purposes. However, it complicates women to make applications, as police forces is directly associated with crime, women believe that they would be obliged to make an official complaint and they abstain from possible breaches of duty and negative attitudes.⁶⁸ That’s the reason why women need application points in emergency situations, other than police stations, where women staff is employed to serve.

Although women can have access to some of the VPMCs 24 hours a day, it is seen that required services are not given 7/24 due to lack of experts available at all times. After all, not all VPMCs are open 7/24. It is possible to call staff called “officers on stand-by duty” out of office hours.⁶⁹ In the “emergency” system conducted by the Ministry of Family and Social Policies, applicant women can only see social workers through the medium of police forces.⁷⁰

either closed down or are drained off experienced staff due to dismissal, leading to changes in working methods and approaches.

⁶⁶ For further information, see the section on Article 5 and 6 above.

⁶⁷ <https://kadinistatusu.aile.gov.tr/uygulamalar/siddet-onleme-ve-izleme-merkezi>

⁶⁸ See Monitoring Report on Mechanisms to Fight Against Male Violence in Turkey. Mor Çatı Publishing House, İstanbul, 2016, p. 44.

⁶⁹ “Stand-by duty” is a system implemented to enhance public health personnel to serve 7 days and 24 hours. Officer on duty shall be located in a place easily accessible from his/her house or institution and in case of need, s/he shall respond to calls within at most an hour.

http://mevzuat.kamunet.net/mmd/tuzukler_htm/k/Kamu_saglik_calisanlari_icapci_calisma_esaslari_tuzugu.html.

⁷⁰ <https://www.morcati.org.tr/tr/327-yeni-siddet-onleme-ve-izleme-merkezleri-aciliyor-mu>.

One of the most significant problems witnessed by women in rural parts of Turkey with a lower population, social workers in VPMCs might as well be relatives, associates, friends or acquaintances of the perpetrator of violence. Therefore, women abstain from making applications in fear of lack of confidentiality and the possibility of the perpetrator to hear about the application.

Lastly, in line with the VPMC regulations issued on March 2016, VPMCs are turned into centres to support men as well as women, which is at odds with the requirement of the centres to be specialized in violence against women. Although programmes and services focuses on perpetrators shall not be isolated from activities and institutions to combat VAW, such activities shall not be conducted in centres serving women. However, it is observed that, in practice, perpetrators and women receive services in the same centres/locals, which raises serious doubts about the safety of women. Although it is indicated in all international conventions that the alternative dispute resolution mechanism shall not be used in case of violence against women, some VPMCs work like family therapy centres in supporting men, which is an indicator that they do not aim to prevent violence against women but the preservation of the integrity of the family.

Recommendations

- Specialized centres offering services 7/24 should be established. In all institutions to which women apply to have assistance, they shall be informed about consultancy and solidarity centres and, if demanded, they shall be directed to them to detect other requirements that they might have to stay away from violence.
- VPMCs, alongside with directing women to shelters in line with its service description, shall also provide 7/24 social, legal and psychological assistance and consultancy. There shall also be catch-up work regarding support provided by VPMCs.
- A women-friendly monitoring and complaint system regarding issues faced by women in rural areas with lower population shall be established and all obstacles preventing women from benefitting from their rights shall be removed.
- Dispute resolution with the perpetrator shall by no means be allowed in institutions where women apply to stay away from violence.
- The first institution to be applied to (law enforcement agencies, VPMCs or a consultancy centre affiliated to the municipality etc.) shall most accurately detect requirements of the woman and, if necessary, contact other institutions to enhance her to get other required support.
- The central structure of VPMCs is established in such a way that they can easily intervene in consultancy/shelter activities of municipalities and women organizations. While VPMCs can directly forward individuals to shelters of women organizations and municipalities, other institutions with consultancy/solidarity centres and shelters and social workers of these institutions cannot independently receive individual applications. These institutions are thus made obliged to work in line with the existing regulations that have discriminatory articles that by no means favour women and children. The autonomy of municipalities over against the central government shall not be neglected and the independence of women organizations shall not be glossed over. State institutions shall be open to monitoring of and cooperation with women organizations.
- The institutional structure to favour specialized support services indicated in Article 22 of the Istanbul Convention shall more clearly be defined and named in the Convention. Years of feminist experience in offering such services shall not be ignored and women

consultancy/solidarity centres shall be explicitly defined as institutional mechanisms to offer such services.

Shelters⁷¹

As of the recent legal arrangements in Turkey, admissions to most of the shelters affiliated to both the Ministry of Family and Social Policies and municipalities are arranged by VPMCs. Although there is a provision in the *Regulations Regarding the Establishment and Management of Women Guest Houses* indicating that shelters are open to women and children subjected to violence, there exist many exceptions to this provision.

According to the regulation, support services towards women with boys over 12 years old and children with disabilities and these children are to be conducted not in shelters but in a house preferably close to the shelter whose expenses are covered by the budget of the respective shelter. However, this article is almost never implemented. Women applying to benefit from this right are informed that there is no such state support. Apart from this obvious obstacle to the implementation of a right included in the regulations, it is known that, in some cases, boys over 12 years old are separated from their mothers in the shelter and delivered to child care centres affiliated to the Ministry of Family and Social Policies. In many cases, women prefer to stay in places where they are subjected to violence so as not to leave their children.

It is clearly indicated that women over 60 are not received in shelters. Women over 60 subjected to violence are directed to the General Management of People With Disabilities and Elderly Persons and are thus deprived of specialized support services. This arrangement is particularly significant in that it demonstrates that the government does not consider shelter service as an instrument to combat VAW and empowering women, it is rather deemed a generalized accommodation service. Given that social services in general, not to mention mechanisms to combat VAW, are already insufficient in Turkey, it is not always possible to accommodate women over 60 in an institution like a residential facility. Besides, security of these women are also jeopardized, as they are directed to senior care centres in publicly accessible locations.

Shelters shall be available for the use of women with disabilities in line with Article 8(8) of the *Regulations Regarding the Establishment and Management of Women Guest Houses*. Nevertheless, in many cities including Istanbul, admissions of people with disabilities are declined as per common practice on ground that shelter conditions are not suitable for such people.

Gender orientation and identities are not recognized in Turkey and there exist discriminatory practices against LGBTIQs in the admission to shelters, just as in all spheres of social services. There is no legal arrangement to prevent this discrimination, on the contrary, discriminatory discourse of service providers further cultivates it. Lesbian women are forced to hide their sexual orientation in shelters. LGTIs are subjected to discrimination on the ground of their outlook, attire, attitudes and behaviours etc. even when they do not make their sexual identities and orientations public. As such, they are easily subjected to mistreatment from both shelter staff and other women staying in the institution. It is witnessed more than ones that they do not receive support from shelter staff when they are excluded by other women living in the shelter and the personnel force them to leave the institution on ground that they disturb the order, rather than conducting activities in the shelter to promote cohabitation, non-violent communication techniques and prevention of

⁷¹ Feminists in Turkey use the term “shelter” because we know that women who aspire to stay away from the battlefield at home come to these places to take shelter in a safe environment. As the term “shelter” reveal the systematic violence of men in the society, politicians and governors do not prefer to use this concept and instead call them “women guest house” or “women’s shelter house”.

discrimination based on sexual identity and orientation. In some cities, admission of transgender women to shelters is allowed on condition that they make a written statement declaring that they would not practice sex work.

In case of women with mental impairments, shelter support is not sufficient when it is deemed only an accommodation service. Due to insufficient mental health services, it becomes impossible for women to stay away from violence during or after benefitting from shelter service. Therefore, women with mental impairments who are subjected to violence mostly attempt to survive shifting from an institution to yet another until they finally return to same place where they are subjected to violence or their families.

Issues of immigrant women with respect to shelter services are included in Chapter 7 of this report.

Experience of women who have lived in shelters also demonstrate that shelters work in such a way as to remain far from empowering women and their children. Women and their children who are deemed in need of shelter are conveyed to provisional shelters called First Admission Units (First Step Stations) via VPMCs or law enforcement agencies. Therein, women's special requirements are to be analysed in detail and they are to be conveyed to a suitable shelter within at most two weeks. However, it is witnessed that this period is extended, women stay in these units sometimes more than a month without any empowering activities, which in return results in over population and unqualified services. It is estimated that increase in surveillance procedures and security measures and decline in the number of social workers under the state of emergency turn this issue into a chronic problem.

According to the Code of Municipalities, all municipalities with a population of over a hundred thousand are obliged to establish shelters. However, in practice, only 40 out of 237 municipalities with a population of over a hundred thousand have a shelter as of 2017 and only 28 of them actively offer shelter support.⁷² While the number of shelters is far below the required level, two shelters are shut down or put out of commission by trustees under the authority of statutory decrees.⁷³ Some municipalities shut down their shelters for 'renovation' purposes or discharged experienced social workers of these institutions.⁷⁴ Although GREVIO report submitted by the Turkish State declare the existence of four shelters administered by NGOs, the actual number is just one as of January 2017. Three shelters affiliated to NGOs serving women subjected to human trafficking were forced to be closed down due to lack of budget allowance and non-renewal of protocols.

The insufficient number of shelters in Turkey further raise the population in existing shelters and adversely impact the quality of services. Nevertheless, we observe that lack of qualified activities in shelters to empower women and children rather stem from a more fundamental problem, i.e. government's highly twisted approach to combat VAW.

Shelter work is depleted due to government's not seeing them as an instrument to combat gender inequality in the society, but as places it is obliged to establish/manage under various types of outside pressure. Experience shared by women staying in shelters evincing the lack of quality of social services is indeed worrisome. Women state that staff, as nurses, security officers, cleaning

⁷² It is the number conveyed as a result of responds to petitions to the Ministry of Internal Affairs General Management of local Administrations in 2017.

⁷³ Van Metropolitan Municipality Shelter and Mersin Municipality shelter are closed down by trustees.

⁷⁴ We know that Istanbul Ataşehir Municipality shelter, Istanbul Küçükçekmece Municipality Shelter, Bursa Nilüfer Municipality Shelter, Afyonkarahisar Municipality shelter, Tokat Municipality shelter, Mersin Silifke Municipality shelter are closed down for "renovation" purposes. There is no initiative to continue special support services that have been offered in these shelters.

staff, care workers, who are not well equipped to work with women subjected to violence are authorized in the management of shelters and they are frequently subjected to mistreatment.

It is seen that, most of the shelters are inadequate to provide services systematically and empowering activities. There are many cases in which women stay in shelters for months without ever seeing a professional. The lack of regular social work to cover the needs of women, consultancy and orientation services with regards to career planning and placement as well as social works regarding children is a common practice, while it is also common that children not to be registered to schools or the registration is not kept confidential, leading the whereabouts of them to be disclosed, and/or children under 3 years old not to be sent to day care centres and children above 7 years old not to be sent to kids' clubs.

It is complicated for women to find a job, get their work done to build a life after the shelter and expand their social network as the use of mobile phone, landline and internet is restricted and entrance and exit hours to shelters are not in line with office hours.

As a result of issues indicated in Chapter 1 and 2 of this report, social work in shelters cannot be conducted to cover the general obligations denoted in Article 18 of the Convention, while it is also a violation of the Istanbul Convention that the restricted financial resources are allocated to regular visits of officials of Provincial Office of Müfti (two times per week) for moral support instead of allocating budget to human resource who can provide specialist support services.

Recommendations

- Shelter work shall be based on, both in principle and practice, an empowering, liberating and liberalizing approach. Feminist shelter movement shall be made useful and social workers in shelters, regardless of their position and rank, shall receive periodical training and supervision.
- Social workers to provide services to women and children shall be trained in their field and they shall be supported so as to be aware of the ever-changing social support mechanisms.
- Shelters shall be open to all women and children of all ages. Women with children over 12 years old shall also benefit from shelter services, as it is indicated in the regulations. The criterion to be a Turkish citizen for admission to shelters, implemented in shelter services although it is not a part of the legal regulations, shall be removed.
- There must be separate support mechanisms on women impoverishment in cases when women apply to shelters on ground of poverty, not domestic violence, as it would be better both for the applicant women and for the efficacy of shelter work to clarify the need for specialized support systems in both cases. Women subjected to violence shall efficiently benefit from social accommodation services.

Telephone helplines

There is not a special support hotline in Turkey to offer, both in emergencies and other cases, the required consultancy services to women regarding all types of violence within the scope of the Convention. In 2012, the Ministry of Family and Social Policies opened a national hotline called Alo 183 Hotline for Social Support to Family, Women, Children, People with Disabilities, Relatives

of Martyrs and Veterans to offer 7/24 services in Turkish, Kurdish and Arabic⁷⁵ on ground that it would also cover the need for a hotline to support women subjected to domestic violence. The hotline basically aspires to inform and orient all those social groups with highly different issues and requirements to respective social services. It is also included in the service description of Alo 183 to receive emergency calls in cases of neglect, abuse, violence and inform local police headquarters or intervention teams.⁷⁶

ALO 183 as such, is not sufficient to combat VAW and in practice, it might even put women in situations that complicate them to stay away from violence. It is reported that women receive information that is not properly updated, an accurate and sufficient needs analysis is not made, women are misguided or emergency cases are not properly dealt with in line with the right initiative, and women receive advice that would jeopardize their security.⁷⁷ Besides, women are not even aware of the existence of this hotline.

Emergency Assistance hotline, the first hotline in Turkey financed by a private broadcasting institution to offer 7/24 specialized support to only women subjected to domestic violence, is transferred to Turkish Federation of Women Associations on 31 January 2015 when the aforementioned funding is cut. The hotline does not offer 7/24 emergency support as of September 2015. Now it serves as a consultancy hotline towards women at 09:00-24:00.

Recommendations

- A fully equipped, national hotline especially specialized in VAW, preferably employing women staff shall be established to offer services free of charge 7/24.
- Support mechanisms for women who subjected to violence and the hotline shall work in coordination.

Support for women subjected to sexual violence

No steps have yet been taken in Turkey for the establishment of rape or sexual violence crisis centres, although it is obliged to do so in line with the Istanbul Convention.⁷⁸ Just as in other violence cases, women and children subjected to sexual violence, apply either to police headquarters, health institutions or public prosecution's office. The requirement for sexual violence crisis centres is evinced by experiences shared by women applying to women organizations. Law enforcement agencies shall inform the women facing violence for further steps to be followed once the statement is taken. Nevertheless, women applying to them cannot receive sufficient support and are re-traumatized throughout the process due to judgmental words or behaviours of officials who force them to repeatedly tell the incident and who do not direct them to related institutions in time. Other personnel working in public institutions that partake in combat VAW are not sufficiently informed about measures to be taken in case of sexual violence and how to support women, just as they do not have an approach that prioritizes women rights and their security, all leading to women having obstacles in accessing the support they need and justice to be served.

⁷⁵ Kurdish and Arabic consultancy services are offered at 08.00-24:00. Hearing impaired people can receive support services at 08:00-24:00 during week-days and at 08:00-17:00 on week-end in a separate hotline.

⁷⁶ <http://alo183.aile.gov.tr>

⁷⁷ Report to Monitor Mechanisms to Fight Against Violence of Men in Turkey. Mor Çatı Publishing House, İstanbul, 2016, p 45-46.

⁷⁸ While this report was in preparation, in mid July, government announced a new draft law named "Draft Law on Victim's Rights" which aims to establish the centres, which will provide specialist support services to people who named under the category of victims, will be also available for the applications of women who exposed to sexual violence.

One of the reasons why sexual violence crisis centres are not established is the fact that authorities determining social policy and public officials consider and deal with sexual violence and abuse as isolated cases. In particular, in incidents of sexual abuse and violence taking place in public institutions and covered by media, the public officer perpetrators are assigned to a different lieu, rather than being subjected to legal proceedings, evincing that the common practice to deal with such cases is to cover the issue. Or else, state officers make statements calling for death punishment for the perpetrators, although it is against the international conventions and domestic law. Fallacies regarding sexual violence, such as “sexual violence is caused by sexual hunger,” are reproduced by the very state. It is seen that state officials and state authorities at all ranks, both in their practice and political statements, hold women responsible for the violence they were subjected to on ground that they behaved, dressed etc. in a way to trigger violence, leading to the realization of implementations directly or indirectly cultivating normative codes that are the very cause of violence against women.

Recommendations

- Sexual violence crisis centres shall be opened in line with the standards of the Istanbul Convention so as to cover the requirements of both rural and urban parts of the country.
- These centres shall work in coordination with the forensics. If the individual is unwilling to instantly file a complaint, forensic investigation shall be made and evidence shall be gathered in the first phase.
- In the process of establishment, necessary arrangements shall be made to enhance that these centres are accessible for immigrants, people with disabilities and other women and children with special needs who confront obstacles to have access to many public services.
- Experiences of specialized women organizations and NGOs which have been working on the field since their establishment shall be shared and made useful.
- Prosecution offices specialized in sexual crimes shall be established and they shall work in coordination with these centres. These units shall be organized as institutions working 7/24 and employing trained legal professionals, equipped enough to receive complaints, investigate sexual assault cases, collect evidence, analyse camera records, and file criminal cases.
- Units to fight against sexual violence, employing trained personnel equipped to intervene in sexual violence cases, shall be established in law enforcement agencies.
- These centres employing specially trained health professionals to offer services 7/24 to women and children subjected to sexual violence shall be established in public hospitals.
- Rape kits shall be kept in public institutions and universities, regardless of the existence of a complaint of the applicant, to be applied to in case of need and also on a foregoing basis.

Article 27 and 28- Reporting and reporting by professionals

People witnessing violence (relatives, acquaintances, neighbours, friends vs.) mostly prefer not to report the incident on grounds that the perpetrator might also harm them in case of denunciation or disclosure, it would be inappropriate to intervene in family affairs or even in case of a complaint the perpetrator would not be duly punished and sentenced. It is also frequently witnessed that there exist flaws in reporting, delays in notices and disregard to denunciations in units as police forces, prosecution office, ALO 183 social support hotline, all being units to receive applications in the first place.

There is no activity like public spots to openly encourage citizens to report such incidents and inform them about where and how to make it.

Recommendations

- A study shall be conducted to determine structural, regional, local factors preventing people and professionals to report violence and necessary measures shall be taken according to its results.
- In trainings towards professionals, this issue shall be dwelled on as a separate topic and the personnel shall be more fully equipped regarding their legal and humane obligations on this issue, there must be studies especially towards high rank officers regarding measures to be taken on an institutional level.
- There shall be encouraging activities to inform the public sector and urge citizens to take responsibility and promote solidarity so as to foreground women rights and fight against the widespread contention that “violence is a family affair to be dealt with within the family.”

Special Focus on Protection and Support of Children

Article 26 - Protection and Support of Girls/Child Facing Violence and Witnesses of Violence

In Turkey, specialized social services that should be provided for children who are subjected to violence are considerably insufficient. The activities we conducted as women’s organizations reveal that children and teenagers do not know from where and whom to get help to support when they had been witness and targets of violence. No systematic education is provided to children in schools regarding application mechanisms, and awareness of negligence and abuse. When children are subjected to violence they usually are not able to express it; when they do no efficient results are achieved since the necessary mechanisms are not operated.

There are no specialized safe and independent application mechanisms that children subjected to violence can easily access to. For example, those who call the ALO 183 Social Support Line are asked their Turkish identity number. When children cannot share the asked information they have difficulty in receiving support.

When children go to shelters with their mothers they can benefit from psycho-social services in a limited manner. In the shelters operating under VPMCs, these services are not designed in a way as to meet children’s needs and suitable for their mental health. Children who are subjected to violence but do not/cannot stay in shelters are usually not monitored. When these cases are reported, the Ministry of Family and Social Policies does not immediately take action.

The insufficiency of the services for children is also apparent in the cases of abuse. When abuse is identified measures to separate the perpetrator and the child are not efficiently implemented. When it comes to violence against children, the Ministry’s chooses to leave the child in the family’s custody if possible. Even if a specialist sees the child, there are cases where risk analysis is not properly conducted or child protection mechanisms do not properly function.

If the abuser is the father, social workers expect the mother’s cooperation regarding the violence that children are subjected to. However, women who are already at a disadvantage have difficulty in cooperating especially when they do not get any support in line with their needs. Comprehensive services and cooperation among different institutions, which could both support and empower the mother and create the circumstances necessary for children’s safety, are very rarely established.

The administrators, psychological counselors, school counselors, and teachers in children's schools do not report violence in many cases although they are obliged to do so by law. There are many reasons behind this. For example, violence against children is considered legitimate; the persons who are supposed to report violence do not feel safe; and so forth. Teachers who take action to report violence, on the other hand, experience difficulties due to the obstacles and threats they face. Legal measures should be created to secure the anonymity of the informant, systematic functioning of the reporting system, and the protection of the informant after the reporting.

When the special measures to protect child facing violence and witnesses of violence are taken into consideration, it is observed that the provisions of the child protection law, and the health care and education measures stay on paper; and no sufficient action is taken. Cautionary decisions are not monitored, and their impact is not assessed. It is observed that children subjected to violence are only regularly monitored by the Children Monitoring Centre if the incident is publicized. In other cases, children and the families are expected to willingly participate in psychosocial services. There exist no measures for children who are disempowered and cannot participate due to the effects violence, and families that cannot be supportive.

There are currently thirteen (13) Child Monitoring Centres in Turkey and this number is insufficient. Child Monitoring Centres were founded with the purpose of enabling the provision of services without exposing children to secondary trauma. Children should be interviewed by specialists, these meetings should be recorded, and information exchange among the people in charge should be made in the light of these records. However, in practice these centres are not used efficiently and children have to recount what they went through several times.

In Child Monitoring Centres a team of three doctors issues the reports. However, in some centres they are prepared by a single doctor due to the lack of specialized doctors. Initially, it was planned by the Directorate of Public Health in Ankara to schedule information sessions and trainings regarding the operation of the centres every two years. However, no new trainings took place although two years period has passed. The trainees are appointed to their posts. Considering most of the officials who received the first training are appointed to different cities and posts and new people joined the profession, it is obvious that there will be malpractices and miscommunication among the law enforcement agencies, hospitals, and judiciary that needs to cooperate with the Child Monitoring Centre.

There are problematic practices regarding pregnancies out of sexual abuse of children under 18, and the use of the right to abortion. Problems occur when a child is sent to the centre if the pregnancy is over 10 weeks. Despite the fact that Article 99(6) of the TPC allows terminating pregnancies up to twenty weeks if the pregnancy is a result of a crime, the ob-gyn departments of hospitals do not carry on the abortion without a prosecutor's or court's decision.

The fact that a prosecutor's and/or court's decision is required to terminate pregnancies resulted from a crime despite the provisions that allow it upon the request of the victim results in the crime of malpractice according to Article 257 of TPC. Abortion cannot take place if the twenty (20) weeks limit is passed due to waiting for the court decision. In the case that the doctor does anything that would cause the twenty-week period to pass, any physical changes that occur in the body of the woman/child subjected to violence and the birth in whatever manner it takes place is considered intentional injury according to Article 86 of TPC.⁷⁹ In many cases where the pregnancy is terminated upon the wish of the child who was subjected to violence, this process is not handled with a child-oriented perspective, disempowering the child from a psychosocial point of view.

⁷⁹ L. Apprentice S. Bayün and L. Apprentice N. C. Dinçer, 2013/2, *Hukuk Gündemi*, s. 95.

When the state policies against the sexual abuse of children are taken into consideration, it is seen that there is an approach that disregards the rights and needs of the person subjected to violence. The amendment proposal that was scheduled to be discussed in 17 November 2016, prescribes postponing the declaration of court decisions and the execution of the perpetrators' sentences if they marry the sexually abused child. Had this proposal become a law, girls would have been forced to marry their abusers to prevent the punishment of the perpetrator. This proposal was cancelled thanks to the women's organizations efforts and resistance, and the support of the public. However, it is significant in revealing the government's approach to child abuse.

However, the same proposal reduced the age of consent, which was determined as fifteen (15) by Article 103 of the TPC, to twelve (12). As a result, sexual advances towards children older than 12 are no longer considered sexual abuse. Despite the fact that government spokespersons claim that the reason behind this change is to increase the sentences of the abusers of children under twelve (12), that is not the case. First of all, such a change was not necessary to increase the sentences. Reducing the age of consent to twelve (12) will reduce the number of sexual abuse and rape cases resulting in the reduction of the sentences, and legitimize early marriages.

Recommendations

- Reliable and independent mechanisms that children can resort to when they are subjected to violence should be created, and made widespread.
- Measures should be taken to transform the social perception that legitimize or ignore violence against children.
- Boys over twelve (12) should be accepted to shelters together with their mothers.
- Children should be provided with specialized regular psychosocial support in the shelters. Such work regarding shelters should be conducted taking the presence of children into consideration.
- Comprehensive empowering policies for children who are subjected to violence directly or through witnessing should be developed and implemented. In the state practices of working with children subjected to violence, women who take the responsibility of the child and are at a disadvantage should be empowered.
- Regulations regarding the obligation of public agents such as teachers and school administrators who work closely with children to report violence against children should be reconsidered, and the sanctions should really be implemented in the case of not reporting. The protection of the person who reports should be legally secured.
- The Child Monitoring Centres founded by a Prime Ministry Mandate should be given legal basis. Since there are no other institutions that provide specialized and comprehensive services in the field, the number of the centres should be increased according to the geographical distribution of the population. Public should be informed regarding the practices of the centres. All of the police forces and the employees of the Ministries of Health and Justice should be systematically trained. The centres should be utilized efficiently to prevent secondary traumas.
- Pregnancies out of sexual abuse should be terminated shall the child wishes to benefit from the right to abortion without waiting for the prosecutor's permission. All the necessary measures should be taken so that the child is under no pressure while she is making this decision.

- Early and forced marriages should be prevented by regulations regarding the sexual abuse of children. The age of marriage should be the same as the age of majority under all conditions. Permissions for child marriages given by court decision should be revoked.
- Workshops and action plan meetings, where relevant public and civil society organizations come together every 6 months to monitor the implementation of UN Convention on the Rights of the Child, should take place without disruption.

CHAPTER V– Substantive law

The chapter below includes the provisions of high concern.

Article 31- Custody, visitation rights and safety

According to Article 336 of the Turkish Civil Code, mother and father share the custody of their children throughout marriage. In case of separation or divorce, the judge may grant the custody of children to one of the parents. According to Articles 323 and 324 regarding visits and personal contact with children, either one of the parents has the right to request proper personal contact with children who are not under his/her custody or who do not live with him/her. Each one of the parents is obliged to abstain from harming the personal relation of the other party with the child and prevent the training and upbringing of the child. In case of a threat against the well-being of the child due to his/her personal relations with one of the parents or in case the parents use these rights in violation to their obligations indicated in the first clause or they seriously neglect the child, or in the presence of other serious causes, the right to have personal contact might be declined or suspended.

Judges are authorized to judge on issues as custody, trustee, alimony and personal contact in line with the Law No. 6284.

Istanbul Convention provides that the visits of the perpetrator of violence shall not force the women experiencing violence to be in touch with the perpetrator, annul existing restrictive or preventive measures, and risk the security of them. However, it is observed that articles of the national regulations arranging such visits do not include VAW and as such there is no discussion or evaluation regarding VAW. Therefore, women continue to be subjected to secondary victimizations in custody and visits, due to, first and foremost, lack of clear arrangements in the regulations, laws' being open to arbitrary implementations and gender based discriminatory implementations that weaken the positive impact of laws.

Temporary custody orders, indicated as part of possible measures to be taken in Law No. 6284 are rarely taken. Judges have a general tendency to consider it as an option only in divorce cases. We have unfortunately observed that lawyers appointed by the Legal Assistance Offices of the Body of Lawyers have the same tendency or they are not aware of the fact that they might as well apply to the Law No. 6284. It is observed that women who cannot take the custody of their children due to insufficient lawyers appointed by the legal assistance offices within the scope of the protection measure and/or inhibitive attitude of the courts return to their houses in order not to leave their children alone with the perpetrator of violence.

It is also frequently seen that courts take sloppy copy-paste orders without thoroughly evaluating the content of the incident. Another problem is that conflicting orders are given when the court arranges the right of the father to visit his children despite already existing suspension and confidentiality orders issued against him based on Law No. 6284. In such cases, women and children remain unprotected and they are forced to continue their lives hiding from the perpetrator

during the additional time required to resolve this issue. Obliging women to live under fear and insecurity is deemed as a direct violation of Article 4 in the *M.G.* judgment of the European Court of Human Rights.

At the time of writing, fresh developments occurred in Turkey regarding amendments on various laws that have potential impact for women. While this report was in preparation, in mid July, government announced a new draft law named “*Draft Law on Victim’s Rights*” which aim to amend the current situation, described above, on visitation right and custody. According to the proposed law, in case of conflict between sides, on visitation rights, father and mother are going to invited to a centre, by officials, named “victim rights centre” together with the child and temporary child transfer will be processed under accompany of an official. This proposed draft law still open to the risks to put perpetrator and women in physical contact, in violence cases, that could lead further violence against woman. Women organisations, working in the field, demand to avoid any mandatory regulation that would oblige women to contact (psychical and/or through other communication ways) with perpetrator during the usage of custodial rights of both sides. In case of presence violence and/or violence thread, women must have option not to have psychical contact under no condition.

Recommendations

- Orders on the custody of children and their personal contact with the father shall be taken considering their possibility to be further subjected to violence.
- On the process of finalising the draft law named “Draft Law on Victim’s Rights, woman organisations suggestions must be heard and law must be adopted accordingly.
- In giving orders on the custody of children and their personal contact with the father, Law No. 6284 shall be applied, apart from the divorce case, and judges and lawyers shall be trained for the efficient implementation of the law.

Article 32 and 37- Forced marriage and its civil consequences

The legal age limitation to get officially married in Turkey is seventeen (17). However, women and men who are sixteen (16) years old can only be married with the permission of a judge. However, the scenario is rather different in practice. Despite the obligations of CEDAW and Istanbul Convention to both of which Turkey is party, the 2nd Criminal Court of Sivas could have applied to the Constitutional Court for the annulment of Article 103 of the Turkish Civil Code against child abuse on ground that “marriage at an early age is a common practice in the rural parts of the country...” It shall be absolutely unacceptable for a court to ask for the annulment of a legal article based on such a custom.

Although, forced marriage in itself is not a crime in the TPC, it can be punished in case it includes sexual crimes (Article 102) or crimes regarding restrictions to personal freedom (Article 109), intimidation (Article 106).

According to Article 230(5) of the TPC, people who had a religious ceremony before the official wedding and the officials of Provincial Office of Mufti to undertake the ceremony used to be punished. However, this article was annulled by the Constitutional Court (see the Constitutional Court judgment E.: 2014/36; K.: 2015/51 and dated 27 May 2015. Official Journal No. 29382, dated 10 June 2015). As such, it is no longer a crime to have and conduct a religious wedding without an official wedding.

Additionally, in 2012, there occurred a shift from the elementary education system of 8 years of uninterrupted compulsory education to a gradual compulsory education system called 4+4+4 and the compulsory education is separated into three phases. As a result of this amendment, there has been a decline in the number of girls to attend school after the first four years of compulsory education, they were secluded at home, forced to take the responsibility of domestic work and get married at an early age. Although it is obligatory to fulfil the age limitation so as to get officially married, there is no such obligation in religious weddings known as “wedding of *imam*,” resulting in an increase in the number of girls that are forced to get married at an early age. As there are no official records, this incline can only be partially monitored in the statistics of birth records of girls.

Again, while this report was in preparation, in mid July, government announced another new draft law, which propose to authorise muftis (müftü) to solemnize. In case of this proposal would be enforced and müftüs would be authorised in civil proceedings related to marriages, this would be another step to create such polarisations in the society, also impact women. Government should put more efforts to prevent early and/or forced marriages and adopt concrete policies and implementation instead of such unnecessary mentioned new proposals.

Recommendations

- Those who authorize and permit religious weddings without a document demonstrating the existence of an official wedding shall be penalized. There must be a legal arrangement to enforce this punishment.
- The age limitation to get married shall be raised to 18 for both genders, just as it is indicated in the Convention on the Rights of the Child.
- 4+4+4 education system paving the way for the forced marriage of girls shall be withdrawn.
- Provisions on “early marriages” and “forced marriages” shall be annexed to the annulment of marriage article of the Civil Code that allows easy annulment of involuntary marriages and the implementation of this article shall be strictly monitored.

Article 33- Psychological violence

In line with Article 33 of the Istanbul Convention, psychological violence is included in both the Law No. 6284 and various articles of the Civil Code. The Law No. 6284 deems psychological violence a type of violence. However, the law does not have a separate definition of psychological violence that includes the elements indicated in the Convention.

The TPC, on the other hand, arranges the offense of threat in its Article 106 under the title of “Crimes Against Personal Freedom.” The article defines threat as follows: “Threat meaning that there is an assault against the life or bodily and sexual integrity of someone else, herself or an acquaintance.” The definition of the act already involves the very action, thus creating a semantic flaw. Threat also becomes a matter of aggravation as it is intrinsic to other types of crimes (for example suicide inducement). Besides, if requested by the women, an indemnity can be demanded for material and immaterial damages induced by psychological violence in line with the Turkish Code of Obligations.

In practice, psychological violence is ignored and it is observed that the law enforcement agencies deem it “an issue to be resolved by the partners.” The women who subjected to violence is thus oriented to a mediator to make peace with the perpetrator. The legal struggle of an applicant who is insulted by her partner and intimidated with physical and sexual assault can be a sample. She is directed to a mediator although she made it clear, many times in her application to the law enforcement agencies and the prosecutor, that she wanted to sue the perpetrator. Although the mediation institution is voluntary, she was called by the mediator many times and felt under

pressure to make use of the mediation. Although she stated many times that she did not want to apply to mediation, she was harassed by the mediator on phone and she was told that her case would not be accepted if she declined the offer.

Recommendations

- Especially police forces and legal professionals shall receive regular training on the fact that psychological violence, being less visible than physical violence, is one of the most common types of violence.
- Psychological violence shall be punished in a dissuasive and efficient manner.

Article 34- Stalking

Although stalking is deemed a crime in many EU countries, it is not defined as such in the Turkish Law precisely. However, according to the Domestic Violence Against Women Research of Hacettepe Institute of Population Studies, 27% of women in overall Turkey are subjected to stalking at least once in their lives. Women mostly define this crime as constant pestering, harassment, violation of protection measures taken as part of Law No. 6284 and constant threats, not as stalking.

Stalking is not defined as crime in the TPC and men who are on trial due to violation of the right of privacy, threatening, blackmailing, all acts that can be considered as part of stalking, are not dissuasively punished. It is observed that this situation also prevents necessary measures to be taken to protect women against stalking. Therefore, acts that imply stalking shall be deemed a separate crime in as much as the crime of stalking is composed of systematic violent acts that continue over a longer span of time.

The Law No. 6284 includes the concept of stalking. The first article of the law includes the term of stalking in explaining its objective. Article 3(§) of the Law No. 6284 further defines stalking.

Nevertheless, stalking cannot be prevented in Turkey on grounds that authorized courts do not take stalking acts into consideration and take action to prevent them, there exist no dissuasive punishments and legal arrangements to efficiently protect women from stalking or stalking is not defined as a separate crime in the TPC. Temporary injunction orders for the protection of women and temporary debarment of the perpetrator cannot prevent stalking. There are many cases where temporary injunction orders are constantly violated, insistent meeting demands turn into threats and bring forward other types of violence. It is observed that temporary punishments for the violation of temporary injunction orders are not dissuasive in cases where perpetrators of this crime are on trial for crimes like actual bodily harm and intimidation.

Men's control over women's lives via stalking has a direct impact on women's lives. Women are obliged to take various measures on their own in order to mitigate the risk of stalking in cases where the legal arrangements do not provide enough protection. They might change their regular route to work, working hours, take additional security measures at home, frequently change their addresses or outlook.

Women subjected to stalking also suffer from digital violence in most of the cases. It is seen that men use stalking methods as constantly calling on phone, harassing the woman via constantly sending messages or e-mails, monitoring social media accounts, opening social media accounts on behalf of the women, disclosing private information, sending messages or e-mails to friends, boss or family members of the woman. This has an adverse impact on women's relations with their family and friends and their work life, as such they condemn women to live with violence.

Recommendations

- Stalking shall be deemed a separate crime in the TPC and, given its basic characteristics, it shall be heavily and dissuasively punished.
- Necessary measures shall be taken for the implementation of protection and temporary injunction orders, there shall also be sufficient measures in cases of the violation of such orders.
- New legislations amendments should be considered to adopt relevant standards against digital violence within the internet/digital legislation.

Article 38- Female genital mutilation

Given the fact that women in Turkey are not known to be subjected to the violence called female genital mutilation as it is defined in the articles, there are no legal arrangements regarding the issue. Nevertheless, in the case that it occurs, it is believed that perpetrators can be sued based on malicious wounding or, due to its consequences, grievous bodily harm crimes, arranged in Articles 86 and 87 of the TPC.

Article 39- Forced abortion and forced sterilization

The crimes of forced miscarriage, miscarriage and forced sterilization are arranged respectively in Articles 99, 100 and 101 of the TPC.

Article 100 also determines the legal abortion period. According to this article, “A woman who willingly aborts a child where the term of pregnancy is more than ten weeks shall be sentenced to a penalty of imprisonment for a term up to one year and a judicial fine.”

As it is clearly indicated in this article, the main issue for women is the right to have access to healthy abortion options, not forced abortion or sterilization. According to Article 5 of the Law on Population Planning, “Where the term of pregnancy is more than ten weeks, abortion is only allowed in case of a reasoned report of an obstetrician or a gynaecologist evincing that the pregnancy seriously threatens/will threaten the life of the mother or it would cause serious disablement for the baby or following generations.”

What is to be analysed in this provision is how to implement reproductive rights of women in case they choose not to procreate based on their decision on their own body, not vice versa. Although it is indicated in the regulations that women are authorized to use their abortion right without any restrictions up to ten weeks of pregnancy, common practice is by no means in line with the legal judgements. In practice, women cannot make use of their abortion right even within the legal period and in case of forced sexual intercourse, not to mention forced abortion or sterilization. Results of a research conducted by twelve (12) women organizations affiliated to the Assembly of Women’s Shelters and Solidarity Centres in twelve (12) cities are highly remarkable.⁸⁰ As it is also indicated in the below on the results of this research, only 9 out of 183 public hospitals conduct abortion operations within the legal period. Another significant research on the matter is the report of Kadir Has University.⁸¹ Following data accurately demonstrate *de facto* prohibition of abortion:

⁸⁰ <http://www.morcati.org.tr/tr/yayinlarimiz/izleme-raporlari/371-kamu-hastaneleri-ku-rtaj-uygulamalari-arastirma-raporu>

⁸¹ <http://www.khas.edu.tr/w243/files/documents/abortion-en.pdf>

7,8% of the 431 public hospitals with obstetrics and gynaecology departments offer discretionary abortion services, while 78% of them decline to give the service due to medical obligations. 11,8% of those public hospitals reported that they did not offer abortion services, though having obstetrics and gynaecology departments. 1,4% has declined to give information on the issue.

While 17,3% of the 58 training and research hospitals with obstetrics and gynaecology departments offer discretionary abortion services, 71,1% of them decline to offer abortion services due to medical obligations. 11,4% has reported that they did not offer this service, though having obstetrics and gynaecology departments.

Although there are 1,462,444 women in reproductive age group in the Western Marmara and Eastern Black Sea Regions, there is not a single public hospital to offer discretionary abortion services.

In 53 out of 81 cities, there are no hospitals offering discretionary abortion services.

Recommendations

- Arrangements shall be made in the related health regulations so as to enhance women who cannot currently have access to their abortion right due to factual obstacles to have access to healthy abortion.
- Health institutions and health professionals *ipso facto* preventing women to have access to their abortion right shall be legally investigated.

Article 46- Aggravating circumstances

Article 46(a) of the Istanbul Convention indicates that crimes against not only official wives but also ex and existing partners shall be deemed aggravating circumstances. Nevertheless, aggravated circumstances are only valid in the TPC in case of deliberate killing and malicious wounding of the wife, brothers and sisters and members of the first bloodline, meaning that such crimes against extra-marital partners or ex-wives/partners are not deemed aggravated circumstances, hence not punished based on the basics of the crime.

In crimes of sexual assault and sexual abuse, aggravated circumstances are extended to include crimes against “members of the bloodline, including the third, and people having kinship by marriage or crimes perpetrated by stepfather, stepmother, step sister/brother, foster or adopted child”. However, there are no aggravated circumstances in case such crimes are perpetrated against extramarital partners or ex-wives and person/people living with the perpetrator, as such affinities are not recognized by law.

Article 46(b) of the Istanbul Convention is arranged as “successive offense” in Article 43 of the TPC and it is deemed an aggravated circumstance. Although there are occasions when the same crime perpetrated against the same person at different times is deemed an aggravated circumstance, Article 46(3) of the Code indicates that deliberate killing, malicious wounding, torture and plunder crimes shall not be deemed “successive offenses.” For instance, in case when the perpetrator has also previously inflicted violence on another woman on many occasions, this is not deemed sufficient to be considered as an aggravated circumstance in case it does not necessitate the implementation of yet another aggravated circumstance. The court evaluates the criminal past of the person with respect to the characteristics of the crime in question and the need for reduced sentence.

Article 46(c) of the Istanbul Convention indicates that it is an aggravated circumstance if the crime is perpetrated against a vulnerable person for special conditions. Within the scope of this article,

such people are defined as follows in paragraph 87 of the Explanatory Report to the Istanbul Convention: “Pregnant women and women with young children, persons with disabilities, including those with mental or cognitive impairments, persons living in rural or remote areas, substance abusers, prostitutes, persons of national or ethnic minority background, migrants – including undocumented migrants and refugees, gay men, lesbian women, bi-sexual and transgender persons as well as HIV-positive persons, homeless persons, children and the elderly.” While it is deemed an aggravated circumstance when deliberate killing and torture crimes are inflicted on pregnant women in the TPC, it is not deemed as such in case malicious wounding inflicted on a pregnant woman results in miscarriage or premature birth. The law does not include a provision that requires that such crimes inflicted on children or people who are not capable of defending themselves due to physical or mental impairments shall be deemed aggravated circumstances. Crimes against other defenceless individuals envisaged in the Istanbul Convention are not deemed aggravated circumstances by the TPC.

The existing TPC envisages aggravation of punishment on crimes against children in line with Article 46(d) of the Istanbul Convention. However, crimes perpetrated in the vicinities of a child, hence also victimizing her/him are not subjected to aggravation. For instance, when a woman is battered by her partner next to her child, the punishment is not subjected to aggravation.

Article 46(e) of the Istanbul Convention indicates that it is subjected to aggravation of punishment when two or more people (complicity) perpetrate the crime. According to Article 37 of the TPC, each accomplice receives the same punishment as the actual perpetrator. In some crimes, the fact that there exists more than one perpetrator is deemed a reason for aggravation of punishment. These crimes are sexual assault, sexual abuse of the child, intimidation, deprivation of liberty. Complicity is not deemed a reason for aggravated punishment in other crimes.

Article 46(f) of the Istanbul Convention envisages that excessive violence before or during the perpetration of crime is a reason for aggravation of punishment. In case of malicious wounding, excessive violence is deemed an aggravated circumstance in case, “it causes an unrecoverable condition or vegetative state, loss of function of a sense or organ, loss of the capacity to talk or give birth, a permanent scar on the face.” However, it is seen that neither in practice nor in Law, the use of excessive violence before or during the perpetration of crime is deemed a reason for aggravation of punishment. For instance, even when a woman is previously battered by her husband leaving a scar on her face, this previous crime is not deemed a reason for aggravation of punishment when she files a complaint against her husband for yet another battery.

The existing law deems the act to be perpetrated with a gun a reason for aggravation of punishment in line with Article 46(g) of the Istanbul Convention.

Article 46(h) of the Istanbul Convention deems it a reason for aggravation of punishment if the person suffers from serious physical or psychological harm. The TPC previously deemed it a reason for aggravation of punishment especially in cases of sexual assault when the women lost her physical or mental health. However, this is not the case anymore, while the basic punishment for sexual assaults is aggravated. The law only envisages aggravation of punishment in cases of loss of physical or mental health due to forced miscarriage. Apart from this, only serious harm to physical health is detailed and cases when, for instance, “there occurs loss of function of a sense or organ” are deemed a reason for aggravation of punishment.

Article 46(i) of the Istanbul Convention deems it a reason for aggravation of punishment when the perpetrator is previously sentenced for the same crimes. In the existing TPC, previous criminal conviction is not considered as a reason for aggravation of punishment. In line with Article 231(5) of the Code of Criminal Procedure (CMK), “in case the sentence for the awarded crime is jail

sentence for two years or less or judicial fine, the court might decide on the deferment of the announcement of the verdict. Deferment of the announcement of the verdict signifies that the judgement in question would not yield to any legal consequences for the perpetrator.” In case it is decided that the announcement of the verdict to be deferred, the case is dismissed after five years, if the defendant does not deliberately perpetrate a new crime within these five years. It is observed that it is generally awarded on deferment of the announcement of the verdict or fine sentences in cases of insult, threat, actual bodily harm lawsuits opened after long periods of investigation.

In practice, it is observed that perpetrators benefitting from the deferment of the announcement of the verdict keep on inflicting violence with actions that are not deemed crimes in the TPC within the period of these five years. For instance, a husband, who benefitted from the deferment of the announcement of the verdict after battering his wife, was slamming doors, walls and tables at home to intimidate his wife during these five years. Therefore, the deferment of the announcement of the verdict has little dissuasive power on the perpetrator in cases of violence against women. Violence against women might be allowed to pass with impunity due to long prosecution processes when the judgements are given after the completion of five years although the actual criminal act occur within these five years. In this case, even when the perpetrator of violence has criminal records of previous malicious wounding as part of domestic violence, as a new malicious wounding to the same person is not deemed a reason for aggravated punishment and as the five years of period has expired, the first criminal act is allowed to pass with impunity due to the deferment of the announcement of the verdict, while the second criminal act is only punished based on the basics of the crime.

The courts do not conduct any investigation whether the woman subjected to violence would be once again victimized due to judicial fines. Although judicial fines might sometimes retain perpetrators who are unwilling to make this payment from inflicting violence, in general, indirect victims of judicial fines might again be women subjected to violence. If the partners one way or another stay together, many men make women pay the price of the judicial fine they are forced to pay by inflicting economic violence on them.

Although sentences envisaged by laws in Turkey are for the most part in line with international judicial norms, it is observed that crimes against women perpetrated by men are not duly and justly decided on, were let off or, in some cases, allowed to pass with impunity. The fact that there are no sanctions against public officers responsible for these discriminatory implementations also shows the widespread impunity culture in violence against women. The most typical examples of this is the automatic implementation of the good conduct time in cases of men perpetrating violence against women without further investigation and the interpretation of the remission for “unjust provocation” in a sexist way favouring men, which proves to be far from its legal description.

Recommendations

- Any reduction, liquidation or deferment judgement causing impunity or damaging the dissuasiveness of the cases in VAW cases shall be withdrawn.
- Articles in the TPC shall be rearranged in line with gender equality, as already envisaged by Article 46 of the Istanbul Convention, and legal sanctions shall be taken to put an end to violence against women.

Article 48- Prohibition of mandatory alternative dispute resolution processes or sentencing

Article 253 of the Code of Criminal Procedure arranges “dispute resolution”. The scope of dispute resolution is seriously expanded in November 2016 and its implementation is arranged in detail. Accordingly, offences investigated or prosecuted on complaint and crimes as malicious wounding,

intimidation that do not require a complaint to be prosecuted are subject to dispute resolution. According to the regulations, crimes as wounding with a weapon, malicious wounding of wife and members of the first bloodline are not subject to dispute resolution. However, Istanbul Convention envisages that domestic violence/violence against women, crimes against ex partners/wives or existing partners shall be arranged in such a way to be deemed as aggravated circumstances. However, there is no legal arrangement in Turkey providing that dispute resolution is out of question in cases of violence to ex-partner/wife, existing partner and others living with her. There are thus occasions where dispute resolution is offered in such cases. According to the TPC, if the person who receives the dispute resolution offer does not declare her decision in three days, the offer is deemed rejected.

It is seen that women applying to NGOs generally pose questions on dispute resolution, they do not know that they have the right to directly or indirectly, by remaining silent, decline the offer and they feel “obliged to come to an agreement.” In some cases, women report that they are invited to the resolution office with the perpetrator of violence despite the temporary restraining and confidentiality order. It is also known that negotiators who are actively offering services have not received any training on VAW.

The Code on Reconciliation in Legal Disputes (HUAK) that became effective in Turkey in 2013 is applied “to resolve legal disputes stemming from transactions and affairs on which parties can liberally dwell on.” According to the provision on HUAK, dispute resolution is out of question in cases of “violence within family”. We need to interpret the concept of “violence within family” in HUAK as “domestic violence” in the context of the Istanbul Convention and the Law No. 6284. The legislators shall amend the provision so as to use this concept in a consistent manner. There is no special course on domestic violence in the dispute resolution training. Dispute resolution is voluntary and confidential. Therefore, it is almost impossible to get informed about incidents that were finalized with a resolution, even though they are to be considered within the scope of domestic violence.

It should be noted that, although Istanbul Convention regulates ban only for mandatory alternative dispute resolution, including mediation and conciliation, when a woman invited to this alternative dispute resolution together with perpetrator, women are facing with multiple right violations during the process. Also, in the process woman and perpetrators are being contacted at the same time, and if woman would refuse to this process, there is risk that this can back to woman as a new violence thread by perpetrator. Although government point out that Istanbul Convention is prohibiting only mandatory alternative dispute resolution so optional alternative dispute resolutions can be applicable to violence cases, that is for sure, this area must be re-regulated in order to prevent serious further rights violations of women.

Recommendations

- Violence against women and domestic violence shall be dealt with under a separate title in reconciliation and dispute resolution trainings.
- The concept of “violence within family” in the HUAK shall be interpreted in the same manner as the concept of “domestic violence” in the Istanbul Convention and the Law No. 6284. The lawmakers shall make necessary amendments to use these concepts in a consistent manner.
- Judges, prosecutors and lawyers shall be trained on international convention to which Turkey is a party, practices shall be developed to strengthen gender equality and equality between women and men.

- Optional alternative dispute resolution should be processed to the detriment of women. Particularly Ministry of Justice should take relevant measures on implementation of alternative dispute resolutions, including mediation and conciliation.

CHAPTER VI– Investigation, prosecution, procedural law and protection measures

Article 50- Immediate response, prevention and protection

The first institutions to which women and children subjected to violence apply are generally law enforcement agencies. According to the related article of the Law No. 6284, they should take all preventive and protective measures in case a delayed reaction would create risks for applicant. However, in practice, they do not take necessary measures in a timely manner. The main problems women experience when they apply to law enforcement agencies are as follows: they do not take action at all or they put pressure on women not to make a complaint. In some cases, they do not act in that way clearly but choosing implicitly discouraging women to report the case by making women wait hours at the police station or start to chat unofficially and saying such *no legal remedy is effective in violence cases, the legal mechanisms are tiring so better not to report, shelters are not proper places for ‘good women’* etc. Main problems observed by women organizations are that there is a common conviction that domestic violence is to be resolved within the family, violence is normalized, women are not taken into consideration even in case of visible signs of battery and injury or women state that they worry about their life security, they do not take action with respect to their complaints. It is frequently witnessed that women are held responsible for violence with a gender bias and accusations of “not obeying their husbands” or “provoking them.” When the law enforcement agencies refuse to take action, the crimes are not conveyed to the prosecutor, hence no proceedings can be initiated.

Sometimes, law enforcement agencies do not intervene in acute incidents. According to the information conveyed by independent women organizations working on VAW, they are said to remain passive and keep waiting out there in the crime scenes when the perpetrator refuses to open the door or even during the violent acts on the street. Statements of women are not taken into consideration, evidence is not properly collected, which all lead to unfavourable results and eventually impunity in the legal proceedings in VAW cases generally witnessed only by the women subjected to violence and the perpetrator and no further evidence can be collected.

In practice, it is observed that police forces do not act scrupulously especially in applications of women subjected to sexual violence when it comes to the collection of other evidence. Biggest obstacles against properly gathering evidence is that law enforcement agencies lie to women subjected to sexual violence and approach them under the biased and accusatory assumption that they consent to the sexual crimes in question. Just as in applications regarding other types of violence, it is observed that they do not take the applications regarding sexual assaults into consideration, they are not informed about women rights, they do not provide them with lawyers and translators when required, they do not write minutes, they abstain from collecting clothes that might be used as evidence and they do not immediately convey them to hospital.⁸²

⁸² These malpractices mentioned throughout the report are recorded in activity reports and monitoring reports of women organizations working in the field of VAW. Women organizations from different cities discuss structural problems they witness each year in the annual Assembly of Women’s Shelters and Solidarity Centres. Violations of the law enforcement agencies are among the main problems they share in this Assembly. General attitude of women organizations is to inform related authorities responsible for monitoring and coordination about these violations. See Activity Reports of the Association of Women Solidarity: <https://www.kadindayanismavakfi.org.tr/konular/yayinlar> See. Activity reports and monitoring reports of Mor Çatı Women Shelter Organization: <https://www.morcati.org.tr/tr/neler-yapiyoruz/faaliyet-raporlari>

Although it is clearly indicated in Article 7(3) of the Law Enforcement Regulations No. 6284, in practice, VPMCs do not provide vehicles to transfer women and children in all safety-critical situations within or outside the city and there is no sufficient vehicle and personnel. Hence, women and children are forced to wait for hours in police headquarters just to settle in a shelter. Although Article 5 of the Law No. 6284 authorizes the law enforcement agencies to banish the perpetrator from the shared apartment, office or other common places and allot the common apartment to the woman in question in cases when the delayed deployment of them would be unfavourable for the life security of the woman, it is a common practice that the police forces do not banish the perpetrator from the house.

Another temporary injunction that might be authorized by the law enforcement agencies in line with the regulations is to allocate a personal bodyguard to women subjected to violence. In practice, however, women have troubles in having access to a personal bodyguard. There are women who are rejected on ground that “not everyone can have a bodyguard” in applying to the police forces for a personal bodyguard. This close bodyguarding of police has been defined as a mechanism in the Law No. 6284, particularly, for the women who are in extremely danger of being killed by the perpetrators. Main problem to implement this mechanism is that women are obliged to pay the needs of assigned bodyguards such as food and transportation. Given that, many women are already impoverished in fighting against violence, this mechanism and practice is not effective also in terms of affordability.

Misguidance or misinformation of the law enforcement agencies leads to irrevocable damages for the women. One of the most common misguidance is informing them that they need to apply to the local police headquarters in the region in order to have a preventive/protective temporary injunction decision. Due to this misinformation, women under serious security risk who are directed to go to the whereabouts of the perpetrator cannot get a preventive or protective injunction decision as it is indicated in Law No. 6284, moreover they might even renounce the idea of filing a complaint.

It is also a common practice that the law enforcement agencies mediate between the perpetrator and the women experiencing. Women are forced to stand side by side and make peace with men who inflict violence on them in police headquarters that they visit to file a complaint or extend the period of the injunctions.

One of the most significant injunctions to be taken by the law enforcement agencies is to deposit women and children subjected to or under the risk of being subjected to violence in a shelter. Many shelter workers are discharged from their offices or reassigned to another place of duty via statutory decrees issued as of 15 July 2016. The existing problems and malfunctions stemming from understaffed shelters grew apace after the 15th of July resulting in further victimization of women.⁸³ According to information shared by women applying to women solidarity centres, applicants who are to be immediately disposed in a shelter are kept waiting in police headquarters for up to, and sometimes over, 12 hours due to lack of sufficient staff and vehicles.

All of these examples reveal that there are serious violations to Article 50 of the Convention.

<https://www.morcati.org.tr/tr/yayinlarimiz/izleme-raporlari>

For publications of the constituents of the Women's Shelters and Solidarity Convention Centres see:

<http://www.signaksizbirdunya.org/tr/yayinlarimiz>

⁸³ http://www.cumhuriyet.com.tr/haber/turkiye/712329/OHAL_de_kadin_hakki_hic_yok.html

<https://www.kadindayanismavakfi.org.tr/dosyalar/KADIN-DANI%C5%9EMA-MERKEZ%C4%B0-2016-FAAL%C4%B0YET-RAPORU.pdf>

Recommendations

- The law enforcement agencies being the first unit to which women and children subjected to violence apply should be equipped with gender-sensitive and preferably women staff trained and experienced in receiving and directing application in the field of VAW.
- Staff working in special units shall periodically receive training on legal arrangements regarding violence against women and staff refusing to implement the law shall face sanctions. These trainings should be done through cooperation of women organisations, working in the field.

Articles 51, 52, 53 and 56- Risk assessment and management, emergency barring orders, restraining or protection orders, measures of protection

According to the Law No. 6284, woman, children, family members subjected to or under the risk of being subjected to violence and people victimized by unilateral stalking can demand protection measures. The law classifies types of violence as economic, physical and sexual. Therefore, women and children can make an application for all those types of violence. However, the clause of “the protection of family” added to the title of the law despite insistent objections of women organizations and the inclusion of all family members within the scope of the law, in other words annulling the gender-specificity of the law, resulted in men occasionally benefitting from the law in alleged violence perpetration. Men used it against women especially in cases of divorce lawsuit.

The Law envisages that the closest and safest law enforcement agency for protection and debarment mandates has the authority to apply to family courts and civilian authorities. Women mostly apply to there in emergency situations when they are under serious threat, as they are widely-distributed and they can be directly accessible. In line with Article 50 of the Istanbul Convention, they are obliged to take necessary measures not only to intervene in acute situations once the violence is inflicted but also to prevent such occurrence. Therefore, the Law No. 6284 authorizes them to take the mandate of protection and debarment. However, they are obliged to submit their decision to the approval of the judge within the next business day. However, protection mandate is mostly given within at most two days.

The Law clearly indicates that no evidence is required to take injunctions. However, there are many judges saying that it is difficult for them to take such decisions without evidence as women might abuse this right and lie. For instance, it is observed that judges look for evidence to award on the allocation of the house to the woman and debarment of the husband from the house in case of marriage. Judges considering that debarment injunction is “too much” and they might abstain from deciding on it without any evidence on the existence of violence. A judge could even say, “how would I know whether the women would send their husbands away from home and take their lovers inside,” with regard to debarment mandate. This attitude of judges, force women to show evidence in “serious and heavy” cases, while legal demands of women for temporary debarment of the perpetrator of violence who refuse to show evidence might be rejected. Another significant result of this perception is the tendency to shorten the period of temporary debarment.

It is free to apply for protection and interlocutory injunction orders. The law envisages that protection injunctions can be for up to six months. The law also envisages that this period might be extended if necessary. However, judges generally ask for a new protection application with new evidence instead of extending the existing period of the interlocutory injunction. While almost all protection orders were given for 6 months, being the maximum period allowed by the law, when the law was first enforced, more recent tendency of the last two years is to shorten the period of injunctions. Recently, injunction orders have started to be taken for 1-2, at most 3 months regardless of the concrete requirements of women and children in question and their differences.

Given the malfunctions in the notification and follow-up of injunction orders, it can aptly be said that this period proves to be short and it mitigates the efficacy of the orders. Women are thus forced to apply for new injunction orders in a short span of time. This situation might cause serious problems for women and children under security risk. The number of injunction orders for 6 months has considerably declined during the last year.

In cases of legal applications for protection measures, the decisions can be given within the same day, the next day or at most in two days. Although there is no problem with regard to decision making without any delay, it takes time for the decisions to be issued and delivered to related parties. It is witnessed that a protection injunction taken just a day after the application is sent to related parties 10 days after and the perpetrator of the violence receives it at the end of the 15th day.

In cases when the protection order is for 1-2 months, most of this period would thus be devoted to notifying the related party. This gap between the decision-making and implementation is one of the biggest issue for women when it comes to protection orders. While the perpetrator keeps on inflicting violence and violating the rights of the woman, the woman cannot apply to the court to file a complaint against the violation of the order. The Law envisages that any violation to interlocutory injunctions would be sentenced to 3-10 days of jail sentence. Each violation augments the day to be spent on jail. In practice, the applicant shall notify the court or the police forces regarding the violation of the protection order with evidence. However, it is seen that the police forces abstain from taking action even in case of notification. Many women give up on making further notifications, once the police forces decline to take action after many notifications on the violation of the interlocutory injunction.

A trial day is fixed to evaluate the notification of the violation of interlocutory injunctions to the court or the prosecutor, which can be up to 2-3 months from the violation. The judge listens to both parties and evaluates on the violation claim based on whether the perpetrator is aware of the protection order. Unfortunately, this practice forces the women subjected to violence to see the perpetrator despite the protection and restraining order. Jail sentence to be taken few months after the violation also mitigates the dissuasiveness and efficacy of the orders. In that sense, it is possible to say that protection orders are not efficiently, proportionately and dissuasively sentenced as it is indicated in Article 53(3) of the Convention.

It is also observed, as part of Article 51 of the Convention, that there are violations and deficiencies to evaluate the death risk, seriousness of the situation and the risk of reiteration of the violent act in all authorized institutions. Although the whereabouts of shelters and information of children and women staying there shall be kept confidential, it is possible to call or send official letters to law enforcement agencies and courts to demand information whether women stay in this or that shelter. It is also seen that the law enforcement agencies cooperate with the perpetrator or relatives of women and disclose their whereabouts, as well as trying to convince women to make peace with the perpetrator.

It is yet another problem to implement the confidentiality orders taken by courts. Related institutions do not know how to implement the awarded confidentiality order vis-à-vis the perpetrator of violence and they do not abide by the order. Besides, the confidentiality order cannot sometimes be automatically registered in the systems of related institutions and women are forced to inform one by one each and every related institution in person. Lack of information and necessary technical infrastructure of institutions delay or prevent the implementation of confidentiality orders. Such delays create serious risks for women and children whose life security is under threat.

In cases when perpetrators of violence are at the least sentenced, there are no measures with respect to the law on criminal execution. The first thing perpetrators do when they are granted an amnesty or released on parole –that are frequently issued- is to injure or kill women. Penal institutions never inform women subjected to violence, even in cases when they or their families are under serious threat, that perpetrators break out of prison or permanently or temporarily released.

Recommendations

- Protection or restraining orders should be taken based on not a standard approach but concrete requirements to be determined after a serious risk analysis and the protection period shall not be short to enhance efficient protection of women.
- It would seriously contribute to efficient implementation of interlocutory injunction orders if protection or restraining orders were rapidly notified to related parties via an SMS or an urgent call to their mobile phones.
- In cases when protection or temporary restraining orders are violated, a trial shall rapidly be conducted to implement efficient and dissuasive protective measures without any delay.
- It shall be one of the most significant obligations of the state to develop an infrastructure so as to implement confidentiality orders regarding women and children subjected to violence without putting additional legal burden on them or further violating their confidentiality.

Articles 54 and 55- Investigations and evidence, Ex parte and ex officio proceedings

There is no legal approach and corresponding legal arrangements in the Turkish regulations, especially in the penal code, that defines violation of gender-based rights of women and adjudicate crimes against women through special orders. In the TPC, crimes requiring ex officio proceedings are generally defined as crimes against the society, nation and state, while crimes including violence against women are defined as part of offences against persons and mostly arranged as offences prosecuted on complaint. Before the amendment in the TPC in 2015, sexual violence offences were defined as part of “Crimes against Society and General Morals,” while it is a positive development that the new TPC arrange them under the title of “Offences against Persons.”

Positive discrimination against women exist in the Istanbul Convention in its entirety. However, there is not enough arrangements in the national law to envisage special measures to be taken to prevent violence against women and protect them.

The TPC, in its entirety and systematics, does not have the objective to make violence against women visible, amend the overall gender perception in Turkey and investigate, prosecute and dissuasively penalize violence against women.

Offences as physical violence, malicious wounding, sexual assault, threats, violation of residence immunity, violation of freedom to work and labour, insult, violation of confidentiality of communication, violation of right to privacy are investigated on complaint within 6 months of period, in case the women facing violence withdraws her complaint, the proceedings and the investigation are suspended. Prosecutors do not have the authority and obligation to ex officio initiate proceedings in neither of these crimes, which results in women to be continually pressured and forced by perpetrators of violence to withdraw their complaints. Besides, many of these offenses are within the scope of dispute resolution, which force women to meet with the perpetrators of violence.

The TPC also includes crimes that are not prosecuted on complaint: murder, grievous bodily harm, major sexual assaults, blackmail, torture, deprivation of liberty. The public prosecutor can initiate

legal proceeding without the requirement of the complaint of the women in these offences. These offences are not necessarily prosecuted on complaint and the proceedings continue even when the woman withdraws her complaint.

There are many women in Turkey who do not file a complaint within the official complaint period of 6 months due to the trauma caused by the violence, rightful concerns that she would not be duly protected, social pressure or continued harassment of the perpetrator. Many men inflicting violence against women are thus allowed to pass with impunity. There are also numerous women who are forced to withdraw their complaints due to the same reasons.

Therefore, there exists a legal impasse caused by the fact that many gender specific offences that might be inflicted on women are prosecuted on complaint. Due to secondary trauma, they experience in police headquarters and legal institutions and lack of empowering support throughout the process, women who have the courage to file a complaint are left alone during the proceedings. There are no ex officio proceedings in these offenses, while lawsuits and actions taken by perpetrators for the suspension of complaints generally result in favour of them.

Intervention of Women Organizations in Proceedings

There are serious problems regarding the clear expression of Article 55 of the Convention regarding legal aid and intervention of NGOs and non-governmental actors and domestic violence consultants during the follow-up of domestic violence cases.

With the second wave of women movement starting in 1980s, women have given considerable thought on violence of men against women and demanded the inclusion of women organizations working on violence against women for over five years in related violence cases as “intervening parties” so as to enhance best defence of women rights. In proceedings of VAW, all women are under threat of violence. No woman is exempted from violence. Therefore, women organizations that work on the field shall intervene in these proceedings for the women to duly defend their rights. Nevertheless, demands of independent women organizations willing to follow VAW proceedings to intervene in these cases are rejected, even when they are reminded of the Istanbul Convention, by court delegation on ground that they are not “directly victimized by the crime.” Courts rejecting the intervention of independent women organization in such cases accept the intervention of the Ministry of Family and Social Policy in the very same proceedings.

Government policies without gender sensitive approach impose certain rules to dispossess women of their long-held rights. They all create various obstacles to complicate the work of women organizations to support women.

Recommendation

- The right of women’s NGOs that have worked on the area of VAW for over five years to become an “intervening party” in penal and legal lawsuits shall be recognized via necessary legal arrangements and Istanbul Convention shall be taken into consideration by the courts.

Article 57- Legal aid

In line with the Legal Aid Regulations of the Union of Bars of Turkey regarding free lawyer support of bars, anyone who cannot afford legal aid and proceedings fees can benefit from free legal aid. In practice, whether women can benefit from free legal aid or not is determined based on their income status, there are cases when women with the same income status, but less purchasing power who are obliged to take care of their children or who have additional health expenditure due to chronic illness etc. cannot benefit from free legal aid.

There are Legal Aid Regulations of each bar association in Turkey. The documents required to submit to apply for judicial support changes according to the bar, there might also be either facilitating or complicating conditions. For instance, it is enough to submit poverty certificate and residence certificate in order to benefit from judicial support in Istanbul, while a document from the Fiscal Directorate certifying that the person does not have immovable properties, a document from the Social Security Institution certifying that the person does not have a salary or fee or has minimum wage and a copy of the identity card are required in Ankara apart from above certificates. Increase in the number of required documents might complicate applications to judicial support for women who have limited or no option to get out of the house. It depends on the bar association to appoint a free lawyer in emergencies in cases when she cannot submit the required documents. Legal Aid Offices sometimes reject applications of women due to lack of documents. For instance, it is not easy for a woman who moved to another city in order to recovery from violence to get a poverty and residence certificate. In such cases, women apply to NGOs and woman solidarity/consultancy centres. Especially women solidarity/consultancy centres contact with related Legal Aid Offices and explain them that they shall not require these documents, in this case, respective Legal Aid Office might dispense with the requirement to submit these documents.

Many Legal Aid Office, though not every bar association has them, also give training on the Law No. 6284. For instance, the Legal Aid Office at the Bar of Istanbul does not direct applications of women willing to take prevention or protection orders in line with the related article of Law No. 6284 to lawyers who do not have a training on the respective Law. However, it is observed that even lawyers who receive training on the Law No. 6284 might not know that women might require “confidentiality” or “temporary custody, temporary alimony” orders, they might even misguide them. It proves that the content of the training is not enough and lawyers who do not have sensitivity on VAW are mostly interested in the payment they receive. If the appointed lawyer is not sensitive on VAW, s/he might also schedule a late appointment. In such cases, women might also apply to legal Support Offices to change their lawyers.

There may also be restrictions on legal aid in some cities due to scarcity of lawyers and lack of budget and there is no priority of violence cases. For instance, there are only sixty lawyers registered in the Bar of Kilis in Southeastern Turkey, while the budget is distributed by the Union of Turkish Bar Associations based on the number of available lawyers and the population of the county. Many legal aid demands are rejected due to budgetary restrictions and women experiencing violence cannot thus use their rights in this city where the number of VAW cases is high.

In cases when women have property or salary, also including minimum wage, bar associations do not appoint free lawyers. Bar associations are supervised by the Ministry of Justice in terms of the budget they allocate to legal aid services. Therefore, women cannot benefit from free lawyer services and cannot have a lawyer in their search for justice when they work even for minimum wage or have a car or house registered to their name even in case they are unemployed.

Recommendations

- Income status evaluation of women shall be more flexible and objective in cases of VAW keeping in mind the income-expenditure balance and women in need shall have priority in the allocation of free lawyers.
- Lawyers appointed for legal aid shall have necessary trainings on VAW and gender equality prepared with the contributions of women organizations working in the field so as to increase their knowledge and awareness on national and international legal arrangements on this matter.

CHAPTER VII- Migration and Asylum

Articles 59, 60 and 61

Millions of people have been removed from their hometowns due to the ongoing conflicts in Syria since 2011. Respectively Turkey that was once a “transit” country for the refugees has become the “target” country because of intensified migration. Turkey had no effective and inclusive migration policies till this intensified migration flux. Moreover, the lack of policies has been ongoing after the latest migration wave and “temporary” measures are being kept alive instead of forming permanent solutions. The government, even after the national and international reports’ formulation of the fact that Syrian refugees would base in Turkey not temporarily but probably permanently, head to the temporary and insufficient integration policies instead of permanent solutions in addition to the “temporary status”. By the time being, the government still has no long-term and inclusive strategies for the problem.

In order to have protective and supportive mechanisms for the women and LGBTIQ refugees who are subjected to multiple discriminations, and to the sake of continuity of these mechanisms, the articles on these individuals’ status in Turkey should be revised on the basis of international contracts’ definition of the asylum law. In line with this, the migration and asylum department has evaluated the related human rights documents such as 1952 Geneva Convention, Council of Europe Convention on Action against Trafficking in Human Beings and Palermo Convention in addition to the Istanbul Convention.

In Turkey, four separate statuses exist according to the Law on Foreigners and International Protection (LFIP): Refugee, conditional refugee, subsidiary protection and temporary protection.⁸⁴ Being a party of the 1951 Geneva Convention, Turkey submitted a reservation due to geographic limitations. So that, while the individuals coming from the European countries have a chance for refugee status, the ones from the other countries demanding international protection from Turkey are exposed to the status of “conditional refugee.” Turkey is in charge of providing housing for the conditional refugees in addition to the charge of providing access to the basic human rights and protect their rights till they are settled into a third country. “Subsidiary protection” is the status defined for the refugee who does not meet the conditions because of being refugee or conditional refugee but also is individually the direct target of violent acts or stateless. “Temporary protection” is defined for the urgent and temporary mass migrations without asking for any demand. It has legally been defined on 22 October 2014, by the Council of Ministers through a regulation following the mass migration caused by the Syrian civil war. One of the greatest risks for an arbitrary definition of a status on the basis of a regulation is that it can easily be withdrawn by an administrative preference as it is defined as a result of the administrative actions. Furthermore, the coincidence of the parties of the legal procedures and application related to the temporary protection with the parties of the rejection procedures posits another risk since these two parties are the members of the same administrative unit.

The Directorate General of Migration Management (DGMM) operating under the Ministry of Interior was established in order to develop policies and strategies on migration based on the Law on Foreigners and International Protection No. 6458 (dated 4 April 2013). It is supposed to be administrative body responsible for the coordination of related institutions and foundations, and to regulate foreigners’ entrance and settlement in Turkey, and their way-out Turkey and deportation, and international protection, temporary protection, and protection of persons subjected to human trafficking.

⁸⁴ Law No. 6458 on Foreigners and International Protection, Articles 61, 62, 63 and 91.

According to the 2017 data set by the DGMM, there approximately are 3,038,480 Syrian citizens in Turkey. Less than 10% of these (exactly 246,080 Syrian citizens) has been temporarily settled in one of the twenty-four (24) refugee camps (temporary housing centres) in 10 cities under the administration of Republic of Turkey Prime Ministry Disaster and Emergency Management Presidency (AFAD). There are 1,412,960 registered Syrian women citizens.⁸⁵ However, this number is estimated much higher with the number of unregistered –especially women- Syrian citizens. By 31 March 2017, the number of registered refugees and asylum seekers from Afghanistan, Iran, Iraq, Somalia and other countries is 306,791 according to United Nations High Commissioner for Refugees (UNHCR) statistics. While the number of children among these is 46,127, the number of women is 70,842.⁸⁶

The unattended children, disabled people, old people and pregnant women are defined as “the persons who have special deprivations” in Article 48 of the Temporary Protection Regulation. In Article 67 of LFIP, it is clarified that the people suffering from special deprivations have priority in access to health care, psycho-social services, rehabilitation services and other supports and helps in addition to having the most appropriate treatment in the cases of torture, sexual harassment and other similar psychological, physical and gender-based violent acts. Since the Law No. 6248 does not posit citizenship as a prerequisite for application, the refugees, who are subjected to gender-based violence and who are under the rule of temporary protection, also benefit its protective and preventive measures. They also benefit from the legal aid provided by the bar associations. However, the actual case is far away from that since the lack of plans and strategies in addition to the lack of facilitative units on the behalf of accessibility of related mechanisms causes many problems in reality.

The numbers of early and forced marriages, and multiple marriages, which are the means of the most common gender-based violence targeting both the Syrian -primarily- and Turkish women, have been increasing due to the displacement, poverty, and ambiguity as an inevitable result of the war. Moreover, these practices are mostly legitimized as cultural and religious patterns and customs.⁸⁷ The early and forced marriages, which should be considered as forms of forced domestic labour and sexual violence, should also be considered multi-layered problems in terms of human trafficking issue. According to the AFAD’s report, 15% of the women aged 15-18 are married.⁸⁸ Since the early and forced marriages can legally be charged only if they are civic marriages, a regulation covering the religious marriages is essential. Along the surveys on gender-based and sexual violence against women refugees, there emerge many children who are married and pregnant. It is also declared that public officials of Provincial Office of Mufti recognize most of these marriages. In other words, none of these marriages asks for official recognition. These marriages are assumed to “guard” Syrian women and girls who took refuge in Turkey. Being deprived of any access to protection measures, these women and girls are guided to the religious marriages in return of money.⁸⁹

Over and above, early and forced marriages block these girls’ access to the right to education. The right to education does not entitle to the children beyond 14 who had to withdraw from schools in

⁸⁵ According to DGGM data, see

http://www.goc.gov.tr/icerik6/gecici-koruma_363_378_4713_icerik

⁸⁶ Distribution of registered refugees and asylum seekers on the basis of their age and gender, see [http://www.unhcr.org/turkey/uploads/root/tr\(67\).pdf](http://www.unhcr.org/turkey/uploads/root/tr(67).pdf)

⁸⁷ Foundation for Women’s Solidarity, “Kadın Kadının Yurdudur” – Migration and Gender Based Violence Workshop Report, 2017, See <http://www.kadav.org.tr/?p=487>

⁸⁸ https://www.afad.gov.tr/upload/Node/3932/xfiles/turkiye_deki-suriyeli-kadinlar_-2014.pdf

⁸⁹ <http://www.birgun.net/haber-detay/suriyeli-cocuklar-5-bin-tl-karsiliginda-yaslari-buyutulerek-evlendiriliyor-163756.html>

Syria due to the war and want to continue their education in public schools of Turkey. Especially the girls at this age are facing with forced marriage. Among other things, language barrier, diploma equivalency issue and financial problems emerge as the basic determinants of the early and forced marriages.

The protective and preventive measures defined by the Law No. 6284 should also be enforced to the women refugees. The women refugees do not know about their rights and the mechanisms that are enforceable to their situation in case being subjected to violence because of the language barrier and the lack of information about the Turkish legal system. Furthermore, the ignorance of the staff working in related departments makes it difficult for them to access the support. The women refugees, who are subjected to violence, avoid consulting support and complaint mechanisms for their sakes because of the inexperience and ignorance of the NGOs focusing on migration about gender-based violence and the women refugees are mostly not guided to the related women's NGOs working on violence against women.

Referring to the 2016 survey, 160 women refugees and children took support from the VPMCs in Turkey. According to the interviews made in VPMC İstanbul, the Syrian women refugees with an identity for the temporary protection are registered to the shelters only if they have the pounding and force reports proving they are in danger. Otherwise, they are sent to the AFAD refugee camps. The women refugees, who do not have any identity for the temporary or permanent protection, cannot get support from the VPMC shelters even they are subjected to violence. Instead of being placed to the AFAD refugee camps where they are stigmatized, the Syrian women refugees prefer to turn back to the places they were subjected to violence. Moreover, these refugee camps risk consolidation of the violence since there is no guarantee for any protective and preventive supporting mechanisms there.

The transsexual refugees, who are also subjected to violence, are mostly registered neither to the refugee camps nor to the shelters. The lack of secure and appropriate housing is one of the deepest deprivations for all refugees and asylum seekers. Considering the life-threatening acts of violence against women and LGBTIQ refugees, housing right is vital. In addition, the refugee camps are the temporary housing places under the circumstances of disasters and have no protection measures against gender-based violence. Another issue determining women refugees' deprivation of the right to equal protection is the lack of translation service. These women apply neither to the law enforcement agencies nor to the prosecution offices since either no translation service is available or the quality of translation is far away from responding their questions. Moreover, the bar associations' support is not sufficient in the city centres like Kilis and Gaziantep where the population of lawyers does not meet the needs of the Syrian population.⁹⁰

In Turkey, all of the applicants for the International Protection are expected to reside in a Turkish city according to "Satellite City Policy" which does not include metropolitan cities like Ankara, Istanbul, and Izmir. Syrian refugees who are under the "Temporary Protection" are expected to reside in the city they firstly checked in. So that, the women who are subjected to violence are not able to leave the city in which they faced a kind of violence and so cannot move away from where they subjected to violence. LGBTIQ refugees especially face with multi-layered problems because of the fact that those satellite cities are mostly right-wing conservative centres.

Approximately 10% of Syrian population still resides in the refugee camps although it is more than 6 years since they migrated to Turkey. This is a problem all by itself. Besides the problems related to the housing for the Syrian population, it is a well-known fact that single women, in particular, are

⁹⁰ Concerning this issue, please see the title of "Legal Aid" under Chapter 6.

subjected to gender-based violence by male residents or the officials of the refugee camps. It is known that these women are forced to live in the refugee camps together with the perpetrators of violence. Having said that, each refugee camp has its own administrative configuration such that these are rarely and for restricted time intervals are open to observations and supervision by the civil society. In line with this, whether the Syrian refugees have any access to support services or not, the situation is ambiguous. Besides, exposing the gender-based violence is strictly dependent on the construction of a secure space.

The refugees are not able to reside in physically suitable houses instead of the refugee camps in the satellite cities because of financial and social poverty. One of the most common alternatives for a refugee camp is a high-rented small apartment shared among several families. For the Syrian and the non-Syrian refugees, the amount of social welfare is far away from meeting their basic needs such as housing, both in theory and practice, especially for the disabled ones. The distribution of social welfare is insufficient, limited and unequal. LGBTIQ refugees and single mothers have limited access to the social welfare, which is mostly in the service of the institution of family.

The women refugees do not prefer to utter the violence they have been facing because of the insecure and poor environment, of the barriers preventing them to involve working life and of the crowded families they do have. They mostly are informal and cheap labour for the textile industry, house cleaning, senior care, and nursing. And some of them turn to the piecework for cheap craft works in their homes with their children. In addition to the lack of social security, they get either deficient or irregular wage. It is also known that the refugee women are frequently subjected to the sexual harassment by the employers or other workers.

The refugee women's access to the health services is mostly joint to the lack of language and translation issue. The support line, ALO 157, of Foreigners' Communication Centre under the DGMM, also provides a translation service. Yet, the healthcare personnel do not accept the translations coming from this line. A lot of women also declare that both the healthcare staff and workers in hospitals do not care about their situation once they realized they are Syrian refugees. The lack of translation services and maltreatment results in the abortion without anaesthesia cases according to the field works of the NGOs. Moreover, it is also seen that the women refugees asking for abortion are misled by the healthcare staff about a so-called prohibition on abortion in Turkey.

The press coverage of refugees is mostly discriminative, threatening and criminalizing. Syrian women are rather portrayed as agents of prostitution, religious marriages and multiple marriages instead of the being victims of the forced marriages and the bare life in Turkey.⁹¹

Asylum seekers' application and related evaluation processes have not been carried out from a gender-based perspective. The women and LGBTIQ refugees have been facing with a judgmental and discriminative attitude at the expense of violating the international consensuses. Evaluation processes that are supposed to be concluded sooner are taken so easy that very few women and LGBTIQ refugees could get use of psychosocial support.

The deportation centres are the places where the refugees who either illegally entered the country or have legal issues to reside in the country are kept. These centres are in the place of prison in practicality. Physical conditions of the centres, the officials' attitudes toward refugees and problems about the accessibility of basic human rights are some of the many concerning issues about the deportation centres.⁹²

⁹¹ *Gazete Sayfalarında Suriyeli Mülteci Kadınlar (News on Syrian Refugee Women)*, Ülkü Doğanay, Hatice Çoban Keneş, See, <https://bianet.org/bianet/siyaset/185331-gazete-sayfalarinda-suriyeli-multeci-kadinlar>

⁹² <https://bianet.org/bianet/insan-haklari/186279-geri-gonderme-merkezleri-fiilen-cezaevleri>

The refugees kept in these centres are informed about the base of their detainment and rights. However, it is observed that women refugees under the administrative observation are not informed about their rights, and have no access to translation services and to the legal aid by lawyers' association in the centres.

Beyond being a refugee, the situation gets crucial for the women and LGBTIQ refugees and disabled people who ask for a special care. The deportation centre once at the city centre of İstanbul was moved to the downstate without considering the consequent transportation problem by November 2014. Having separate buildings for the women and men refugees, these new buildings for the centre present a wide range of power to the administration. Most of the women and LGBTIQ refugees, being arbitrarily kept in there, are charged by prostitution and waiting for deportation. According to the NGO reports, based on the information included in the application forms from the removal centres, there are pregnant and disabled women, who have no access to the lawyer help, and are kept in the centre for long time intervals. The women and LGBTIQ refugees, who are subjected to violence, or have a risk of death or should not be sent to the county in which they face inhuman proceedings are psychologically forced to sign "volunteered returning forms" to depart from Turkey.

The revision of the corresponding asylum article by the statutory decree No. 676 violates "non-refoulement principle" under the sanctions of the state of emergency on October 29, 2016. Based on it, the refugees who are defined to "be the heads, members or supporter of a terrorist organization, or the heads, members or supporters of a criminal organization for the purpose of generating monetary profit", and "pose a threat to public order or public security or public health", and "be considered in relation with internationally defined terrorist organizations", can be deported from Turkey despite their application to the court for stay of execution without waiting for the court's final decision. The women and LGBTIQ refugees, whose lives are in danger, have been deported from Turkey based on the statutory decree. LGBTIQ refugees have been deported from Turkey because of threatening "public health" as potential prostitutes whether they are sex workers or not. There are cases in which HIV-positive women and LGBTIQ refugees are deported from Turkey.

The Commission for the Struggle Against Human Trafficking is established under the DGMM. The regulation on the Struggle against Human Trafficking and Protection of its Victims defines the procedures and principles for the protection of persons subjected to human trafficking, the permission for a residence permit for the foreigners faced with crimes, and the corresponding supporting services. The women and children who have faced with crimes are entitled to the Law No. 6248. Yet, it is known that the identification of human trafficking crime, the supporting services for its victims and the execution of procedures are insufficient. Identification of the victims of human trafficking crime turns to be a difficult task for the law enforcement agencies and other public services because of the officials' insensibility and insufficiency about the issue. Most of the women and LGBTIQ refugees, who are subjected to human trafficking are detained and deported as suspects of "prostitution".

There had been 3 shelters in the service of women who were subjected to human trafficking till 2016 in three metropolitan cities (Antalya, İstanbul, and Ankara) under the rule of NGOs –one was the station, the other two were for long-term services. The shelter in Ankara, which was established by the Foundation for Women's Solidarity in 2005 and was governed in cooperation with local administrations, has recently be assigned to the procedures defined by the Ministry of Interior and International Migration Organization. Although the report presented GREVIO by the Turkish government claims that all of these three shelters are still open referring to the Foundation for

Women's Solidarity's name,⁹³ the shelters were closed since the related protocols were not renewed in 2016.

Although it is not possible to refer any confidential resources about the exact numbers, it is an obvious fact that the number of people subjected to human trafficking who are forced to leave from their hometown back is sharply increasing after Syrian civil war. Accordingly, it is concerning that there are no specific shelters for the women and LGBTIQ refugees. It should be considered as a signifier of the exclusion of women's organizations from the field.

Recommendations

- DGMM commissions should develop more sensibility and new policies for several problems of the women and LGBTIQ refugees. The demands and related services identified by the government should be reshaped by a gender-equality perspective.
- For the women and LGBTIQ refugees subjected to violence, there should be constructed new shelters providing translation services in order to monitor and prevent violence.
- The refugee camps for Syrian refugees should be accessible for civil society's monitoring.
- The resources for humanitarian aid should also be accessible to the independent NGOs working on gender-equality.
- NGOs working on humanitarian aid should embrace the gender-equality and the combating violence in the "basic field" for "humanitarian aid" rather than positioning these goals as a partial component. And the related supporting services should be rearranged.
- In order to resolve the problems around accessibility of information, the number of translators should be raised. These translators should also be trained about a gender-equality and VAW.
- For the women refugees who ask for Turkish classes, the efficient, widespread and free language courses should be reorganized on the basis of daily life's needs. In addition, the social life should be open to refugees' use of their mother tongue and the support services should be revised from a multilingual perspective.
- The officials and experts working in DGMM and the deportation centres, who will interview with the refugees to define their legal statuses, should be trained about international law for refugees, gender, sexual orientation and gender identity. These trainings should be held in cooperation with the independent NGOs.
- The applications of the women and LGBTIQ refugees should efficiently be carried through international legal norms, and the authorized officials who block the access to these applications in the related departments should clearly be investigated.
- Both the government's agencies and the NGOs should present the most appropriate environment in application periods that is shaped through the sensibilities and special conditions of the women and LGBTIQ refugees for the sake of their privacies.
- The shelters, which were among the primary places for the women who had been subjected to human trafficking for years, should be reopened and be respectively funded considering the shelters' past experiences and knowledge.

⁹³ The Baseline Report that is presented to the GREVIO by Turkish Government, 3.07.2017, p. 40.

CHAPTER VIII – International Co-operation

Articles 62, 63 and 64– General principles, Measures Relating to Persons at Risk, Information

Turkey's proactive and enabling role during the preparation and signing of the Convention was not followed after its ratification. In the first years following the signing of the Convention, Turkey had arranged several meetings in order to raise awareness and ensure the ratification of the Convention, yet Turkey renounced this active role shortly.

In the recent, Turkey has often had several diplomatic crises with the other signatory countries, of the Istanbul Convention. These crises harm the ongoing as well as the future international cooperation opportunities with the signatory countries for the full implementation of the Convention and the prevention of the persons facing violence. Also the access to reliable data in Turkey is another serious problem. This issue might also be a challenge for international information sharing and cooperation.

Recommendations

- Turkey, should be taking the lead for the world-wide promotion of the convention as it was named after Istanbul where the Convention was opened for signature.
- As stated in the Convention, Turkey should make the necessary legal regulations and take the provisions needed for the protection of the personal information and improve its capacity for data collection and analysis for the protection of the women facing violence and to ease their access to supporting services. Moreover, Turkey should adopt an attitude beyond diplomatic issues in combating VAW and be open to the international cooperation on data and information sharing for the protection of the women facing violence, and to enable their access to the supporting services.

CHAPTER IX – Monitoring Mechanism

Article 66– Group of experts on action against violence against women and domestic violence

The first advocacy activity of the Istanbul Convention Monitoring Platform-Turkey, which was established by the independent women and LGBTIQ organizations, was the election of Turkey's GREVIO candidate. While the Platform presented six candidates from the independent women's organizations of Turkey to the government, the government preferred to carry out the process with the pro-government organizations and proposed a candidate who was not supported by the independent women's organizations. Article 66(4) is violated since the candidate suggested by the government was not elected among the related parties suggested in the convention. As a result of the immediate and efficient advocacy of the women's movement caused the government had to step back from this decision, and the suggested the candidate of the platform and the women's movement, Professor Feride Acar, became the official candidate.

Article 68 – Procedures

GREVIO's commitment on collecting information from civil society and the independent women's organizations of the monitored countries is welcomed by the Istanbul Convention Monitoring Platform-Turkey. We precisely find it important and constructive to present alternative reports and have the chance to meet the rapporteurs during the country visit.

However, the obligation to write the alternative reports in one of the officially recognized languages of the GREVIO committee poses an obstacle for the grassroots organizations to be involved in the

Istanbul Convention monitoring process that are doing fieldwork on VAW and have direct contact and particular experience with the women facing violence.

Furthermore, in a country in which access to state institutions and officials is getting harder and harder everyday for the independent civil society organizations, we are in need of a physical space that the convention mechanisms will provide. We hope that GREVIO will have its own communication channels with civil society during the monitoring process such that the transmission of alternative information will be possible. We believe that a mechanism developed by GREVIO for civil society engagement throughout the monitoring process of the countries, will enable more alternative information flow by the independent civil society.

Recommendations

- In order to enable accurate information flow between grassroots organizations and GREVIO, grassroots organizations should be able to present their reports in their native languages or the GREVIO secretariat should be supporting the translation processes.
- As the state dialogue of GREVIO with the parties of the convention takes place in Strasbourg, the structured presence and information sharing of the civil society organizations, who will be presenting alternative information on the state's actions, especially women's rights organizations, will be very important for the process to be more effective and transparent.
- Throughout the monitoring process, it should be considered that there is an ongoing conflict and State of Emergency in Turkey. Respectively, additional information should be requested from the European Commissioner for Human Rights, Parliamentary Assembly (PACE), and European Commission's specialized units about the implementation of the Convention as stated in the Article 68, sub-article 8 of the Convention.

Special Focus on Disabled Women's Access to Protection and Support Services

According to the Monitoring Report of Discrimination Based on Disability in Turkey⁹⁴ (2011), the only survey including a statistical data with a wide range of field research is carried out by Turkish Statistical Institute under the management of the Republic of Turkey Prime Ministry People With Disabilities Administration (T.C. Başbakanlık Özürlüler İdaresi Başkanlığı - ÖZİDA). This survey is named as "Investigation of Disabled People of Turkey". According to the results of the survey, the rate of the disabled people to the whole population is 12,29%. Yet, there is not much information on the exact number of the disabled people and corresponding demographic qualities in Turkey. There is a need for several surveys in this field. To exemplify, although the Association of Women with Disabilities in Ankara made several researches and official applications, it is not possible to get the number of disabled women in Turkey officially registered by administrative bodies. Data collection systems on violence against women lack for specific signifiers and standards concerning disabled women. The policies concerning disabled women are not shaped through scientific knowledge. Consequently, the preventions meeting their demands cannot be identified, and respectively analysis of the precautions becomes impossible.

⁹⁴ Türkiye'de Engellilik Temelinde Ayrımcılığın İzlenmesi Raporu (Monitoring Report of Discrimination Based on Disability in Turkey) (2011) http://www.insanhaklarimerkezi.bilgi.edu.tr/docs/Engellilik_Izleme_Raporu.doc

According to the report⁹⁵ written by Association of Women with Disabilities and analyses the violence against disabled women during 2013-2014, all of the disabled women from different age groups and disabilities are seen as the target of violence. However, it is mostly the mentally disabled women subjected to sexual violence. And, it is mostly either a friend or one of the family members who sexually abuse the disabled woman. It is observed that the disabled women have difficulty in accessing the supporting services both because of not informing about their rights and of lack of a substructure to access the complaint mechanisms.

There is a need for special measures to apply protective and preventive precautions of the Law No. 6284 to the disabled women. For example, it is not possible for a blind woman to identify whether the agent of the violent act against her is violating the injunction that restricts the agents access to the home, working place or school, or not. So, the violence of the injunction order should be pursued by the police officers for the disabled woman. Otherwise, the disabled women's life will be structured in a continuously fearful environment.

According to the report named the "Struggle against VAW Monitoring Model" (March 2014) by Association for Monitoring Gender Equality, it is reported that the four VPMC are not accessible for the disabled women, especially for the blind and deaf women. To clarify, neither the staff knows the sign language, nor the architecture of the buildings based on needs of disabled women, and nor the informative materials are written in Braille alphabet or are vocalized. To put it precisely, it is not possible to talk about blind women's access to these centres' services.

Referring to the 2013-2014 survey of media in the Monitoring Report of Discrimination Based on Disability in Turkey, nursing homes, senior centres and boarding rehabilitation centres are the most common institutions where the violence against disabled women observed. Such institutions' potential for consolidation of the violence against women is a well-known fact with reference to several reports.⁹⁶ However, the ongoing situation is a signifier of the inspection mechanism's insufficiency besides the public news and reports. In spite of these data, the disabled women, who were subjected to the violence, were placed either to a nursing home or a senior centre or a boarding rehabilitation centre in charge of the state protection. The women neither could get a specialist support services nor could recovery from the violence in such places. In these very specific cases, the women who were already subjected to the violence are the main targets of the violence in the above-mentioned institutions.

It is explained in Chapter 4 of this report that there is no emergency help line, which is supposed to be in the service of the combating violence according to the Convention. The emergency lines like 183 (Social Support), 155 (Police), 156 (Gendarmerie), and 112 (Emergency Health Services), which are in the service of the persons facing violence, are not sufficient, inclusive and efficient for the case of disabled women. Furthermore, a mentally disabled woman, who is willing to call the emergency line but not able to express her exact location, has no access to these lines and other social services because of lacking location equipment.

It is known that abortion is either done by the court decision without the disabled women's will or not done despite the women's will in the case of rape. These cases are clear examples of violation of the right to integrity of a person that is defined by Article 17 of the UN Convention on the Rights

⁹⁵ Women with Disabilities Association, 2013-2014 Report on Violence Against Women with Disabilities in Turkey, See <http://www.engellikadin.com/wp-content/uploads/T%C3%BCrkiyede-Engelli-Kad%C4%B1na-Y%C3%B6nelik-%C5%9Eiddet-Raporu-2013-2014-1.pdf>

⁹⁶ See Behind Closed Doors: Human rights abuses in the psychiatric facilities, orphanages and rehabilitation centres of Turkey, 2005. Mental Disability Rights International. <http://driadvocacy.org/wp-content/uploads/turkey-final-9-26-05.pdf>

of Persons with Disabilities. The right to integrity of women with disabilities is repeatedly violated by several persons and institutions. The will of women with disabilities on their own personal integrity and health is recognized by none of the governmental institutions. Some of the most obvious violations on the basis of the Convention could be listed as following: The ignorance of the professionals about these violations, the disabled women and girls' lack of knowledge, and the application of surgical interventions without informing the patient.

Recommendations

- The solutions for the sake of moving the disabled women away from the violent environment should be common and accessible; the protective and preventive measures formulated in the Law No. 6284 should be held considering the special situation of the disabled women.
- The professionals, who potentially engage with the positions meeting the needs of disabled women, should be trained about VAW, disability, and multiple discriminations.
- To have an effective methods preventing violence, data collection on violence against disabled women and disability along every aspect of daily life should be promoted.
- Participation in social life, the right for health, education and housing should all equally be in the service of the disabled women to empower them and present them a habitus without violence.
- The cooperation between the support services and NGOs on the rights of disabled persons and women's right should be improved.

Special Focus on discrimination against LGBTIQ refugees, and their access to protection and support services

The juridical system in Turkey does not have an effective and deterrent legislation about the obligation on “embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realization of this principle and prohibiting discrimination against women” in the Convention. Article 10 of the Constitution on the principle of equality does not address discriminations based on sexual orientations and gender identity specifically so that traditional patterns and prejudices become determinative in practice. Besides, the discriminative discourse against LGBTIQs is used by the authorities and the legislations for any solution are rejected.⁹⁷

LGBTIQs subjected to violence because of their sexual orientation and gender preferences so that threatening, humiliation, house confinement, and forced marriage emerge as the most common means of violence. LGBTIQs, who have complaints of domestic violence, are not able to access protection mechanisms because of the discriminative and prejudiced attitude by the authorities. Refusing to record the complaints, the authorities stand in front of a possibly effective investigation.⁹⁸ Because of this situation, LGBTIQs have a problem of trust when it comes to public institutions and do not prefer to lodge a complaint about the discriminative and violent practices they are facing and do not demand any protection.

There are no shelters for the transsexual and homosexual men subjected to violence. The lesbian and bi-sexual women are welcomed to the shelters if they suppress their sexual orientations at the

⁹⁷ <http://ilga.org/wp-content/uploads/2016/02/Shadow-report-16.pdf>

⁹⁸ For an example see, Bu Utanç Kimin?/Ahmet Yıldız Davası, <http://www.hukukpolitik.com.tr/2016/04/21/bu-utanc-kiminahmet-yildiz-davasi/>

expense of being subjected to discriminative practices that will complicate their residence in the shelter.

Hate crime against transsexuals is not efficiently investigated. Nor are the motives of the crime. Many hate crimes, as in the case of Hande Kader⁹⁹, are not solved. Since to apply to the “severe provocation” clauses to reduce the sentences against the perpetrators is up to the judge’s limitless admiration, hate crimes against the transsexuals do take the advantage of remission. So, the transphobic and homophobic motivations of hate crimes are accepted legitimate. Until now there has been reported two lawsuits shaped along the claim of “severe provocation”. Yet it is assumed that the exact number is much more than that.¹⁰⁰ The justified decisions in the case of hate crimes against LGBTIQs are legitimated under the name of “public morals” on the expense of violating Article 42 of the Convention. Hate crimes are the very samples of impunity in Turkey. They are black boxes of gender based violence.

There is a need for education against discriminative discourses and practices about LGBTIQs in the working places. LGBTIQs, mostly transsexuals, subjected to discriminative and exclusionary practices in the working life. These discriminative practices are free from punishment.¹⁰¹ The only legal expression of such cases could be found in Article 125 of the Law on Civil Servants No. 657. According to this, sexual orientations are classified as the “shameful and discreditable actions that do not fit with the qualities of public services”. In practice, being an LGBTIQ individual is per se a cause of the accusation. The discriminative attitudes toward LGBTIQ professionals are commonly experienced in both the private sector and public services.

The ultimate result of such discriminative approaches leads LGBTIQs to the unsecured informal jobs, such as sex work. Transsexual sex workers are subjected to the violent acts of the bosses, space holders, customers and law enforcement agencies under such insecure conditions. The homophobic approaches of the health care staff make it difficult for the transsexual refugees to reach hormones, to take regular blood analysis for venereal diseases, and to make use of other basic rights to healthcare including protective measures for sexually transmitted diseases. Article 40 of Turkish Civil Code, positing “forced castration” as the “permanent deprivation of reproductive ability” condition for the gender reassignment surgery clearly violates Article 39 of the Istanbul Convention. ECHR charged Turkey because of the violation of Article 8 the ECHR by the judgments given by Turkish courts rejecting the applicants’ demands for gender reassignment surgery on the basis of “lack of permanent deprivation of reproductive ability”.¹⁰²

Moreover, there are lots of LGBTIQ refugees and asylum seekers subjected to violence because of their sexual orientation in Turkey. Although these persons have been subjected to the multiple discriminative practices, their application processes are developing quite slowly at the expense of violation of the Convention. They are also suffering from not accessing right to housing, healthcare, social services and working. LGBTIQ refugees are also residing in the “satellite cities” all around the Anatolia. Since these satellite cities mostly have the right-wing conservative population, the risk for the violence against LGBTIQs remains high. Being aware of that risk, the LGBTIQs are forced to live with sense of insecurity.

⁹⁹ <http://www.bbc.com/news/world-europe-37143879>

¹⁰⁰ <https://lgbtinewsturkey.com/tag/unjust-provocation/>

¹⁰¹ http://www.kaosgldernegi.org/resim/yayin/dl/de_ozel_sektr_calisani_lgbti__ingilizce.pdf,

<http://www.kaosgl.com/sayfa.php?id=20961>

¹⁰² “AIHM Türkiye’yi Cinsiyet Geçişinde İhlalden Mahkum Etti”, <http://bianet.org/bianet/lgbti/162924-aihm-turkiye-yi-cinsiyet-gecisinde-ihlalden-mahkum-etti>

The NGOs working on the behalf of solidarity and support for the LGBTIQs are not backed by the government in Turkey. On the contrary, sexual orientations and gender preferences are categorized with respect to “public moral” according to Article 56 of the Turkish Civil Code. Respectively, the associations in the field are facing with closure cases.

Recommendations

- The shelters equipped with professionals sensitive on gender issues, and multi-lingual services should be established.
- An emergency help line in the service of LGBTIQs subjected to violence should be established.
- Necessary legal regulations and action plan to abolish the discriminative practices against LGBTIQ refugees should be developed for the sake of right to education, healthcare and working.
- The legislations on discriminative acts should be regulated including the violation of rights and hate crimes against LGBTIQs. There should be established a new law including all kinds of discriminative acts.
- The LGBTIQ organizations should be the party of the solution developed by the government.
- The judges and benches should have gender equality and gender discrimination training to prevent the impunity based on unjust provocations in the cases of discriminative acts and hate crimes.
- The personnel of the Ministry of Labour and Social Security, the Ministry of National Education, Ministry of Justice and the Ministry of Health should have awareness training on LGBTIQ rights and gender equality in order to abolish the discriminative acts against them in working places, educative centres, courts and health centres. Preparing action plans through cooperation of NGOs, these trainings should also include the private institutions for combating violence.
- The LGBTIQ refugees, who are reported to be facing violence in their residual city on the base of their sexual orientations, should be removed to another city. The procedures concerning their asylum request and demand to settle in a third country should be accelerated.