ISTANBUL CONVENTION AND FEMINIST STRUGGLE: A REVIEW ON THE FEMINIST MOVEMENT AND LEGAL CONTEXT IN TÜRKİYE

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submitted by **FATMA KÜBRA GÖKDEMİR** in partial fulfillment of the requirements for the degree of **Doctor of Philosophy in Sociology, the Graduate School of Social Sciences of Middle East Technical University** by,

Prof. Dr. Sadettin KİRAZCI
Dean
Graduate School of Social Sciences

Prof. Dr. Ayşe GÜNDÜZ HOŞGÖR
Head of Department
Department of Sociology

Prof. Dr. Mehmet C. ECEVİT
Supervisor
Department of Sociology

Examining Committee Members:

Assoc. Prof. Dr. Çağatay TOPAL (Head of the Examining Committee)
Middle East Technical University
Department of Sociology

Prof. Dr. Mehmet C. ECEVİT (Supervisor)
Middle East Technical University
Department of Sociology

Prof. Dr. Ayşe GÜNDÜZ HOŞGÖR
Middle East Technical University
Department of Sociology

Prof. Dr. Nilay KAYA
Ankara University
Department of Sociology

Prof. Dr. Gülriz UYGUR
Ankara University
Faculty of Law

I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

Name, Last Name: Fatma Kübra Gökdemir

Signature:

ABSTRACT

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GÖKDEMİR, FATMA KÜBRA
Ph.D., The Department of Sociology
Supervisor: Prof. Dr. Mehmet C. ECEVİT

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The concept of violence against women has undergone a social transformation in the period from the No to Beating Women rally of the feminist movement in Türkiye in the 1980s to the adoption of the Istanbul Convention in 2011. Feminists in Türkiye played an important role in the realisation of many transformations in the field of law in the 2000s and increased contact with international women's movements. It was a time when Türkiye's EU accession process continued and the concept of gender equality came to the forefront.

This study argues that the feminist movement in Türkiye had a positive impact on the adoption of the Istanbul Convention and that the withdrawal of the Istanbul Convention expanded the scope of the feminist movement's struggle. For this purpose, in-depth interviews were conducted with academics at law faculties, social scientists, lawyers and activists working in women's organisations.

It is very important that the Istanbul Convention recognises economic and psychological violence in addition to physical violence. Violence against women in

Türkiye has now become more visible in the public sphere and is on the agenda with the murders of women and what happens in courtrooms. The feminist movement ensured the adoption of the Istanbul Convention without reservations. In addition, the feminist movement developed various strategies during the process of enacting Law No. 6284 and got their demands for rights accepted. In the field study, it was stated that the state did not fulfil its obligations arising from the Istanbul Convention due to the lack of political will and the continuation of patriarchal relations. However, starting from the 2010s, the anti-gender movement gained strength in Türkiye at a time similar to the rest of world. This study argues that Türkiye's withdrawal from the Istanbul Convention has diversified the field of struggle for the feminist movement in Türkiye but has not significantly expanded it. This claim is based on the fact that feminist activists in Türkiye have engaged in law-making processes and have had to develop survival strategies specific to their movement, which has strengthened the feminist movement. However, anti-gender movements have also negatively influenced the expansion of this field.

Keywords: Istanbul Convention, feminist movement, law, violence against women, Turkiye

ÖZ

İSTANBUL SÖZLEŞMESİ VE FEMİNİST MÜCADELE: TÜRKİYE'DE FEMİNİST HAREKET VE HUKUKİ BAĞLAM ÜZERİNE BİR DEĞERLENDİRME

GÖKDEMİR FATMA KÜBRA
Doktora, Sosyoloji Bölümü
Tez Yöneticisi: Prof. Dr. Mehmet C. ECEVİT

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Türkiye'de feminist hareketin 1980'li yıllarda Kadına Dayağa hayır mitinginden 2011 yılında İstanbul Sözleşmesinin kabulüne kadar geçen dönemde kadına yönelik şiddet kavramı toplumsal bir dönüşüm geçirmiştir. 2000'li yıllar, Türkiye'de Feministlerin hukuk alanında pek çok dönüşümün gerçekleşmesinde önemli rol oynadığı ve uluslararası kadın hareketleri ile temasın arttırdığı yıllar olmuştur. Türkiye'nin AB ile sürecinin devam ettiği, toplumsal cinsiyet eşitliği kavramının ön plana çıktığı zamanlardır.

Bu çalışma, Türkiye'deki Feminist hareketin İstanbul Sözleşmesinin kabulü aşamasında olumlu etkisinin olduğunu ve İstanbul Sözleşmesinin geri çekilmesinin feminist hareketin mücadele alanını genişlettiği iddiasındadır. Bu amaçla hukuk fakültelerinde akademisyenler, sosyal bilimciler, avukatlar ve kadın örgütlerinde çalışan aktivistlerle derinlemesine mülakatlar yapılmıştır.

İstanbul Sözleşmesinin fiziksel şiddetin yanı sıra ekonomik ve psikolojik şiddet türlerini tanıması açısından çok önemlidir. Artık Türkiye'de kadına yönelik şiddet

kamusal alanda daha görünür olmuştur. Özellikle bu şiddet, toplumda kadın cinayetleri ile mahkeme salonlarında yaşananlar ile gündem olmaktadır. Feminist hareket, İstanbul Sözleşmesinin kabulünün çekincesiz imzalanmasını sağlamıştır. Ayrıca, feminist hareket, 6284 No'lu yasanın yapılması aşamasında çeşitli stratejiler geliştirerek hak taleplerini kabul ettirmişlerdir. Alan çalışmasında devletin İstanbul Sözleşmesinden kaynaklanan yükümlülüklerini siyasi iradenin yokluğu ve ataerkil ilişkilerin devamı nedeniyle yerine getirmediği belirtilmiştir. Ancak 2010'lardan başlayarak anti-gender hareketi, dünya ile benzer zamanla Türkiye'de güç kazanmıştır. Bu çalışmada İstanbul Sözleşmesinden geri çekilmesinin Türkiye'de feminist hareketin mücadele alanını çeşitlendirdiği ama bu alanını çok da genişletmediği iddiasındadır. Bu iddia, Türkiye'de feministlerin yasa yapım süreçlerinde çalışmaları ve kendi hareketlerine özgü survival stratejiler geliştirmek durumunda olmaları sayesinde, bu birikim feminist harekete güç aktarmıştır. Ancak toplumsal cinsiyet karşıtı hareketler de bu alanın genişlemesini olumsuz yönde etkilemiştir.

Anahtar Kelimeler: İstanbul Sözleşmesi, feminist hareket, hukuk, kadına karşı şiddet, Türkiye

To those who live on the margins, unseen and unheard,

All struggling women,

To my sister Ceyda,

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LIST OF ABBREVIATIONS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women.
EHCR	European Court of Human Rights
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence

CHAPTER 1

INTRODUCTION

The feminist movement in Türkiye has indeed been instrumental in advancing gender equality and advocating for women's rights, serving as a persistent challenge to entrenched patriarchal structures and traditional gender norms. Through a series of campaigns, legal challenges, and awareness efforts, this movement has sought to reform both societal attitudes and legal frameworks that perpetuate gender-based violence and discrimination.

One significant milestone in this struggle is the Istanbul Convention, formally known as the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. Adopted in 2011, this treaty provides a comprehensive legal and policy framework aimed at preventing violence against women, offering protection and support for victims, and holding perpetrators accountable. The Convention emphasizes a holistic approach, integrating prevention, protection, prosecution, and coordinated policies across member states. Its adoption marked a historic commitment by the government to address violence against women in Türkiye. However, subsequent political shifts and Türkiye's eventual withdrawal from the Convention have sparked critical discussions about the sustainability of these commitments and the continued advocacy needed from the feminist movement to uphold and further gender rights in the country.

This thesis offers an in-depth examination of the evolving relationship between the legal system and the feminist movement in Türkiye over the last 40 years. It demonstrates how the legal system has emerged as a critical instrument in addressing issues such as sexual abuse, violence, and femicide, with laws serving as key tools for institutionalizing protective measures. By tracing this relationship from the 1980s to

today, the study underscores both the strides made within the legal domain and the persistent challenges, highlighting legislative change as a pivotal factor in advancing women's rights and preventing gender-based violence. This study provides an in-depth exploration of the Istanbul Convention as both a result of feminist advocacy in Türkiye and a driving force for the growth of feminist advocacy.

Over the past two decades, feminist goals have evolved, making the legal system a key battleground for addressing gender-based violence and other critical issues. Increased media attention on women's legal struggles has brought societal awareness to cases of sexual violence and harassment, amplifying the feminist movement's visibility and influence.

On the other hand, in Türkiye today, the feminist movement is deeply connected to legal transformations addressing gender issues. However, changing legal texts is not sufficient alone; the legal system itself must undergo deeper reform. Often, a gap exists between society's lived realities and the written laws. This discrepancy, described as the difference between "law in books" and "law in action," highlights how the practical application of laws can diverge from their intended purpose. This stems from differences in interpretation by judges, lawyers, and enforcement officials, as well as social factors such as societal biases and power dynamics. Ultimately, the mismatch between legal theory and practice is shaped more by political power and societal relations than by purely legal concerns (Ertürk, 2022, p. 91).

At the same time, the Istanbul Convention has affected the development of the feminist movement in Türkiye. For feminists, the Convention reinforced the legal basis for demanding stronger protections for women, expanded their focus to include topics like systemic reforms, support services for survivors, and education on gender-based violence. It enabled activists to advocate for legal accountability in a wider range of areas, thereby amplifying their ability to push for legal change and societal recognition of previously under-addressed issues. This expansion was crucial in forming a more structured feminist response to femicide, gender-based violence, and other forms of inequality, helping shape a more inclusive and rights-based discourse in the public and legal spheres. As a result, the relationship between the feminist movement and the

Istanbul Convention has evolved in a mutually reinforcing way. The Convention provided the feminist movement with a formal legal framework to advocate for systemic change, while the movement's persistent efforts have, in turn, amplified awareness, support, and demand for the Convention's principles. This dynamic interaction has allowed both the movement and the Convention to develop in tandem, influencing each other's growth, visibility, and impact on society.

Since the early 2000s, women in Türkiye have increasingly challenged the legal system by bringing sexual abuse and rape cases to court, shedding light on systemic issues within both the judiciary and society. This legal action, combined with the harrowing media coverage detailing how women have been killed or assaulted, has exposed the public to what some describe as a "pornography of violence" that unflinchingly displays the brutality faced by women. This intense focus on violence against women has heightened public awareness, yet it also reveals society's pervasive biases; women victims are often scrutinized for their choices, such as where they were, what they wore, or how they experienced sexual relationships. Such questioning underscores deeper societal discrimination based on gender, where women's experiences and identities are judged through a lens of entrenched stereotypes and prejudice. Rather than being seen as individuals seeking justice, women are frequently subjected to critiques that reinforce restrictive views of femininity and womanhood. At this juncture, a fundamental question emerges: How have women in Türkiye actively challenged and reshaped the legal landscape concerning the Istanbul Convention?

Türkiye's feminist movement has played a significant role in advocating for the acceptance and implementation of the Istanbul Convention, as previously noted. The overlap between the historical context of the feminist movement and the signing of the Istanbul Convention underscores women's enduring demands for freedom and recognition in society. This quest for freedom encompasses a desire for increased visibility and agency within the public sphere, challenging traditional gender norms that have relegated women to the private domain. The Convention signifies a pivotal shift in this dynamic, asserting that the domestic sphere is not solely a private matter but rather a domain where state intervention is not only justified but necessary for the protection and empowerment of women. By legitimizing state intervention in what

was previously considered a family matter, the Istanbul Convention challenges the long-held belief that issues affecting women are to be resolved privately (Council of Europe, 2011). Before the Convention, legal authorities often hesitated to engage in domestic violence and gender-based issues, viewing them as personal matters rather than societal concerns. The Convention fundamentally alters this perspective, empowering legal actors to take an active role in addressing and combating violence against women, thus fostering an environment where women's rights are recognized as human rights that require legal protection and enforcement.

1.1. Law as an Instrument of Social Change

Providing gender equality refers to social change. This social change can be explained not only by the change in the legal system but also by the change in practical life. In this sense, some controversial questions about the relationship between social change and law come to mind. Does social consensus accelerate social change? Is law a tool for building social consensus? When legal rules change, does society change with it? Do the rules of law quickly adapt to societal changes, or do they come later? Does the legal system adapt itself to societal changes rapidly?

These questions take time to answer. The legal system is not freed from society. At the same time, the social life is not isolated from the legal system itself. Mandelker (1970, pp. 355-357) has an evaluation of the role of law and social change. He criticizes the limitations of judicial intervention in driving social reform, noting that courts face challenges in effecting meaningful change due to a lack of consensus on reform goals within society. This absence of agreement weakens judicial influence and can impede sustainable reforms. Additionally, Mandelker (1970, pp. 355-357) highlights that legal reform efforts often prioritize “allocative” issues—focusing on increasing representation and access for marginalized groups within existing systems—while neglecting the deeper, interdependent issues of distributive justice that underline structural inequality. He cautions against over-reliance on legal mechanisms to drive social change, suggesting that solely empowering marginalized groups within the current system might overlook the root causes of societal issues (1970, pp. 355-357).

In addition to that, there is a role of masks in the legal system. The law can be a tool for obscuring important social realities and maintaining existing power relations. This means that masks are intrinsic to the legal process, acting as rules that obscure underlying substantive rules and reflect unconscious biases that often favor those in power. This is the inevitability of masks in the legal system. The other point is the minimization of human experience that refers to the humanity of participants, enabling legal reasoning to detach from real human emotions and experiences.

Another point is cultural blinders prevent individuals from recognizing the masks they employ, underscoring the necessity for heightened awareness of their implications for justice. Furthermore, legal masks can also reinforce social conflicts, particularly between marginalized plaintiffs and more privileged defendants, thereby sustaining existing power dynamics within the legal framework. (Weyrauch, 1978, p. 706) This scholar's conception of the mask of law resonates with Marx's assertion that the legal system reflects and perpetuates the interests of the ruling class, contributing to ongoing conflicts between social classes. Just as Marx argues that law serves to uphold the status quo and protect the privileges of the bourgeoisie, the idea of legal masks emphasizes how the law can obscure injustices and reinforce existing power dynamics. (Mandel, 1986, p. 11) Both perspectives highlight the role of law not as a neutral arbiter of justice, but as a mechanism that maintains social hierarchies and perpetuates inequality, ultimately leading to tensions and conflicts among different social groups. Mandelker's arguments illustrate the concept that law functions as a dependent variable shaped by political and social forces rather than as an independent agent of change.

On the other hand, some scholars accept that the legal system seems to be an independent variable. This thinking is based on the liberal legal theory separating the political and legal spheres. Liberal legal theory emphasizes principles such as equality before the law, protection of individual rights and liberties, and the separation of powers. The central importance of the rule of law in liberal legal theory is found in its emphasis on predictability, which is vital for preserving individual autonomy. (Waldron, 1989, p. 79) Feminist thinkers questioned the nature and uniqueness of the law itself. This is mainly a critical look at separating law from other areas of social

and political life. Feminists have challenged the conventional view of law as fair, neutral, and progressive, emphasizing its role in perpetuating and exacerbating inequality, exclusion, and oppression. The rule of law and liberal legal views have been criticized for failing to address issues of oppression. This criticism often highlights the public/private divide in liberal legal systems. Feminist critique, in particular, argues that this divide portrays the private sphere as exempt from legal scrutiny and universal principles such as equality and human rights (Hunter 2013, p. 19).

1.2. Feminist Perspective on the Legal Structure

The early approach of legal feminism was the concept of equality, which stated that there was no legal distinction between men and women. This perspective reflected the historical conditions where law supported the consequential exclusion of women from the public sphere. The legitimation of exclusion was based on the belief that women's unique reproductive roles provided women's protection from the challenges of public life. The concept of difference paved the way for the justification of the exclusion from the public sphere. By then, women had tried to overcome this ideology, which assimilated them by prioritizing equality and excluding them from the public sphere (Hunter, 2013, p. 23).

The public sphere is described as what was traditionally viewed as private in antiquity, referring to it as the realm where non-governmental opinions are shaped. This mediates the state and society. (Habermas, 1964, p. 49) The public sphere is often related to democratic principles, free speech, and exchanging ideas to pursue common goals. On the other hand, Olsen (1993, pp. 319-327) sees the private as not an inherent or objective characteristic but rather a politically constructed and debatable label. Challenging the public/private distinction could result in a system where the state regulates every aspect of individuals' lives, leaving nothing personal or private. He concluded that feminist criticisms of the public/private divide are diverse and significant. While a gender hierarchy could exist even without this distinction, the way society currently delineates between public and private spheres perpetuates the oppression of women. Adjusting what falls into each category won't substantially

improve women's roles and status. The most effective feminist critiques aim to fundamentally reconsider how we define "public" and "private," a deeper examination of how the current system maintains the status quo, and fresh approaches to envisioning social transformation.

Carole Pateman accepts that feminists assert that a thorough comprehension acknowledges the essential intertwining of both spheres: the domestic (private) and civil society (public), previously viewed as separate and conflicting, are inherently interconnected (Marmor, 2012, p. 591).

Women face social isolation within their households and degradation in their intimate relationships, which is a critique of the separation of the public and private spheres. This shows that the confinement and isolation of women in the private sphere has political implications as it represents a common ground for women to experience inequality. Feminism does not see the private sphere as separate from politics but rather inherently political. In the private sphere, actions based on force become legal if consent is given, which tends to be assumed. Privacy tends to be associated with white upper-class men, accompanying them into different spheres of life, only surrendered in rare cases, while consent tends to be linked to women. The current allocation of power and resources within the private sphere is what privacy law aims to safeguard. A sacred barrier of immunity also encircles this power. (MacKinnon, 1989, p. 194) In this system, a woman's consent can inadvertently contribute to the perpetuation of oppression. The isolation that confines women to the home creates a context in which they are compelled to provide consent, often under the weight of societal expectations and power imbalances. In such an environment, the male force may operate invisibly, exerting control without overt coercion. This dynamic underscores how consent, rather than being an expression of genuine autonomy, can become a mechanism that reinforces existing structures of dominance and subjugation, further entrenching women's roles within oppressive frameworks.

Recognizing the relationship between the private and public spheres is crucial for understanding societal power dynamics. Historically, the private sphere has been closely associated with women, while men have predominantly occupied the public

sphere. This male-dominated public realm encompasses institutions such as the state, which has traditionally been viewed as a male entity. Scholars have noted that these patriarchal relationships can significantly influence civil freedoms, as the structures and norms of the public sphere often reinforce the subordination of women and limit their autonomy. By examining how these spheres interact, we can better understand the mechanisms of power that sustain gender inequality and the implications for women's rights and freedoms in society.

Copelon (2008, p. 237) argues that the intimate battering of women is described as a widespread "cultural practice," deeply entrenched in patriarchal values of male dominance and control, as well as notions of female subordination and compliance. This behavior is reinforced by societal structures that perpetuate inequalities within families, both socially and economically, creating an environment of fear and intimidation for women. Ultimately, it serves to reinforce traditional gender roles and uphold systems of oppression. This non-interference policy from the public sphere allows violent power dynamics to persist unchecked within the supposed privacy of these relationships. By reinforcing the idea that the private sphere is insulated from public scrutiny, these beliefs enable the continuation of oppressive behaviors, highlighting the need for a critical examination of how state involvement—or lack thereof—can either challenge or perpetuate violence in intimate settings. (Copelon 2003, p. 827) It highlights how patriarchy extends beyond the confines of the private sphere, such as the realm of marriage, into the public domain, including employment and the capitalist market.

Pateman (1988 pp. 117-135) suggests that the relationship between husbands and wives operates as a contractual arrangement, like employment contracts. This is called sexual contract. She argues that this arrangement reflects broader subordination patterns within the family unit and capitalist systems. Unlike formal labor contracts, where individuals exchange their labor for payment, wives do not engage in such agreements with their husbands. Instead, their labor is unpaid and subject to control under their marital status, reinforcing patriarchal structures where men exert authority over women's work. Additionally, Pateman contends that capitalism and patriarchy are intertwined, implying that the economic system perpetuates gender-based

hierarchies. This perspective suggests that patriarchal control over women's labor within the family extends to broader societal structures, shaping a system where men dominate in both realms. (1988, p. 139)

In patriarchal societies, violence against women has typically been labeled as a private matter, creating a distance that shields perpetrators from legal scrutiny and punishment. This classification serves to protect those who commit such violence and leaves victims without avenues for accountability or justice. (Youngs, 2003, p. 1209)

Istanbul Convention suggests some ways to stop domestic violence, and these ways make the state's intervention possible in the private sphere for protecting women from violence. This Convention Article 3 explains the purpose of Convention. Article 3 (a) states that "Violence against women" refers to a violation of their human rights and is a type of discrimination. It encompasses any actions that cause, or are likely to cause, physical, sexual, psychological, or economic harm or suffering to women. This includes threats, coercion, or the arbitrary deprivation of their freedom, whether in public or private settings. The other emphasis on the public and private sphere article 4 (1) is that parties must implement legal and additional actions to advance and safeguard the freedom of everyone, especially women, from violence in both public and private spheres. This debate on the private and public spheres comes out in the context of the Istanbul Convention. According to articles 3 and 4, the state's intervention in the private sphere is an unavoidable way to prevent domestic violence. The state's role in preventing violence is also complicated.

Feminists have a critique to state on overlooking women and treating citizens and workers as gender-neutral or assuming they are all male. However, state policies affect women differently than men, particularly in areas such as citizenship, the job market, and state violence. Women's unpaid domestic and reproductive labor is crucial for all states, yet it is often disregarded. Many states marginalize women by treating them as private or dependent individuals. (Pettman, 1996, pp. 9-10) Contrary to the state's gender-neutral actions, the Convention tries to guarantee the public and private spheres without violence for victims. In Article 4, these rights refer to victim's rights without discrimination based on factors like sex, gender, race, color, language, religion,

political views, national or social background, association with a minority group, property, birth, sexual orientation, gender identity, age, health condition, disability, marital status, migrant or refugee status, or any other status (Istanbul Convention, 2011).

The adoption of the Istanbul Convention has a positive impact on stopping the violence against women and the rise of feminism. The intensified references to culture or tradition provide camouflage to withdraw from the Istanbul Convention in Türkiye. How can we overcome the references to culture or tradition with a new political activism? In addition, the critical point of the struggle against violence is awareness of these ways of camouflage. MacKinnon (1983, p. 50) argues that this camouflage is a fundamental set of ideas about power to control and define knowledge and, thus, the relationship between prevailing beliefs about objectivity, credibility, reality, and male dominance. Men have historically positioned their viewpoint as the objective truth, thereby dismissing women's accounts of different experiences as unbelievable or entirely disregarding them. This authority to define has been used to portray sex and sexuality according to male desires, often labeling experiences that many women perceive as harmful or coercive as usual and consensual (Finley, 1988, p. 355).

The Istanbul Convention is critical in overcoming this camouflage, but it is inadequate. Because it will be meaningful to provide a discussion on the Istanbul Convention, which proposes an advocation for a gender-sensitive approach rather than providing direct guidance on overcoming practical obstacles in preventing domestic violence. Istanbul Convention focuses on combating violence against women and domestic violence, recognizing that such violence stems from unequal power dynamics and harmful gender norms. It respects individual choices, such as a woman's decision to be a stay-at-home mother, while advocating for a society where everyone is treated fairly and with dignity, regardless of gender. The Istanbul Convention does not make any effort to change family customs or support same-sex marriage and transgender rights; instead, its primary goal is to ensure the protection of all women and girls from violence. However, opponents of the Convention suggest that it might enable individuals to modify gender roles. They stem from a confusion between two terms: gender and gender identity (Bosak & Vajda, 2019, p. 80).

The Istanbul Convention proposes a gendered understanding of violence against women, which refers to gender roles, inequality, stereotypes, and discrimination. Any form of gender-based violence leads to, or has the potential to lead to, physical, sexual, psychological, or economic harm or distress for women (Istanbul Convention, 2011).

Among the opponents of the Istanbul Convention, gender identity—or gender more broadly—constitutes the most contested concept. These opponents privilege the notion of sex, thereby sustaining the debate by foregrounding sex in opposition to gender. Mackinnon makes a distinction between sex and gender. She argues that women's oppression is maintained through gender, which is a social and political construct rather than a biological one. While sex refers to physical differences, gender denotes the societal meaning attached to these differences. In essence, while biological sex may be equal, gender is inherently unequal. Women are not inherently inferior to men biologically; instead, they are socially constrained to occupy inferior positions. This power dynamic, not biological distinctions, unites women as a political group and fuels the women's movement as a political force aiming to address and rectify these inequalities (MacKinnon, 2023, p. 90).

The legal subject is officially seen as women and men. Critically examining the legal subject is vital to understanding the other gender categories. The question is: Especially within legal frameworks, how can we overcome the binary categorization of individuals as "men" or "women"? The debate on the duality of women and men stems from the normalization of categories. The normalization process should be criticized and resisted.

Knouse (2005, p. 144) makes a case against categorizing individuals strictly as "male" or "female" in legal contexts, arguing that such binary definitions limit identity expression and normalize societal norms. They propose redefining legal sex to disrupt the entrenched belief in a binary concept of sex, allowing for greater individual self-determination. Emphasizing the biological diversity among people, including those who defy traditional gender roles, transgender individuals, and members of the LGBTQ+ community, Knouse (2005, p. 152) challenges the oversimplified binary view of sex imposed by society. Additionally, she advocates for the complete abolition

of sex assignment as a means to liberate individuals from the restrictive confines of gender stereotypes and to foster the free expression of diversity. By breaking down the binaries of male/female and clear/ambiguous, the author aims to oppose normalization and advocate for individual empowerment based on biological tendencies rather than social constructs.

Opponents of the Istanbul Convention argue that it legitimizes such relationships by protecting unmarried or same-sex unions as well as those of married persons. The anti-gender ideology presents the assumption that advancements in gender equality seek to disrupt cultural and religious norms, infringe upon family rights, and ultimately contribute to the extinction of humanity by normalizing marriages within the LGBTIQA+ community (Kancı et al, 2023, p. 882). In this study, discussing how cultural and religious norms normalize hegemony can provide a critical lens through which to analyze the resistance to the Istanbul Convention. This perspective can highlight how entrenched beliefs and practices may perpetuate gender inequalities and contribute to violence against women.

In the light of all these, this thesis aims to examine the relationship between Türkiye's legal system and the Istanbul Convention from a feminist perspective. Over the past two decades, feminist goals have significantly evolved, particularly about the legal system. As a central battleground for addressing gender-based violence, the law has become a focal point for feminist activism. Media coverage of women's legal struggles, especially in cases of sexual violence and harassment, has played a pivotal role in raising societal awareness and amplifying the visibility of feminist movements. This research aims to track the shifts in feminist activism by examining women's experiences within the legal system, with the Istanbul Convention serving as a key framework for understanding these changes. The Istanbul Convention is not only a legal instrument but also a societal agreement, symbolizing the advancements made by the feminist movement in the fight for gender equality.

This study also examines how legal frameworks, policies, institutional mechanisms, and feminist organizations impact the prevention and response to violence against women and domestic violence. These elements are crucial for the effective monitoring

and advocacy neccessary for the Istanbul Convention's successful implementation. By assessing these components, the research highlights the role they play in strengthening protections, addressing enforcement challenges, and ultimately, ensuring that the Istanbul Convention's goals are realized. It explores the significant role of the feminist movement in Türkiye, which has been instrumental in pushing for the signing and ratification of the Istanbul Convention, despite ongoing societal resistance.

The evolution of the feminist movement is central to understanding the role of the Istanbul Convention, which reflects both the legal and societal changes driven by feminist advocacy. The intersection of legal, political, and social dimensions in the increasing violence against women within society has shaped and propelled feminist efforts in Turkiye. These forms of violence not only affect women's personal experiences but also influence broader feminist strategies aimed at systemic change. This analysis seeks to understand how these factors collectively inform feminist demands for justice and equality, both in legal and societal terms, and how they have influenced the development of legal protections for women.

A key focus of the thesis is the critique of the legal system by the feminist movement, which uses radical legal feminism as a tool for analysis. Drawing on the work of legal scholars like Catharine MacKinnon (1991, p. 14), the study explores the relationship between power and knowledge in gender dynamics. MacKinnon's theory of dominance addresses how societal structures of male dominance shape the law. She argues that practice, rather than theory, is the key to women's emancipation under the law, challenging the traditional relationship between theory and practice. This gap between the theoretical and practical aspects of law exposes the failure of legal systems to address the lived realities of women.

The conflict between the law in books and the law in action is another key theme of this research. The "law in books" refers to formal legal principles and regulations, while "law in action" encompasses how these laws are applied in practice, often in ways that do not fully reflect the ideals they espouse. This distinction highlights the gap between societal needs and the pace at which legal systems adapt to these changes. The implementation of the Istanbul Convention and the obstacles it faces reveal the

discrepancy between legal theory and the practical realities that women encounter in the legal system. Resistance to the Convention can thus be seen as a manifestation of this broader tension, which not only involves societal attitudes but also the legal actors and institutions that must play a role in realizing gender equality within the legal framework.

By situating the Istanbul Convention within both global and local feminist struggles, this thesis examines the interdependent relationship between law and social movements. Drawing on in-depth interviews with academics, lawyers, social scientists, and women's rights activists, it explores how feminist actors in Türkiye have challenged patriarchal legal structures, shaped legislative reform, and adapted to the constraints imposed by anti-gender politics. In doing so, the study seeks to contribute to a deeper understanding of the dynamic interplay between feminist activism, legal frameworks, and shifting state policies in Türkiye's contemporary gender politics.

This thesis investigates the extent to which the feminist movement in Türkiye influenced the adoption of the Istanbul Convention and examines how the process of Türkiye's withdrawal from the Convention affected the scope of the feminist movement's struggle

For this purpose, the thesis is designed as a qualitative study. In this framework, in-depth interviews were conducted with 22 women working as academics in law faculty and social science, attorneys, and in women's organizations. The interviews with the participants were then analyzed using thematic analysis techniques.

Finally, this dissertation is structured into six main sections. The first section introduces the subject by providing a general overview of violence against women, related legal issues, and the significance of the Istanbul Convention. The second section engages with feminist discourse on law, presenting critical perspectives on legal theory and its gendered dimensions.

The third section sets out the research methodology, explaining the use of in-depth interviews and qualitative techniques to capture women's subjective experiences and to critically analyze the social, legal, and political context of Türkiye. The fourth section explores violence against women in both global and contemporary Turkish contexts, tracing its historical evolution and legal recognition on Türkiye's political agenda.

The fifth section focuses specifically on the Istanbul Convention, situating it within the broader historical trajectory of legal frameworks addressing violence against women. The sixth and final section presents the findings and analysis, offering insights from field research and situating them within wider theoretical and political debates.

CHAPTER 2

CRITIQUING THE LAW: FEMINIST DISCOURSES ON LAW

This chapter focuses on the relationship between feminism and law. Feminist discourses on law are discussed comprehensively in this chapter. Thus, this chapter will explore key debates in feminist legal theory and examine its ties to politics and economics, particularly about women's rights in the public sphere. Issues like maternity leave, workplace rights, marriage and divorce, and inheritance rights will be addressed, as they reflect how women move from private to public life. The feminist movement's impact has been increasingly visible in cases of sexual abuse, demonstrating the need to broaden feminist legal theory to strengthen the relationship between law and feminist advocacy.

2.1. Feminist Jurisprudence

The binary tensions between law and morality, law and politics, and law and society serve as critical analytical frameworks for understanding the role of law within the social context. Feminist legal critiques leverage these frameworks to surface essential questions: Who has authority over the law? Who is granted representation within legal structures? Whose narratives are privileged in courtrooms? And to what extent might judicial biases against women exist? Feminist legal theory fundamentally challenges the positivist assumptions ingrained in traditional legal thought, questioning the presumed neutrality and objectivity that often conceal underlying power dynamics. In this context, let's examine the concept of feminist jurisprudence.

In an attempt to change women's status and attain equality, the law was one of the crucial areas for the women's movement. This attempt broadened property rights, education, and training for the profession, as well as the right to vote for women. In

the 1960s, the law reforms took shape in employment, family, and criminal law, especially regarding rape and domestic violence. (Anleu, 2000, p. 170)

Moreover, laws have historically controlled and defined women's sexuality through regulations on marriage and paternal rights, and the criminalization of acts such as fornication, adultery, abortion, and prostitution. As a result, those fighting to end women's subordination have targeted these laws as critical battlegrounds in their struggle for equality. However, the law is not a separate force, disconnected from politics, culture, or power. (Henderson, 1991, p. 412)

Feminist work should prioritize representing the life experiences of women rather than solely on legal categories or doctrines. These legal concepts should be seen as flexible tools that can be altered, adapted, and reshaped to better reflect and align with those experiences. (Littleton, 1989, p. 766)

Central to the agenda of legal feminists is the reflection of women's life experiences within legal frameworks—a goal pursued primarily through law reform initiatives. Embedding women's perspectives into legal discourse, particularly within the private and domestic realms, remains essential. This section provides a historical overview of feminist jurisprudence, acknowledging the diversity within the field, as feminist legal theory encompasses multiple schools of thought.

In the 1970s, feminist jurisprudence was introduced, noting that lawyers were traditionally trained to find abstract and objective solutions to social issues through legal rules and doctrines. It is argued that this mindset influenced feminist jurisprudence. The principle of "treating persons alike" is crucial to this approach regarding equality within the legal system. (Scales, 1986, pp. 1373-1374) The concepts of gender neutrality and single standards philosophically signify formal equality. The concepts of gender neutrality and single standards philosophically embody the principle of formal equality. During this period, the formal equality model was put into practice, with feminist activists underscoring the similarities between men and women and advocating equal treatment as a means to promote legal reform. Highlighting the significance of individual autonomy and the freedom to make personal choices, both

women and men frequently engaged in discussions concerning formal equality. (Bartlett, 2021, p. 58) The principle of formal equality serves as the foundation of the theory of equal treatment.

The suffrage movement is the muse of this theory, and women have the same rights as men. Liberal ideals in philosophy and political theory support equal citizenship, equal opportunities in the public arena, individualism, and rationality. Two goals for the equal treatment of women were to be reached in the early years. The first was to get equal social and political opportunities. For example, equal wages, employment, and access to government benefits. Another approach was to abolish legislation intended to protect women and keep them out of the public sphere, such as rules limiting their work hours. Equal treatment theory is centered on the male experience, so women's roles and positions are often assessed compared to men's experiences (Levit &Verchick, 2016, p. 13). Formal equality faces its greatest challenges in rules and practices that treat men and women differently. Unique characteristics like pregnancy and childbearing fall outside formal equality's framework, which often defaults to men's experiences as the standard. (Bartlett, 2021, p. 59)

Formal equality is closely linked to liberal feminist theory, as both are grounded in the liberal tradition that emphasizes individual rights, autonomy, and equal treatment before the law. Liberal theory has two different approaches. The first one is the assimilationist feminist approach argues that women can attain equal legal status only by conforming to male norms, thereby excluding gender-specific differences such as pregnancy or childbirth from legal consideration. This perspective, which was prominent in the early Republican period in Türkiye, required women to adapt to male-defined standards in public and professional life. According to the other approach, the androgynous feminist approach, women and men are largely similar. In this view, if the law stipulates how to treat an androgynous person, then both genders should be treated in the same manner. The androgynous feminist model opposes basing the law on differences specific to either women or men. (Uygur, 2011, p. 162)

For feminist legal theory, the main category of analysis in law is gender. As mentioned, Women's needs and experiences should be central to shaping mainstream legal

doctrine and theory, rather than defaulting to men's perspectives. This shift is essential for fostering greater equality between women and men. (Bassham, 1992, p. 294)

Feminist legal theory can be explained briefly through four significant schools: formal equality theory, cultural feminism, dominance theory, and post-modern or anti-essentialist theory (Bowman & Schneider, 1998, p. 251). Formal equality theory is based on liberal democratic thought, which promotes equal treatment between women and men, as mentioned before. Cultural feminists have an emphasis on the differences between women and men. The dominance theory concentrates on the embedded structures of power. This power makes the differences that are constituted by men's characteristics of the norm. For anti-essentialism, there is an intersection of gender, race, and class rather than a single category of female (Bowman & Schneider, 1998, p. 251).

2.1.1 Critique of Liberal Legal Theory

Scales defines liberalism as having two principles, and the individual is the primary unit of society. The social organization hosts rational and self-interested individuals who utilize their rationality to fulfill their needs and desires. In liberal legalism, the legal subject is conceived as rational, autonomous, self-sufficient, self-assured, and formally equal before the law. (Davies & Munro, 2013, p. 13). Similarly, the suffrage movement is closely interrelated with the principle of formal equality, stimulated by equal treatment theory. The equal treatment theory acknowledges that women’s rights are equal to those of men. This theory centered on liberal ideals in philosophy; political theory acknowledges equal citizenship, equal opportunities in the public arena, individualism, and rationality.

There are two principles for equal treatment theory. One of the principles is that a woman should have the right to receive the same treatment. Secondly, the generalizations about women as a group should not be considered in decisions about individual women in law. (Levit & Verchick, 2016, p. 13)

In the liberal understanding, a radical dichotomy exists between subject and object.

The subject is decontextualized from the world of objects involving the body in the Kantian theories. The body is accepted as an object, and this body is not an integral part of personhoodThe formal equality of legal subjects is ensured through the distinction between subjects and objects. Formal and substantive equality are interconnected concepts. If individuals compete equally, it will mean reaching substantive equality. Aristotle's principle is that different things should be treated differently. A broader understanding of substantive equality focuses on achieving equal outcomes or results. This perspective recognizes that treating everyone equally can perpetuate inequality due to past or ongoing discrimination. Substantive equality aims to achieve a more just distribution of benefits, while formal equality is based on fair procedures and consistent treatment. Substantive equality emphasizes creating a more equitable distribution of benefits, while formal equality is concerned with procedural fairness through consistent treatment. Another concept related to substantive equality is equality of opportunity, which falls between formal equality and equality of outcome. This view holds that true equality cannot be achieved if people begin from unequal starting points. (Forowicz, 2017, pp. 193-194)

Liberal legal justice is consistent with abstract, general, and universal categories, somewhat blind to embodied and concrete particularities. (Gear, 2011, pp. 28-29) This separation underpins the notion of formal equality among legal subjects, achieved by distinguishing subjects from objects. As a result, liberal justice is oriented towards abstract, universal categories, often overlooking embodied and concrete particularities. (Naffine, 2003, p. 360)

Robin West argues that our modern legal theory, including liberal and critical legal theories, grabs the separation thesis. All of them have to be accepted as fundamentally irreversibly masculine. In other words, human beings are physically separated from each other. This view is the root of law. I am a human being, and you are another. There are material boundaries between me and you. Robin West has proposed connectedness as the concept rather than separation. Women are inevitably and invariably connected to human beings. They cannot be separated from human beings. When they are pregnant, they are not separated from their baby, and women find a way of connecting to life simultaneously. (West, 1988, pp. 2-3) Robin West's

connection theory challenges the liberal notion of a strict division between public and private spheres, highlighting how this separation fails to recognize the interconnectedness of human relationships, particularly in women's lives.

According to West (1988), liberal theory often portrays individuals as autonomous and independent actors who primarily engage in the public sphere, while viewing the private sphere as distinct and largely beyond state involvement. This view, she argues, overlooks the relational and interdependent aspects of human life, especially for women, who frequently assume caregiving roles that blur the lines between public and private. (Higgins, 2000, p. 852) Her theory emphasizes the value of relationships and caregiving, bolstering feminist critiques and advocating for a more inclusive legal system that provides stronger protections for marginalized individuals. West's perspective on reproductive rights calls for framing these issues within the context of moral agency and responsibility, broadening feminist discussions on reproductive justice. She also champions legal reforms that address gendered harms within institutional structures and supports intersectional approaches, acknowledging the diverse experiences of women across race, class, and sexuality (McClain, 1999, p. 482).

On the other hand, MacKinnon agrees with West that liberalism and the left share the same ideas on separating the public and private spheres or emphasizing objectivity. The private sphere should be seen as political, and all the inequalities occur in this sphere. Such as marital rape, exploitation of women's labor, and battery. (MacKinnon, 1983, p. 657) The integration of substantive equality with the public-private split in liberal theory highlights the need for legal interventions beyond the formal equality model, acknowledging the political and social impacts on private and public lives. This approach challenges the traditional boundaries between public and private and redefines equality as a goal that demands active state involvement in all areas where structural inequalities exist.

The concept of the gender binary offers insight into the positioning of women within the legal system, where women may be framed as either 'normal' or 'abnormal' subjects. This labeling often reflects societal interpretations, which, when internalized

within legal discourse, restrict women's agencies, frequently denying their status as autonomous, private, and rational-legal subjects (James & Palmer, 2002, p. 76). In Türkiye, patriarchal assumptions are embedded in the legal system have led to disparate interpretations of femicide cases, with judgments often influenced by societal expectations of victims' lifestyles. In some instances, victims are held partially accountable for their presence at the crime scene, illustrating how public expectations impact the legal system's treatment of such cases. The manifold contexts within which legal subjectivity develops and ‘actual,’ ‘natural’ subjects whose subjectivities break the limits of law and are surrounded by a variety of social discourses are removed during the process of creating law by the tradition of legal theory. These subjects, which have different characteristics such as gender, indigeneity, sexuality, race, culture, level and type of education, and class, are not accepted by the formal law. (Davies & Munro, 2013, p. 13)

A new model of sexual equality is called equality, as acceptance that she recognizes is fundamentally uneven. Women's biological and cultural differences from men are not imaginary or insignificant. These differences can be constructed or natural. The determination of cultural differences between sexes is not associated with only biological bases. However, both biological and social differences are accepted and handled to explain these differences. Acceptance is critical in reducing inequality without giving up women's differences. The importance of female professions or the female way of life should be reappraised by society. The way of reducing inequality is to reappraise female activities, which are not less valuable than equivalent male activities. (Littleton, 1987, p. 1279) In the acceptance model, there are no significant problems with sex differences rather how differences are allowed to legitimize inequality. (Littleton, 1991, p. 37)

Littleton's acceptance model in feminist jurisprudence suggests that women's choices are often shaped more by societal pressures and power imbalances than by true consent. Rather than assuming that women freely choose certain conditions, the acceptance model calls for a legal framework that recognizes how women may "accept" situations due to limited options or social expectations. This model challenges

traditional views of autonomy in the law and highlights the need to consider the social context influencing women's decisions.

Women are biologically different from men, and this difference requires new special treatment in the workplace. This treatment can damage the equality demands of women. The stereotypes of women as passive can be encouraged and excluded from the workplace due to this demand for special treatment. Accordingly, women can not catch up with their male colleagues in the workplace. (Minow, 1990, p. 41)

The concept of sameness and difference requires a relationship between equal and special treatment. This discussion touches on the patterns of inequality and the existing structures that contribute to women's oppression. At this point, the special treatment will be explained, and the main point of strategies for gender equality is the difference between males and females. Feminists who adopt this viewpoint may push for laws recognizing these differences, advocating for special legal protections for women, or critiquing laws that appear neutral but have unequal effects on men and women. This approach, known as "difference feminism," contrasts with "equality feminism," which emphasizes equal treatment for men and women under the law. Difference feminists argue that even seemingly neutral laws can disproportionately burden women by overlooking gendered roles, such as caregiving, which women often shoulder more. (Thomas & Boisseau, 2011, p. 27) Feminists highlight that past efforts to provide special protections for women have sometimes had unintended adverse effects. For instance, while women were protected from working long hours or night shifts, similar protections were not extended to men. Although this protection helped women in difficult working conditions, it also led to adverse outcomes, such as reserving specific high-paying jobs for men.

Furthermore, if employers are obligated to offer maternity leave or part-time work exclusively to women, they might be inclined to avoid hiring women of childbearing age to circumvent these additional costs. Ginsburg had a solution for providing gender equality: to ensure equal educational access, promote shared parenting roles, and provide quality childcare services. (1986, p. 145) The liberal theorists paid more attention to this kind of solution. The solution has an impact on women's lives as an

exterior field. In Türkiye, laws for special treatment have also reduced participation in the female labor force. For instance, there are regulations on maternity leave and childcare, and another regulation is that a female employee who leaves her job due to marriage is entitled to severance pay.

Kay (1985, p. 1) argued that a model of cross-sex assimilation is useful in many situations where women and men share the relevant characteristics used for the comparison. However, in those few instances where the biological reproductive differences that define the sexes are directly involved. She concluded that the assimilationist model is not effective in achieving legal equality between women and men, and that a different model must be developed. Her article represents an initial attempt to construct an alternative model for addressing the reproductive difference. The biological fact that only women have the capacity to become pregnant has historically been used to define them as different from men across social, psychological, and emotional dimensions. These alleged differences have, in turn, justified the legal, political, and economic exclusion of women from men's public sphere. Even today, as the barriers separating women and men in the workforce continue eroding, the singularity of pregnancy persists as an obstacle to women's equal opportunity. (Kay, 1985, p. 37) The difference-oriented feminist legal theory is divided into two categories: the special rights approach and the conciliatory approach. Çağlar-Gürgey (2014, p. 33) identifies Kay's perspective as conciliatory. According to this view, conciliatory feminists agree with difference-oriented feminists on issues rela ted to biological differences but align with egalitarian feminists when it comes to non-biological differences. Hence, they are described as conciliatory feminists.

The feminist legal theory that most intensely debates the idea that the legal system is male and how to challenge it is radical feminism. In academic legal scholarship, radical feminism is discussed by Catherine MacKinnon and Christine Littleton. Radical feminists adopt the concept of patriarchy. They identify the patriarchal system with power, domination, authority, advantage, and competition. According to radical feminists, this system has such deep and long-standing roots that it cannot be corrected through reform; women can only be liberated by abolishing it entirely, since it is embedded not only in legal and political structures but also in social and cultural

institutions such as the family, science, art, and academia. (Çağlar, 2001, p. 36) In addition to that radical feminists argue that family relations reinforce the patriarchal system. According to them, what needs to be done is not only to oppose the institution of the family itself but also to work toward eliminating its extensions within society. For example, women's participation outside the home and men's assumption of certain responsibilities traditionally assigned to women are presented as solutions proposed by radical feminists. (Güriz, 1997, p. 74)

MacKinnon critiques formal equality. The norms that characterize normality in the workplace indicate men and their typical lives. While the performance of all people is measured in the workplace, men's lives are considered standard in all persons' performance. (Bowman & Schneider, 1998, p. 260) Besides, Bender (1989, p. 943) researched American female lawyers who worked in big law firms in 1988. Some law firms permitted talented women lawyers to arrange working schedules in light of their family responsibilities. In this way, women could keep their careers, and they did not lack job security. This meant no working during the weekend or at night or no travelling for work. This way of working was called the mommy track. The mommy track led to the legitimation of the glass ceiling. For this reason, most women could not get promotions, high salaries, power, or prestige. (Bender, 1989, p. 943) Likewise, women in the labor market often found themselves relegated to traditionally female professions or facing unemployment, losing their competitiveness due to overly protective policies. Moreover, male-dominated unions offered women protections, such as exemptions from night or overtime shifts. However, these restrictions also limit women's access to desirable positions in the job market. Sex-based protective legislation restricted women's occupational mobility, often confining them to traditionally "female" roles.

This segregation in employment reduced women's bargaining power, as they were concentrated in lower-status, lower-paid positions, limiting their ability to negotiate for better working conditions and pay. The indecision about the conceptualization of difference led to a disadvantage related to the romanticism about women's differences and the exaggeration of their qualities. Firstly, significant improvements were made to sex-based protective legislation. Then, large numbers of women backfilled female

occupations. This meant that the number of unemployed females increased, and males had a competitive advantage in male occupations. (Rhode, 1991, p. 1740)

On the other hand, Gilligan suggests the different voice perspective in which a female-centered counterculture develops in women's liberation. Cultural feminists focus on women's fundamental differences from men who are not nurturing or raising children. Gilligan, one of the cultural feminists, proposes an ethics of care model. The women's moral reasoning and self / other dichotomy are examined. For her, a male point of view concentrates on autonomy and overvalues the separation between self and others. This separation says a lot about the roots of domination. The privilege of abstract moral principles, rights, autonomy, and individualism are the primary tools for boys' education. At the same time, the concepts of preservation of cooperation, sympathy, and value of understanding are central points of girls' education. Gilligan made a distinction between boys and girls as ethics of rights and ethics of care. Boys represent the ethics of right in which moral decisions are made in a legalistic way. The ethics of care belong to girls whose target is to preserve the relationships included in each situation. (Scales, 1986, p. 1380) Cultural feminists propose the law of an ethic of care instead of a male-oriented rights model. This difference-emphasizing perspective argues that the moral development of men and the psychology of women are shaped differently within a cultural context. These thinkers maintain that men's fundamental orientation is toward non-interference, while women's fundamental orientation is toward harmony. Within this dialectic, relationships are interpreted based on the connection thesis and the concept of the ethics of care. (Vural & Kantar, 2022, p. 39)

Another discussion point is that instead of just asking whether men and women are the same or different, the more critical question is whether legally recognizing sex-based differences will help decrease or reinforce inequalities in political power, social status, and economic opportunities. (Okin, 1999, p. 555)

Henderson reviewed Zillah, Smart, and MacKinnon (1991, p. 413), who found that law as an institution, a practice, and a source of meaning in the modern state was formed and restrained. In this way, patriarchy is also generated and regenerated. The legal thought, the shape of the law, and juridical and legislative attitudes are decided

by masculine consideration and patriarchal regimes. If women made a demand to end the patriarchy, they would have to concentrate on abolishing its legal form and its social, political, and economic manifestations.

MacKinnon argues that the feminists are not seriously concerned with the issue of the state. But an excellent feminist theory should talk over the state. This contributes to understanding how the law as a form of state power operates in a social context and the mechanisms behind gendered power. (MacKinnon, 1991, p. 159) MacKinnon not only examined the relationship between feminist activism and the state but also broadened the scope of feminist discourse to include critical issues surrounding rape and pornography. Besides, MacKinnon (1991) argues that rape is fundamentally based on two key principles: the acceptable level of force and the concept of consent. In legal proceedings, the idea of acceptable force often leads to insufficient recognition of women's experiences of rape and the violence they face. This notion suggests a normative standard of male sexual behavior that is deemed "normal." Some feminist interpretations argue that it is more accurate to frame rape as an act of violence rather than merely a sexual act. Conversely, other feminists assert that rape is intrinsically linked to male sexuality and violence, placing all women at risk. This divergence in viewpoints underscores the complexity of addressing rape within feminist discourse and its broader implications for societal attitudes toward sexual violence. (MacKinnon, 1991, p. 191)

The definition of rape is legally constituted, and this crime is not against women’s sexual honor or intimate integrity but rather is against female monogamy (exclusive access by one man). In Marxian analysis, rape can be related to property, but this analysis is not successful in understanding the realities of rape. Women have their sexuality, which is socially bought, sold, and traded by others. But they do not possess their sexuality on their own. Men pay attention to property but never see women’s sexuality as property. The equality of women's sexuality to property can be interpreted as an improvement. (MacKinnon, 1991, p. 171)

Rape involves the penetration, but MacKinnon claims that the rape focuses on the penetration as heterosexuality, male supremacy's paradigm of sex. Male genital terms

are used to make the protection of women from aggressive violation and seizure. But the penile invasion of the vagina is not so crucial for women's sexuality, pleasure, or violation as it is to male sexuality. (MacKinnon, 1991, p. 172) Estrich advocates for a significant reform in rape law, arguing that a woman's "no" should be understood as an absolute refusal in all situations. She suggests that, in both simple and aggravated cases of rape, the law should require men to act reasonably by interpreting any woman's "no"—including that of a spouse—as definitive. Estrich also engages with feminist perspectives, which highlight that women may sometimes say "yes" due to societal pressures, even when they don't truly consent. Given this reality, she contends that it is not too much to ask men, and the law, to honor the clarity and courage of a woman who does say "no" and to take her at her word. Estrich critiques the justice system's bias in rape cases and proposes legal reforms to address these issues. However, she doesn't examine deeper causes of rape, such as misogyny or the influence of pornography, and assumes that adjusting legal rules is enough. Despite her efforts, Estrich concedes that previous reforms have had little impact, and her proposals may also be ineffective without broader societal changes in gender relations. (Becker, 1989, p. 444)

It would be beneficial for feminists, regarding the different demands of the women's movement and especially sexual crimes, to think not only through women but also through a more complex analysis of social and political structures and power balances. Feminists need to take into account the lawlessness and complex balances of the power game, and that in many cases women can also be used as pawns in this power game. Otherwise, incidents abused and manipulated due to various political concerns may lead to a decrease in social sensitivity regarding sexual crimes and to the strengthening of hostility towards feminism. (Özkazanç, 2012, p. 4)

In legal theory, the concepts of the "subject" and the "person" are distinct. A "subject" denotes an individual within a legal or social system, shaped by language and context, implying subjection to that system. In contrast, a "person" refers to a human being as a natural, biological entity. However, in positivist legal language, "person" is also a technical fiction, constructed by law rather than representing a purely natural identity.

Despite these distinctions, "subject" and "person" are more closely aligned in legal contexts than in everyday language (Davies, 2017, p. 114)

The designation of legal people has profound political and social implications, as it defines who is entitled to act within the legal system and who is excluded as a "non-person." Historically, groups like slaves and women were often denied full legal personhood, which restricted their rights and social recognition. These legal definitions directly influence who has access to rights and agency, shaping the boundaries of inclusion and exclusion within society and reinforcing existing power dynamics. (Naffine, 2003, p. 346) Article 28 of the Turkish Civil Code states that personality begins when the child is fully born alive and ends with death. The child has the right to capacity from the moment it enters the mother's womb as a fetus, provided it is born alive. Savell raises an important question about how the bodies of legal persons, particularly pregnant women, are shaped by law. Pregnant women are formally recognized as legal subjects. However, this recognition may not be fully applied in practice. Since a fetus is not legally considered a person due to its dependence on the mother's body, it does not hold rights or obligations. However, the fetus's interests are still protected by law, which can result in restrictions on the mother's autonomy. This legal intervention can infringe upon the mother's rights, as seen in prohibitions on late-term abortions or enforced cesarean sections on women who refuse them. Such measures reveal a tension between protecting fetal interests and upholding the rights and status of pregnant women as autonomous legal persons (James & Palmer, 2002, p. 4)

The concept of the legal subject is essential in understanding debates around women's status and rights in law, particularly in cases of sexual violence. When a woman is raped, questions arise about the legal status of a fetus conceived from the assault: is it recognized as a separate legal subject or merely a part of the victim? In Türkiye, laws allow women to terminate pregnancies resulting from rape within a certain timeframe, but this raises further questions about the extent to which women are considered legal subjects with agency over their bodies and reproductive choices. This issue ties into historical practices, such as the now-abolished provision in Türkiye where a rape victim could be compelled to marry her rapist, allowing the perpetrator to escape

punishment. This change in the law reflects evolving views on women's autonomy and status as legal subjects.

Legal theorist Catharine MacKinnon argues that the question of consent in cases of rape is often irrelevant within a system that implicitly assumes consent, due to ingrained societal norms that privatize and normalize male dominance. Her perspective highlights how legal frameworks can fail to fully recognize women as autonomous subjects, reinforcing existing power dynamics rather than protecting individual rights.

The significance of radical feminism's observations is evident about women's issues in Turkey. Topics such as rape, prostitution, alimony, and abortion can be better understood through the elements highlighted by this approach. Although rape is widespread, courts often hesitate to convict defendants and usually require victims to demonstrate physical resistance to prove lack of consent. However, in cases where physical resistance occurs, the fact that women are beaten or even killed demonstrates how meaningless such a requirement is. On the issue of prostitution, a legalization policy has been adopted in Turkey. Yet legality does not protect women in this field from coercion, exploitation, rape, or abuse. (Arıkan, 2019, p. 682)

On the other hand, MacKinnon argues that pornography functions as a system of oppression, presenting forced sex and a politics of dominance that entrencheses male supremacy and reinforces gender inequalities. She sees pornography as performative—it doesn't just depict ideas but actively enforces the sexual subordination of women, affecting how women are perceived and treated in society. MacKinnon critiques the defense of pornography as free speech, arguing that this perspective masks the harm it causes, including the violence inherent in its production and impact on women's lives. She further contends that pornography defines women's sexuality through a lens of sexual exploitation, embedding harmful stereotypes about women's roles. To address these issues, MacKinnon calls for substantial legal reform, criticizing existing obscenity laws as inadequate and advocating for a legal framework that tackles the structural inequalities supported by pornography. (Bennett, 1997, p. 218)

In the 1980s, the U.S. Supreme Court addressed significant gender equality issues through cases focused on male-only draft registration and statutory rape laws. The draft registration case mandated that only men enroll in military service, excluding women from combat roles and establishing a constitutional gender distinction. In statutory rape laws, while consensual sex among adults was legal, sex with a minor was criminalized solely for men, based on societal beliefs that men are natural aggressors in both warfare and sexual activity. This view, foundational to early statutory rape laws, reinforced gender stereotypes by positioning men as the primary initiators of sexual conduct. Legal scholar Patricia Williams termed this disparity "cultural limits," underscoring a fundamental challenge in re-evaluating gender equality as feminists and courts encountered deeply ingrained cultural values. (Bartlett & Kennedy, 1991, p. 20)

The critique of feminist legal theory highlights the problematic use of essentialism, where theorists like Catharine MacKinnon and West (1990, p. 585) assume a singular, universal experience of womanhood. This approach, Harris (1990, p.187) argues, marginalizes the complex identities of women who experience intersecting forms of oppression, particularly women of color, whose realities cannot be separated into distinct categories of race and gender. She emphasizes the necessity of intersectionality in understanding these layered oppressions and fostering a truly inclusive feminist framework.

Crenshaw's (1991, p. 1244) analysis underscores the limitations of conventional frameworks that examine race and gender in isolation. By highlighting how these identities intersect to shape unique forms of discrimination, Crenshaw reveals the need for an intersectional approach that acknowledges the compounded marginalization faced by women of color. She critiques both feminist and antiracist movements for sidelining these voices, pointing out that dominant discourses often overlook the specific challenges women of color endure. Furthermore, she emphasizes that power dynamics in identity politics dictate which voices are heard, often excluding marginalized perspectives. Crenshaw's (1991, p. 1244) call for intersectional frameworks challenges us to address both individual structural and systemic forms of

violence, demanding a comprehensive view of identity that can drive more inclusive policies and social change.

On the other hand, Franke (2001, p. 184) critiques feminist legal theory for focusing too narrowly on female sexuality in terms of danger (e.g., sexual violence, harassment) and dependency (e.g., motherhood). She argues that this approach neglects the positive aspects of female sexuality, such as pleasure and desire, which are explored more openly in other feminist disciplines. Franke also highlights how legal feminist theory often marginalizes non-reproductive sexual desire and reinforces a maternalized view of women. She calls for a more comprehensive framework that considers both the negative (freedom from oppression) and positive (freedom to experience pleasure) aspects of female sexuality, drawing attention to the need to examine reproductive and heteronormative pressures with the same critical rigor.

Franke (2001, p. 184) also examines storytelling within feminism, asserting that white-centered narratives often dominate, leading to a “hegemonic feminism” that minimizes or excludes the voices of marginalized women, thereby perpetuating a subtle form of racism within the movement. She notes that essentialism can be intellectually convenient and provide a feeling of unity within feminism, particularly for white women, but warns that this convenience often neglects the nuances of positionality and identity politics, ultimately weakening the feminist agenda. (West, 1990, p. 589)

The critiques from Harris, Crenshaw, and Franke reveal significant limitations within traditional feminist legal theory, specifically its reliance on essentialist views that fail to capture the diverse and intersecting experiences of all women. Harris and Crenshaw underscore the importance of an intersectional framework, which moves beyond viewing race and gender in isolation, instead acknowledging how these identities converge to create unique challenges, particularly for women of color. Franke's critique adds depth to this analysis by highlighting the need to expand feminist legal theory’s focus on female sexuality beyond themes of danger and dependency, advocating for a broader view that includes positive dimensions like pleasure and desire. Moreover, the dominance of white-centered narratives within feminist discourse has perpetuated a "hegemonic feminism" that often excludes marginalized

voices, weakening the inclusivity of the movement. These critiques collectively argue for a more intersectional, inclusive, and nuanced approach to feminist legal theory that addresses both the structural and personal dimensions of women's experiences, advancing a more comprehensive and equitable feminist agenda.

For Minow (1990, p. 94), If the norm is to have the ability to hear, deafness has to be accepted as a difference. However, a deaf person in a group of deaf people does not represent a difference in this community. In other words, deafness is not accepted as a different personality characteristic. Finally, the critical problem is the norm. We can create other practices in which the differences signify the variety of human experience rather than separating people from each other as normal or abnormal. In this sense, overcoming the dilemma of difference requires rethinking institutions. These institutions should not establish one norm that takes responsibility for the differences in who is separated from it. Moreover, the sense of inferiority can be associated with the norm and the differences between people. It indicates that the norm, which leads to a sense of inferiority based on differences, should be abolished.

When examining feminist legal theory in the context of the Istanbul Convention, which is the focus of this thesis, it becomes evident that perspectives from liberal legal theory, equality feminism, and dominance feminism are most prominent. While anti-essentialist and intersectional feminism are also discussed towards the end of this chapter, it is essential to recognize that the feminist approach in the Istanbul Convention aligns more closely with the principles of radical feminism and equality feminism. The principle of neutrality is among the fundamental principles enshrined in law. According to this principle, fairness or justice is presumed to be attainable when conditions are neutral and all individuals are treated equally. However, in the context of addressing domestic violence, the principle of neutrality has often been employed as a legal tool to legitimize patriarchal cultural value judgments. Social groups—particularly feminist activists—who recognize this bias and seek to challenge and expose it have achieved significant legal gains both in Turkey and globally. (Çağlar Gürgey, 2015, p.62) This emphasis reflects a commitment to addressing structural inequalities and achieving substantive equality, marking the Convention as a critical tool for advancing a more transformative feminist agenda in the legal domain.

2.2. Rethinking Epistemology through Feminist Standpoint Theory

This chapter explores Feminist Standpoint Theory as a critical approach within feminist epistemology. It examines the conceptual relationship between Standpoint Theory and feminist epistemology and considers how these relationships influence feminist epistemology as a form of critique. By focusing on Standpoint Theory's emphasis on situated knowledge and the epistemic significance of marginalized perspectives, the chapter highlights its role in challenging dominant epistemological frameworks and reshaping feminist understandings of knowledge.

Since the 1970s, feminist scholars have been developing alternative approaches to knowledge and research that center on the voices and experiences of those historically excluded from academic discourse. Harding (2003, p.1) argues that Standpoint theory contributes not only to feminism but also to contemporary scientific, philosophical, and political discussions more broadly. It has internal contradictions and varying interpretations that continue to provoke debate. In the 1970s and 1980s, Standpoint theory emerged as a feminist critical framework that examines the connection between the production of knowledge and the dynamics of power. It urges those historically excluded from power and decision-making to shape knowledge and contribute to the social construction of reality (Gurung, 2020, p. 206). This type of research is primarily concerned with how knowledge can be generated from the experiences of oppressed groups to expose suffering grounded in lived realities. The feminist standpoint model sheds light on diverse perspectives and potential solutions by exploring how participants understand and interpret the world. The marginalization of femininity, as experienced in women's lives, can only be comprehended through standpoint theory, which places the lived experiences of the oppressed at the core of the research. (Huirem et al. 2020)

Feminist standpoint theory, originally rooted in Marxism, aimed to connect knowledge with political action by grounding it in women's experiences. While later concepts like "situated knowledges" and "strong objectivity" sought to address the diversity of these experiences, the theory remains flawed. It relies heavily on personal experience without fully resolving validity issues or the complexity of differing subjectivities,

making it a contested epistemological framework. (Hawkesworth, 1999, p. 138) Throughout the theory's development, feminist standpoint theorists' pursuit of truth and politics has been shaped by two main ideas: that knowledge is situated and perspectival, and that multiple standpoints produce knowledge. As the theory evolved, feminist standpoint theorists examined how knowledge can be situated yet "true," and, second, how difference can be recognized without eliminating the possibility of critique and a viable feminist politics. (Hekman, 2003, p. 359)

Thus, standpoint theory was both explanatory and normative. It also stirred debate with the further claim that, in this regard, it did not differ from conventional philosophies of science, epistemologies, and methodologies, which often concealed their normative aspects behind a façade of neutrality. Importantly, standpoint theory was also presented to empower oppressed groups, recognize the value of their experiences, and foster what Patricia Hill Collins and Chela Sandoval describe as an "oppositional consciousness." Accordingly, it was described by various authors as a philosophy of both natural and social sciences, an epistemology, a methodology (a prescriptive "method of research," as some of its theorists put it), and a political strategy. (Harding, 2003, p.2)

The feminist standpoint discussions highlight key differences in how theorists understand the connections between the feminist as a knower, the knowledge feminist produces, the gendered social world that is the subject of that knowledge, and the lived experiences and relationships that shape it. (Ramazanoğlu & Holland, 2002, p. 67) Early feminist critiques of positivism highlighted the invisibility of women, raised epistemological concerns, and questioned ethical practices in the social sciences. Positivist science was criticized for its gender bias and its claim to value-neutrality. Feminist perspectives, in response, stressed the importance of making researchers' values and commitments visible in the research process. (Henwood & Pidgeon, 1995, p.8)

As early critiques of feminism on positivism, Haraway (1988, pp. 583-590) challenges traditional objectivity in science, advocating for "situated knowledges," which recognize that all knowledge is shaped by specific social and historical contexts,

making it partial and based on particular experiences. She critiques disembodied objectivity, highlighting the importance of embodied experiences and marginalized viewpoints. Haraway emphasizes that only partial perspectives can offer a more accurate understanding of reality and argues that knowledge objects should be seen as active agents in shaping knowledge production. She also stresses the ethical responsibility of researchers to be accountable for their perspectives and the implications of their work.

Standpoint theory asserts that individuals occupying less powerful positions within society perceive a distinct reality shaped by their experiences of oppression. As a means of survival, oppressed groups cultivate a more comprehensive perspective, often described as "double vision" or double consciousness. (Swingonski, 1994, p.394) Haraway's concept of the "privilege of partial perspective" argues that acknowledging the limits of one's viewpoint leads to more truthful and comprehensive knowledge. Instead of striving for universal objectivity, she emphasizes that social, cultural, and historical contexts shape all perspectives. This approach values diverse voices, enhances understanding, and calls for ethical responsibility by encouraging researchers to reflect on their positionality and its impact on knowledge production. (Haraway, 1988, p. 585)

Standpoint theorists argue that knowledge is inherently tied to the interests of those who know, and therefore, lived experiences and specific subjectivities grant certain privileges to the knower. This approach views the world as a structural reality that is socially constructed and dependent on human actions. However, it also maintains that this reality changes in open-ended ways, shaped by lived experiences, material conditions, and specific historicities. Thus, without resorting to relativism, the political actions of free, conscious, and purposeful subjects become meaningful within the broader scope of the relations between the knower, the known, and the process of knowing. In this framework, standpoint theory contends that knowledge is bound to subjectivities and social positions, and that research is intrinsically linked to power. (Ecevit, 2011, p. 48)

Swingonski (1994, p. 391) emphasizes similarly that research should be grounded in concrete experiences, particularly those of marginalized groups whose perspectives have historically been devalued. The understandings of the world held by dominant and subordinate groups often stand in opposition, with the dominant perspective reflecting a partial and limited view of reality. For the oppressed, knowledge arises through active struggle against systems of domination, exposing the constructed nature of the social order. Feminist standpoint theory claims about knowledge and politics that marginalized perspectives are valuable and necessary for understanding social reality.

On the other hand, Hundleby (2001, p. 172) argues that Feminist standpoint theory centers marginalized voices to create inclusive activism and inform policy changes based on lived experiences. It promotes intersectionality, challenges dominant narratives, supports participatory research, and encourages activists to reflect on their privileges for more accountable and effective movements.

Hekman (1997, p. 356) argues that Feminist standpoint theory has evolved from challenging absolutist, subject-centered notions of knowledge to embracing the idea that knowledge is situated and shaped by social context. This shift highlights that understanding is perspectival and relational, rather than universally fixed. As feminist thought progressed, it recognized the diversity of women's experiences and the role of intersecting identities, such as race, class, and sexuality, in shaping knowledge. This has led to rejecting a singular "feminist truth" in favor of multiple, context-specific truths.

Actually, standpoint theories support beginning inquiry with the experiences of marginalized groups. By focusing research on these specific, objective contexts within social structures, researchers can reveal critical questions often overlooked when starting from dominant perspectives. Centering women's experiences leads to more accurate and complete understandings of both women's and men's lives and the broader social framework. Women's experiences provide the "grounds" for producing knowledge, though not as foundations in the traditional philosophical sense. Rather, these grounds represent the contexts and activities from which scientific inquiry

develops, offering an epistemologically privileged starting point. (Harding, 1993, p. 56)

Feminist standpoint epistemology reconfigures the traditional epistemological relationship by conceptualizing the subject as collective, the object as socially constructed, and the interaction between them as dialectical. Women's epistemic advantage emerges from their contradictory social positions, which afford them an "outsider within" perspective. Accordingly, feminist scholars are called to intentionally shape discourse by engaging with diverse voices and fostering critical, inclusive dialogues. (Sprague & Kobrynowicz, 1999, p. 25)

The theory also began critically examining the processes of knowledge production, exposing power dynamics in institutions like academia that determine whose knowledge is legitimized. Additionally, it has worked to deconstruct binary oppositions such as objectivity vs. subjectivity and theory vs. practice, promoting a more inclusive and complex understanding of knowledge. Over time, feminist standpoint theory has aligned itself with other epistemological paradigms that challenge modernist assumptions, drawing on thinkers like Kuhn to frame knowledge as contingent and historically situated. (Hekman, 1997, p. 357)

Harding (1993, pp. 56-60) claims that future research should emphasize the social situatedness of knowledge claims by beginning with the experiences of marginalized groups, particularly women, to address biases historically influencing scientific inquiry. Researchers should develop strong objectivity by integrating the researcher with the subjects being studied and recognizing the cultural and social contexts shaping inquiry. Additionally, feminist researchers should critically assess traditional methods and norms, identifying androcentric biases and creating more rigorous standards to challenge these assumptions effectively. She emphasized the social situatedness, development of strong objectivity, collaborative knowledge production, critique of traditional methods, and interrogation of gender dynamics. Harding (1993, p. 55) advocates for a more democratic approach to knowledge production, emphasizing the importance of participatory research practices that actively engage marginalized communities. By adopting such practices, feminist researchers can

ensure their work not only advances social justice objectives but also empowers those whose lived experiences shape the research process.

Strong objectivity requires that both the subject of knowledge (the researcher and their community) and the object of knowledge (the focus of research) be critically examined in the same way. This involves strong reflexivity, where researchers must acknowledge how cultural beliefs influence every stage of the scientific process, from problem selection to data interpretation. Scientists' unexamined assumptions shape their research, so it’s essential to scrutinize not just the objects of study but also the researchers and their communities. To achieve truly critical objectivity, research must include the perspectives of marginalized groups, as they offer insights into the biases within scientific practices. This approach is crucial for ensuring that science serves not only epistemic goals but also moral and democratic values, advancing social justice alongside knowledge (Harding, 1993, p. 69).

Feminist epistemologists contend that knowledge should be rooted in lived experience, highlighting that women's experiences differ systematically from men's. Feminist standpoint theory extends this view by asserting that knowledge is shaped by one's social position, particularly within the context of both productive and reproductive labor. Rather than claiming a single, privileged perspective, standpoint theory emphasizes a dynamic and collective process through which multiple, partial standpoints are brought together to produce more situated and robust forms of knowledge. It conceptualizes a "standpoint" not as a static perspective, but as a dynamic site of inquiry emerging through collective experiences and relational processes. (Sweet, 2020, p. 6)

If a study adopts feminist standpoint theory, how the research topic is addressed is shaped by the social location and lived experiences of distinguished groups, emphasizing their perspectives as central to the production of knowledge. Feminist Standpoint theory offers an epistemological basis for advocacy without dictating a specific method. It supports diverse advocacy efforts and acknowledges varied subjects and audiences. The theory has evolved from focusing solely on women to encompassing broader social concerns, recognizing that subordination can affect men

as well. Rejecting a notion of a 'universal woman,' contemporary Feminist Standpoint research centers on specific disadvantaged groups, highlighting their voices and contextualizing them within themes of domination and resistance. (Neitz, 2014, p. 270)

Future research should be grounded in the recognition that knowledge is situated and shaped by the lived experiences of individuals across diverse social locations, including gender, race, class, and sexuality. Emphasizing collective knowledge construction, researchers are encouraged to collaborate with participants as co-creators of knowledge, thereby enhancing the authenticity of the research process. Reflexivity is essential, requiring scholars to critically reflect on their positionalities and the influence these have on research practices. Employing a mix of qualitative and quantitative methods allows for a more comprehensive understanding of complex social dynamics. Furthermore, research should actively engage with issues of oppression, using knowledge production as a means of empowerment and social change. Feminist epistemology urges scholars to challenge dominant paradigms and avoid marginalizing perspectives in their work. Community-based approaches and ethical, trust-based relationships with participants are also vital, ensuring research remains contextually grounded and ethically sound. (Sprague & Kobrynowicz, 1999, p. 35)

2.3. Exploring on Feminist Legal Methodology

The feminist legal method begins with asking the woman questions, which examines how law fails to consider women's experiences and values. This approach highlights biases, such as in rape cases where the law privileges the male defendant's perspective over the woman's. It also critiques how women's conflicting roles in home and work are treated as private issues rather than public concerns. Overall, asking the woman questions exposes how political and institutional structures reinforce women's subordinate status. (Süzgün-Şahin, 2017, p. 488)

The feminist method prioritizes women's experiences. At its core, it is grounded in listening to women and believing their stories. (Yükselbaba, 2016, p. 129) The woman question challenges the structural and legal foundations of women's exclusion and

demands justification for practices that sustain gender inequality. It asks why, despite formal equality in employment, women continue to be primarily responsible for childcare and domestic duties. It also interrogates how the law legitimizes restrictions on abortion, authorizes sterilization without consent, and enforces coerced caesarean sections. (Barnett, 2005, p. 21) The woman-question method exposes how political preferences and institutional arrangements reinforce women's subordinate position. When this question is not asked, the differences attributed to women within the law are accepted as given, left unchallenged, and even used to justify legal rules that disadvantage women. (Akçabay, 2020, p. 26) The second method is feminist practical reasoning that deepens the inquiry into the functioning of law by exposing the judicial techniques used in courts that serve to reinforce women's inequality. (Süzgün-Şahin, 2017, p. 489)

Women, by developing attitudes and behaviors that are sensitive to context and events, resist abstract and supposedly universal rules and generalizations with their own lived experiences. From this perspective, the experiences of everyday life cannot be sacrificed for the sake of abstract notions of justice; individual insights are considered more significant than codified legal rules. Women's contextual reasoning promotes greater respect for differences and for the perspectives of those without power. (Akçabay, 2020, p.27) The feminist legal method does not dismiss the need for predictability and certainty in law, which is ensured through the application of rules and principles. Nor does it necessarily present a complete alternative to traditional legal methods. Rather, it seeks to enrich and complement them by incorporating perspectives, experiences, and values that conventional methods—focused heavily on logic and deduction—tend to overlook. The last method is consciousness-raising, which refers to a process in which women, through collective discussion and reflection on their own and others' experiences, develop an awareness of the social and legal constraints imposed upon them. (Barnett, 2005, pp. 19-23)

Feminist standpoint theory enriches legal studies by asserting that women's lived experiences offer essential insights into the ways law sustains and reproduces inequality. Bartlett incorporates standpoint theory into feminist legal methods, demonstrating how it reshapes legal reasoning, informs legal reforms, and challenges

conventional understandings of what constitutes “truth” within the law. Feminist standpoint epistemology maintains that women’s experiences of subordination offer a privileged perspective for exposing hidden dimensions of law and society. While this insight has deepened feminist critiques of neutrality and objectivity, it has also been criticized for essentializing women’s identities, treating gender as the singular basis of oppression, and relying on ideas such as “false consciousness” to explain differing interpretations among wome (Barlett, 1990, pp. 872- 877)

Akçabay (2020, p.44) argues that one of the most important lessons that lawyers can learn from feminists is the interrelationship between theory and practice. When legal theory is reduced to abstract debates and detached from practice, it results in lawyers lacking theoretical grounding in law. This, in turn, leads to the gradual weakening and inadequacy of legal practice. In addition to that It can be argued that feminist methodology provides a critical lens and set of methods that can be employed in legal research, in the application and formulation of legal rules, in revealing the patriarchal structures of law, in uncovering gender inequalities, and in addressing the injustices arising from these inequalities. (Alver, 2024, p. 34)

CHAPTER 3

RESEARCH METHODOLOGY AND THE METHOD OF THE STUDY

This study aims to analyze the interplay between the feminist movement and the legal framework in Türkiye, using the Istanbul Convention as a powerful tool to explore the legal, political, and social dimensions of this relationship. The central problem of this thesis is the claim that the positive influence of the feminist movement in the adoption of the Istanbul Convention has, paradoxically, expanded the scope of the feminist movement during the withdrawal process from the Convention. Since the 2000s, the feminist movement in Türkiye has gained significant momentum through reforms in the civil and penal codes. The emergence of femicides as a form of physical violence in Türkiye during the 2010s, following the 'No to Beating' campaign of the 1980s, signals a profound social transformation.

During this period, women became increasingly visible in the public sphere. In courtrooms, in particular, women emerged as prominent legal subjects in cases of rape and sexual abuse. Monitoring and prosecuting such cases became a crucial part of the feminist movement. This activism extended beyond the streets and into the courtrooms, reflecting the movement's multifaceted approach to advocating for women's rights. In the light of this, the research questions of the study are as follows:

Research questions:

- The feminist movement in Türkiye played a significant role in positively influencing the adoption of the Istanbul Convention.
- The legal reforms enacted during the adoption of the Istanbul Convention contributed to strengthening the feminist movement in Türkiye

- The feminist movement played a foundational role in the adoption of the Istanbul Convention and the drafting of Law 6284.
- The agenda of the feminist movement in Türkiye evolved significantly between the 1980s and the 2000s.
- The relationship between the feminist movement in Türkiye and legal issues has been shaped by historical, political, and social influences.
- Türkiye's withdrawal from the Istanbul Convention broadened the scope of the feminist movement's struggle, prompting new forms of activism and resistance.
- The state has been unable to implement the necessary changes to fully comply with the Istanbul Convention due to political, institutional, or ideological barriers.
- A shift in the state's gender policies occurred after 2010, influenced by changing political dynamics, conservative backlash, or international pressures.
- The underlying sources of gender backlash in society stem from deep-seated patriarchal norms, political rhetoric, and resistance to gender equality reforms in Türkiye.

3.1. Method of the study

The qualitative research method is used for this study. Qualitative research has an alignment with Feminist methodology. This relates to the critique of positivism (Henwood & Pidgeon, 1995, p. 7). This study will focus on the contribution of Feminist Standpoint Theory to feminist methodology. The feminist methods are distinctive approaches to subverting the established procedures of disciplinary practice tied to the agendas of power (De Vault, 1990, p. 96). Standpoint projects, as a scientific approach, aim to look "beneath" or "behind" the dominant sexist and androcentric ideologies that influence everyone's lives, exploring the connection between, on the one hand, the everyday realities of women's lives and, on the other, the conceptual practices of powerful social institutions, particularly within research disciplines (Harding, 2004, p. 6).

To understand the Istanbul Convention in all its aspects, semi-structured interviews were conducted with attorneys, primarily because it is a legal document. The attorneys' interviews were divided into two main groups: First, people working in the academic field, mostly feminist academics specializing in the sociology of law. These

people were consulted to gain theoretical knowledge of the law. Second, to access the law in practice, attorneys who actively work in women's centers of bar associations in Türkiye and/or serve as defenders in the case filed in the Council of State during the withdrawal from the Istanbul Convention were interviewed. In addition to that, interviews were also conducted with feminist women working in NGOs focused on women's issues. These people were divided into two groups: one group worked professionally in these NGOs, while the other worked voluntarily.

Finally, the last group I interviewed was academics in Social Sciences. The last five people I interviewed were academics in the field of social sciences. Two of them were from the department of political science, two were from sociology, and one was from demography. One of them is both academic and volunteering in Women's organizations.

In-depth Interviews

Feminist methodologies often employ qualitative methods, such as interviews, which facilitate social interaction with the participant. This empowers the participants. In this sense, it's concerned with revealing the experiences and perspectives of women. This challenges the existing power relations and tries to change power dynamics.

Feminist methodology embraces a pluralistic approach, recognizing that feminists have used and adapted various research methods. This diversity helps eliminate unnecessary divisions within feminist research and opens opportunities to explore various strategies for future studies. Feminist methodology is marked by an ongoing dialogue, not a fixed set of principles. It adapts to changing social contexts and the evolving needs of feminist research, offering a dynamic understanding of gender and power relations (De Vault, 1996, pp. 31- 34).

The twenty-two in-depth interviews were conducted, with the primary focus being to explore the relationship between legal issues and feminist struggle in Türkiye. This dual relationship was examined through the lens of the Istanbul Convention, considering its legal, political, and social dimensions. Five of the participants are

academics from law faculties in Türkiye; five are attorneys registered with the Ankara, Istanbul, and Adana Bar Associations, and another five are professional activists working in women's organizations, as well as volunteers in these organizations.

Additionally, the last seven participants are academics in Social Sciences. These individuals were selected through the snowball sampling method. Assistance was sought from an academic in a law faculty and an activist working in women's organizations. These two people served as my gatekeepers and helped me gain access to the field.

This method was effective in accessing participants easily. This study aims to draw on the experiences of attorneys, academics in law faculty, academics in social sciences, and activists in NGOs regarding the Istanbul Convention, examining its legal, political, and social dimensions.

To understand the Istanbul Convention's legal dimension, interviews were conducted with legal academics, attorneys, social scientists, and activists. The interviews started on 13.09.2024 and lasted till 13.11.2024. All participants are women, and each identified herself as a feminist.

To foster greater interaction between the participant and the researcher, the questions about how they became involved in the feminist struggle or how they related to feminism were asked. For instance, one of the participants remarked, "It's obvious you are a sociologist because you establish strong connections and try to maintain good relationships. "(P11, Ankara)

As previously mentioned, the participants were divided into three distinct groups, with the first group consisting of attorneys. Before entering the field, I assumed that attorneys might have more limited theoretical knowledge of feminism. My initial approach aimed to prioritize field-based information over theoretical insights, particularly within the legal profession, as I approached the topic from a subjective standpoint. However, after engaging with attorneys who advocate for the Istanbul Convention, it became evident that many of our discussions extended beyond practical

matters, also addressing the theoretical framework of the relationship between feminism and law. This interaction contributed significantly to the depth and enrichment of the thesis.

During the field research, I scheduled meetings with several prominent feminist activists. Before these appointments, I experienced considerable stress, particularly when one participant inquired about how I could assist her further after I had explained our agenda via media, which made it somewhat challenging to gain her participation. Ultimately, I revised the interview questions to ensure they did not cover topics frequently addressed in mainstream media outlets such as television channels, newspapers, and social media. This study utilized three distinct interview formats: one specific to academics in law faculty and attorneys, another tailored to social scientists, and a third that integrated elements from both formats, allowing for questions derived from the academics in law faculty and attorneys format to be posed to the activists. Additionally, I asked a renowned feminist activist a slightly different set of questions compared to the others, as my primary focus was to explore how the feminist movement positively influenced the adoption of the Istanbul Convention.

I am grateful to them for the depth and richness of the data, and I sincerely appreciate each of them for their openness and support. I must acknowledge that their dedication and invaluable contributions played a crucial role in the success of this research.

At the outset of the research, I was not particularly motivated to conduct an in-depth study, as the women's movement in Türkiye was facing numerous anti-gender attacks, including the withdrawal from the Istanbul Convention. This led me to have a negative perception about the direction of the research in the country. However, after engaging with the participants in the field, I came to realize the deep commitment they had to the feminist movement in Türkiye. I had the opportunity to witness how the feminist movement has grown and spread throughout society over nearly 40 years, from the 1980s to the present, which greatly renewed my hope and enthusiasm for the research. The list of the participants and their experiences in the field are presented in Table 1 below.

Interview questions

Ethics committee permission was obtained for the research with the decision of the Human Research Ethics Committee dated 13.09.2024 and numbered 0478-ODTÜİAEK-2024.

As mentioned earlier, there are two types of questionnaires: the first is for academics in law faculties and attorneys, which includes both the first and second main research questions. The second type of question is referring to social scientists. The second type as the following includes the first and second main research questions. The third type is a mixed version of the questionnaire, which is given to activities and includes questions from both the academics in law faculty and attorneys' and social scientists' questionnaires.

List of participants

The first five interviews were conducted with academics from law faculties, followed by five interviews with attorneys, seven with social scientists, and five with activists. The duration of each interview ranged from 45 minutes to one hour. Most of the interviews were conducted online, with only five interviews being held in person. One of participants resides in Adana, two in London, six in Istanbul, and fourteen in Ankara.

Data analysis

In analyzing this data, the focus was placed on two main categories: one for the questions directed at academics in law faculties and attorneys, and the other for those aimed at social scientists. Additionally, similar responses from activist participants were grouped under the same questions. However, since the prominent feminist activist respondent was asked different questions, her responses were analyzed separately.

In the data analysis of this thesis, thematic analysis was employed. Based on the literature and interviews with participants, certain themes related to the subject were identified, and the data were analyzed considering these themes. These themes are categorized under three main headings: the legal, political, and social dimensions of the Istanbul Convention. Under the legal dimension, the international, binding, and constitutional nature of the Convention will be discussed. The political dimension will cover the feminist character of the Convention, the role of the feminist movement in its adoption, the implementation of the Istanbul Convention, and its relationship with the state. The social dimension will address gender equality, anti-gender equality movements, the reasons for the withdrawal from the Istanbul Convention, and the feminist movement's struggle against it.

Limitations of the study and further research

This study explores the intersection of the feminist movement and law through the lens of the Istanbul Convention on violence against women. However, while it is well known that the economy plays a significant role in the perpetuation of violence against women, this issue has not been given sufficient attention in this research. As a result, economic factors were not adequately emphasized throughout the study. This limitation arises from the focus of the study, which is centered on the legal, political, and social dimensions of the Istanbul Convention, rather than an in-depth exploration of the causes of violence against women.

As a second limitation, the scope of this study primarily focuses on legal, policy, and social dimensions; however, no interviews were conducted with stakeholders involved in driving changes in education, healthcare, or public services within the framework of the Istanbul Convention. The scope of this study is limited to the selected profile area. Future researchers will have the opportunity to expand their work to cover other areas.

As the study adopts a feminist standpoint perspective, it incorporates the subjective opinions of the participants, which are rooted in their situated knowledge. Therefore, the findings cannot be generalized.

CHAPTER 4

VIOLENCE AGAINST WOMEN: AN UNFINISHED AGENDA

Violence against women remains an unresolved issue both globally and in Türkiye. Therefore, this section of the study will focus on violence against women. First, the theoretical and global perspectives on this topic will be examined, followed by an analysis of the violence against women agenda in contemporary Türkiye.

4.1. Theoretical and Global Perspectives on Violence Against Women

Violence against women is accepted as a severe human rights abuse and public health issue. (Moreno et al, 2006, p. 1260) The origin of violence can be explained in two parts. The first part is related to who can use violence. The ability to use violence belongs to the state in modern times. It is to uphold a system of norms. The state's monopoly on violence is essential for the rule of law and is treated as a safeguard for developing democratic values. In this sense, individuals or groups willing to use violence to enforce their values are considered a danger to democracy and governmental authority. (Hydén, 2022, pp. 17-18) Violence in society is eradicated by concentrating it within the political system, where adequate power is transformed into enforcing legal norms. (Přibáň, 2020, p. 118).

In the second part, preventing violence against women is truly a life-or-death challenge for women and all communities (True, 2012, p. 4). Violence against women is often understood as an individual issue rather than an institutional one. In recent times, the occurrence of personal violence has risen while collective violence has declined. The rise in social differentiation has reduced the likelihood of war as a form of violence within society. In particular, violence against women remains a form of individual violence, seemingly more widespread than ever.

4.2. Conceptual Foundations and Causes of Violence Against Women

The definition of violence against women takes part in the Declaration on the Elimination of Violence against Women. Article 1 stated that "Violence against women" encompasses any gender-based act that inflicts, or has the potential to inflict, physical, sexual, or psychological harm or suffering on women. This includes threats, coercion, or unjust deprivation of freedom, whether it happens in public or private spheres. (United Nations, 1993, p. 1)

There are several explanations for the causes of violence against women. One of these explanations is biological, consisting of genetic makeup, chemical levels in the brain, or hormone levels of identified men or women. The other explanation is related to psychological theories, which examine the various effects of fears or aggression filled by inconsistent, harsh, or neglectful parenting, loss of significant adults, or childhood experiences of physical or sexual abuse in the personal histories of identified perpetrators of violence. Another explanation is sociological theories that examine the social relationships of violent individuals. This can be class relations, gender relations, or interpersonal relations. (Stanko, 2003, p. 1) Similarly, the main factors influencing attitudes towards violence against women can be classified into seven items by Flood & Pease. These are gender roles and relations, cultural factors, socio-economic factors, individual experiences, organizational contexts, community, and societal influences. (2009, p. 126)

The review of domestic violence literature from the 1990s stresses the need to differentiate between types of partner violence, such as intimate terrorism, common couple violence, violent resistance, and mutual violent control, to understand their patterns and outcomes better. It highlights the central role of control in these abusive relationships, often linked to patriarchal norms, but also urges a broader analysis that includes diverse relationship contexts, such as same-gender couples. Common couple violence is not related to an overall pattern of control. It happens in a particular disagreement, where one or both partners resort to physical aggression. In intimate terrorism, violence stems from a desire to assert power and control over one's partner. Intimate terrorism involves a consistent pattern of violent and nonviolent actions

driven by the intent to maintain control over a partner. It is preferable to use the term "violent resistance" over "self-defense" more because "self-defense" is shaped by particular and evolving legal definitions. In addition to that, violent resistance is central to discussions about gender inequality in partner violence and the legal arguments involving the "battered woman" defense. (Johnson & Ferraro, 2000, p. 949)

First, a battered spouse is defined as a person who experiences physical violence from their husband, wife, or cohabitant. Those will be called tners. In this section, the defense of battered women will be explained. Battered women's defense means that those who have endured prolonged physical abuse from their partners may use provocation or diminished responsibility as a defense if they are accused of murdering their partner. (Martin, 2003, p. 46) It refers to sentence reduction. Secondly, the motives of women who kill their abusers will be demonstrated. Women who kill their abusers indicate that they often feel hopelessly trapped in dire situations with no safe way out. In comparison to other battered women, those who commit homicide are more likely to be unemployed, have less social support, experience more frequent assaults and suffer more severe injuries, be raped by their partners, engage in less violence towards their partners, face death threats from their partners, and believe their lives are at risk. (Saunders & Browne, 2000, p. 420)

Intimate terrorism is identified with domestic violence. In the literature, domestic violence can occur in various types of relationships, including not only male-female relationships but also in lesbian relationships. (Johnson, 2011, p. 294) This study specifically focuses on violence against women, and as a result, violence within lesbian relationships is considered a negligible aspect of the research. The primary emphasis is placed on male-female dynamics, where women are the victims of abuse. This refers to a type of intimate partner violence where physical and sexual abuse is combined with different non-violent strategies of control. These strategies can include financial manipulation, emotional abuse, using children to exert pressure, making threats, asserting male dominance, monitoring the victim's actions, blaming them for the abuse, etc. These tactics work together to exert power and control over the victim. (Johnson, 2011, p. 290)

The types of violence outlined in the Istanbul Convention closely align with those found in intimate terrorism. Both frameworks address various forms of abuse, including physical, sexual, psychological, and economic violence, as well as coercive control tactics used to dominate and harm victims, particularly within intimate relationships. In the Istanbul Convention, Article 3 states that "Violence against women" is seen as both a human rights violation and a form of gender discrimination. It encompasses all forms of gender-based violence that lead to or could lead, physical, sexual, psychological, or economic harm or distress for women. This also includes threats, coercion, or arbitrary restrictions on their freedom, whether the violence occurs in public or private spheres. The purpose of the Istanbul Convention is to break the cycle of violence, prevent future generations from being impacted by it, and safeguard women's right to live free from violence.

Moreover, Zimmerman (Kaur & Garg, 2008, p. 73) argues that domestic violence heavily strains various parts of society, quietly but profoundly affecting a nation's progress. Abusers cost countries substantial amounts in law enforcement, healthcare, lost productivity, and overall development. These effects extend beyond the current generation; what starts as an act of violence between two individuals spreads its impact through families and communities, influencing the future as well. Markovitz (2001, p. 216) emphasizes that a similar cycle of violence is perpetuated through children. Children who are more frequently exposed to violence are more likely to use violence against their spouses later in life. By observing their parents physically harm each other and experiencing violence firsthand, they learn to view violence as a valid method of handling conflicts, which they replicate in their future relationships. This refers to the intergenerational transmission of violence and signifies the continuation of the cycle of violence within society.

In politics, violence against women can be viewed as a method for maintaining power and a manifestation of male privilege and authority in society. This prevalent issue restricts women's political engagement and reduces their legitimacy as participants. Consequently, it has implications for democratic representation and gender equality (Krook & Sanín, 2016, p. 465). Violence against women is not just a result of gender inequality; it also reinforces and perpetuates the unequal distribution of power (Watts,

& Zimmerman, 2002, p. 1232). Reversing these unequal power conditions requires a multifaceted approach. At this point, let's explore the global frameworks and human rights approaches to gender-based violence.

4.3. Global Frameworks and Human Rights Approaches to Gender-Based Violence

This section will review the studies on violence against women in the context of the Istanbul Convention, which constitutes the central focus of this thesis. While the Convention is approached as a product of the global women's movement and its long-standing struggle, it is also essential to underscore the significance of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and, in particular, its General Recommendations No. 19 and No. 35, which laid the groundwork for advancing the recognition of gender-based violence as a form of discrimination.

The gender perspective has begun to play a role in the formation and derivation of legal norms. The foundation of this transformation can be found in CEDAW, which should be regarded as the basis for deriving legal norms related to gender equality. At the same time, this foundation has evolved, both through the decisions of the CEDAW Committee and through conventions such as the Istanbul Convention. (Uygur & Özdemir, 2020, p.69)

The Istanbul Convention assigns responsibilities to five key parties for the elimination of violence against women: contracting states, local governments and public institutions, civil society organizations, individuals, and the private sector. Contracting states have specific obligations, including policy development and education under prevention measures. Policy development involves creating and implementing strategies to prevent violence against women, including awareness campaigns. Education focuses on educating public officials, health workers, and educators to support violence prevention initiatives. Additionally, community involvement emphasizes engaging local communities and civil society in these prevention efforts (Istanbul Convention, Article 7, 14, 18).

The Istanbul Convention assigns extensive responsibilities to the state, requiring governments to take comprehensive action to prevent and address violence against women, safeguard victims, and hold perpetrators accountable. These duties include passing legislation, providing survivor support services, ensuring an adequate response from law enforcement and the judiciary, and promoting awareness to prevent gender-based violence. Additionally, the convention highlights the need for coordinated efforts and collaboration across different sectors to foster a society where violence against women is not accepted, as mentioned before. Especially limitations in state capacity and weaknesses in the criminal justice system are critical factors that impact both political and gender-based violence. When impunity prevails, and law enforcement remains ineffective, existing laws lose effectiveness and fail to provide adequate protection or justice. (Krook & Sanín, 2016, p. 464)

The state's weaknesses in its ability to prevent the rise of violence against women serve as a significant barrier to achieving gender equality. The role of the state is crucial in not only physical violence but also psychological violence, as its invisibility does not diminish the lasting emotional scars it leaves behind. Social interventions of the state must address the needs of women to be free from all forms of violence. Laws and those who enforce them must find effective ways to prevent partner violence, even after couples have separated. To help women rebuild their lives, they must be provided practical resources and support to recover and regain control over their futures (Pomicino, et al. 2019, p. 942).

Women’s economic well-being is closely linked to their exclusion from the dynamics of economic violence. Assessing this well-being requires attention to three fundamental dimensions: access to and participation in employment opportunities, access to and control over income, and access to and control over property rights. Preventing gender-based violence and empowering women, therefore necessitate a holistic approach that addresses the complex dynamics of economic violence and the patriarchal structures that sustain it. This requires inter-institutional cooperation and comprehensive interventions. Equally important are raising public awareness, formulating effective strategies, and ensuring their implementation to both prevent economic violence and support its survivors. In this framework, efforts aimed at

defining, measuring, and preventing economic violence are essential, as they foster women's economic independence and contribute to reducing broader gender inequalities. (Beşpınar & Beşpınar, 2024, p. 411)

Women require essential resources, such as financial support, employment opportunities, housing, and childcare, to successfully rebuild their lives after experiencing abuse. It is crucial to implement policies that address their needs and provide protection, not only while they are escaping violence but especially after they have left. Offering sustained support during this crucial period is necessary to help women regain their stability and independence, enabling them to live free from violence (Pomicino, et al. 2019, p. 943).

4.4. Patriarchy, Power Dynamics, and the Societal Impact of Violence Against Women

Violence is a complex issue with multiple contributing factors and reducing it to just one explanation oversimplifies the problem. Actually, the primary challenge in defining patriarchy lies in excessive generalization, as the causes of violence cannot be attributed to a single factor. Patriarchy is often identified as one of the underlying causes of violence, as it perpetuates power imbalances and reinforces male dominance over women, contributing to the normalization of violence in gendered relationships.

Kandiyoti (1988, p. 274) argues that examining women's coping strategies within diverse cultural and historical contexts offers a more detailed and realistic understanding of patriarchal systems than the generalized ideas of patriarchy in feminist theory. She emphasizes that women navigate their circumstances through "patriarchal bargains," where various forms of patriarchy set different rules, prompting women to adopt specific strategies to enhance their life opportunities and resist oppression. Later discussion on patriarchy is criticized for reducing the complexity of gender power dynamics and assuming a universal structure that overlooks differences in context. It tends to ignore the diversity among men by portraying them as a uniform group. It fails to explain various forms of violence, such as those committed by women

or men against other men. It does not adequately address why only a minority of men resort to violence in patriarchal societies. (Hunnicutt, 2009, p. 568)

Kandiyoti (2016, p. 103) improved her ideas that the surge in gender-based and societal violence is not evidence of a firmly rooted patriarchy but rather a symptom of a more profound crisis in gender order and the political system at large. She asserted that terms such as patriarchy, Islamization, or authoritarianism are insufficient to describe the neo-conservative gender discourses and policies fully. She concentrated on three central aspects of regime ideology and practice: the use of gender norms to support a populism that frames an authentically national "us" against an anti-national "them"; the alignment of neo-liberal welfare and employment policies with neo-conservative family values that reinforce traditional ideals of female domesticity; and the "normalization" of violence, where both gender-based and broader societal violence point to a more profound systemic crisis (Kandiyoti, 2016, p. 118).

Women experience violence not only as a result of entrenched patriarchal structures, but also due to the impact of neoliberal policies that have restructured social and economic life in ways that disproportionately affect women. Under neoliberalism, the state has increasingly withdrawn from its role as a welfare provider, shifting the burden of care labor—such as childcare, eldercare, and other forms of domestic work—onto families and, specifically, onto women. This reduction of public support forces women into traditional caregiving roles, which confines them to the private sphere of the home. As a result, their participation in the public sphere, including the workforce and broader societal engagement, is severely restricted.

On the other hand, unpaid social-reproductive labor is crucial for enabling waged work, the accumulation of surplus value, and the functioning of capitalism. Tasks such as housework, raising children, education, and emotional care are vital for producing and sustaining the workforce, while also preserving social bonds and collective understanding. (Fraser, 2016, p. 99) This forced domestication not only reinforces gendered expectations but also fuels various forms of violence against women. Violence in this context is multifaceted: it can manifest as physical abuse within the home, psychological violence stemming from isolation and dependency, or economic

violence caused by women's exclusion from financial independence and employment opportunities. When women are prevented from earning an income or contributing to the economy in a meaningful way, they become financially dependent on others, which exacerbates their vulnerability to both abuse and exploitation. Moreover, the privatization of essential services under neoliberal regimes, such as healthcare, education, and social welfare, increases the strain on women who are expected to fill these gaps in care without adequate resources or support. This unpaid, often invisible labor deepens gender inequality, creating a cycle where women's economic disempowerment leads to further confinement and marginalization.

The dismantling of the welfare state, which once provided critical support for caregiving roles through public services, has intensified these dynamics. In this environment, women's domestic responsibilities become more entrenched, solidifying the division between the private and public spheres and further perpetuating the conditions that foster violence and hinder women's empowerment. Women's liberation and empowerment, therefore, require not just the dismantling of patriarchal structures but also a reevaluation of the economic and political policies that confine them to domestic spaces and strip them of their autonomy.

Fraser (2016, p. 112) argues that the 'crisis of care' can be understood as a sharp manifestation of the deep social-reproductive contradictions inherent in financialized capitalism. Financialized capitalism, alongside reducing public services and drawing women into paid employment, has also lowered real wages. As a result, households must now work more hours to meet their financial needs, leading to a growing demand to outsource care responsibilities. This "care gap" often drives wealthier countries to rely on migrant workers from poorer regions to fill these roles. Typically, it is rural, often racialized women from economically disadvantaged areas who are recruited to perform the caregiving and domestic labor that was once managed by more privileged women. This transfer of care work exacerbates global inequalities, placing marginalized women in precarious, low-wage jobs while alleviating the domestic burden on more affluent households.

Neoliberal politics and the ongoing crises of care must be critically evaluated in connection with the rising violence against women. At the same time, neoliberal ideologies promote individualism, which obscures the structural nature of gender-based violence. This framework often frames violence as a private issue or personal failure, ignoring the broader social, economic, and political conditions that perpetuate it. As women bear the brunt of care responsibilities without adequate state support, their economic disempowerment and domestic confinement can foster environments conducive to physical, psychological, and economic violence. Evaluating these interconnected factors emphasizes the need to address both gender inequality and neoliberal policies to combat the systemic roots of violence against women. (Murshid, 2023, p. 1874)

The backlash against gender equality has two key factors have enabled this: neoliberalism and austerity, which have weakened public social services and increased the demand for unpaid care work, re-privatizing women's roles; and the rise of nationalist right-wing populism, which attacks women's rights as part of anti-establishment agendas. (Goetz, 2019, p. 1)

Backlash movements and anti-gender ideology are responses to economic crises, coupled with strict austerity measures in several European countries. These movements have been driven by growing dissatisfaction with perceived corrupt elites, alongside increased hostility towards minorities, who are often scapegoated. In this context, gender acts as a "symbolic glue," bringing together groups with different goals and strategies by offering a common target. (Kováts & Põim, 2015, p. 127). Gender issues thus become a unifying theme that enables diverse actors to collaborate in opposition to feminist progress and minority rights. In numerous countries, anti-gender activists frequently align with right-wing populist politics, operating within both political parties and civil society organizations. These groups share common ideological ground, opposing gender equality, LGBTQ+ rights, and feminist advancements.

By portraying gender issues as a danger to traditional values and societal stability, they rally conservative supporters and drive their agendas through a rejection of progressive

gender policies. (Kuhar & Paternotte, 2017, p. 13) Since 2012, conservative movements opposing "gender ideology" have emerged in several European countries, often viewed as a backlash against gender equality and LGBTQ rights. However, these movements are not solely about resisting equality but reflect a larger systemic crisis. They respond to perceived shortcomings of progressive actors, including neoliberal and human rights consensus, using polarized language. These movements provide insight into the rise of populism in Europe and beyond, suggesting that "gender" is a symbolic target within a broader political struggle rather than the main focus (Kováts, 2018, p. 1).

Neoliberal policies have undermined the role of the nation-state, the primary actor in the international human rights system, by rendering it ineffective and reluctant in responding to rights claims. At the same time, they have reinforced domains of domination beyond national borders by leaving them entirely outside regulatory control. For the women's movement, this situation raises the pressing question of who should be recognized as the main counterpart in the struggle for rights. Addressing rights claims and broader global challenges effectively requires international cooperation and inclusive multilateral decision-making. In this context, reforming, strengthening, and transforming the multilateral system, now weakened and targeted by right-wing populist agendas, emerges as a critical challenge for the future of the women's movement. (Ertürk, 2023, p.111)

Dragiewicz tried to explain the relationship between the backlash movements and patriarchal authority. She (2008, p. 126) argues that the backlash against the Violence Against Women Act (VAWA) reflects a broader anti-feminist movement to reassert patriarchal authority. She points out that fathers' rights activists challenge the principles of the Violence Against Women Act (VAWA) by advocating for the importance of patriarchy, framing their opposition as a defense of traditional family structures. Victims of intimate partner violence often seek help through various means, still, they delay reporting the abuse to the police due to fears of gender bias, lack of adequate support from law enforcement, and the potential for retaliation by their abusers. Additionally, she explores how patriarchal peer networks support these activists in opposing gender equality.

Resistance to gender equality takes several essential forms, including denial, shifting blame, inaction, superficial support, and active opposition. Denial involves dismissing or minimizing the existence and impact of gender inequality. Shifting blame places responsibility on the victims instead of addressing the systemic causes. Inaction is the passive maintenance of the status quo by not actively supporting gender equality efforts. Superficial support refers to appearing to endorse gender equality initiatives without implementing meaningful changes. Active opposition involves organized efforts to resist progress, often aimed at preserving traditional power structures, such as through "men's rights" groups. (Flood et al. 2020, pp. 4-5)

Global movements against violence against women (VAW) have developed into a distinct policy area with significant differences across countries. Feminists, much like labor movements, are also confronting substantial challenges as they grapple with the rise of anti-gender movements. These movements aim to undermine the advancements achieved in gender equality and women's rights, creating obstacles to the progress that feminists have fought for over the years.

4.5. Violence Against Women Agenda in Contemporary Türkiye

The feminist movement in Türkiye gained significant momentum after the 1980s, playing a key role in the fight against violence toward women. As a result of these efforts, the issue started to be widely discussed in the public sphere, leading to important legal advancements. Therefore, this study will focus on violence against women in Türkiye after the 1980s.

4.5.1. Historical and Legal Evolution of the Violence Against Women Agenda in Türkiye

After the 1980's, there were lots of efforts to confront wife beating, rape, incest, stalking, and sexual harassment emerged in Türkiye. These efforts, especially in courtrooms, have pioneered women's struggle in the last two decades. As some femicides became publicly discussed, the women's movement began to deal with them

on a fundamental basis. Even they have made this the central issue of women's struggle in the last few years.

The 1980s were a pivotal period for the feminist movement, as women gained greater autonomy in setting their priorities. This empowerment enabled them to spotlight key issues such as gender inequality, domestic violence, control over their bodies, and the fight for equal rights in public life. Tekeli (Toprak, 2017, p. 29) outlined the feminist movement's development in stages like latent preparation, awakening, the search for legitimacy, and transformation into an active movement in these years. The latent preparation phase began with consciousness-raising groups in 1981-1982, with YAZKO (Turkish Cooperation of Writers and Translators) playing a significant role by creating a publication for women. In 1983, thirteen feminists founded Kadın Çevresi, which published feminist works and aimed to highlight women's unpaid and paid labor.

By centering their efforts on women's experiences and challenges, feminists established a more independent movement, rooted in the critique of patriarchal systems. In 1987, a campaign to protest violence against women emerged in Istanbul, Ankara, and other cities, gaining significant momentum. This campaign was called "No to Beating". The catalyst for this movement was the controversial decision made by a judge in Çankırı to reject the divorce request of a pregnant woman who had been subjected to ongoing domestic violence. In 1987, in Çankırı, a judge rejected the divorce request of a pregnant woman who was repeatedly subjected to domestic violence, referencing a proverb as part of his reasoning. The proverb, "a woman's belly lacks the stick," reflects a deeply rooted traditional mindset that rationalized violence and perpetuated the unequal power dynamics within families. (Işık, 2002, p. 46) This decision indicates how the legal system, rather than protecting women's rights, often reinforced patriarchal perceptions of family roles.

In the mid-1980s, a second wave of Turkish feminism led to a surge of interest in feminist academic research. Women's and gender studies became prominent fields within both the social sciences and the humanities, primarily driven by feminist scholars and academics who were largely educated in Western universities. Much of

the literature in these areas has emerged from women's studies programs and graduate programs in social sciences, particularly in sociology, political science, comparative literature, and cultural studies. (Durakbaşa, 2019, p. 1)

The Purple Needle Campaign was launched in 1989. In a press-covered event, purple needles were sold on ferries. The campaign symbolized the traditional resistance of urban women in Türkiye against male-dominated societal norms and behavior. The Purple Needle Campaign was one of the key propaganda actions of the "Our Bodies are Ours, No to Sexual Harassment" movement. Its primary target was the male-dominated violence known as "harassment," aiming to raise awareness and oppose such behavior. In 1990, in response to Article 438 of the Turkish Penal Code, which lowered penalties for raping prostitutes, women staged a protest on Istanbul's Giraffe Street, an area known for its brothels. As part of the demonstration, they distributed "chaste women's certificates" in a satirical challenge to the law's unequal treatment of women based on their profession. (Çakır & Gülbahar, 2000, pp. 136-140) A group of feminists founded the Purple Roof Women's Shelter Foundation (Mor Çatı Kadın Sığınma Vakfı) in Istanbul in 1990.

This led to a process of institutionalization in the 1990s, marked by the establishment of the General Directorate on the Status and Problems of Women. The establishment of the General Directorate of Women's Status and Problems is a significant acknowledgment of the state of gender-related issues in society. By creating this institution, the state signaled its recognition of the systemic challenges faced by women and its intention to develop policies aimed at addressing these issues. This move reflected a commitment to improving women's rights and status, both on the national and international stage. (Kardam & Ecevit, 2002, p. 91) Starting in the 1990s, a shifting dynamic between the state and feminist groups in Türkiye enabled women's rights activists to obtain state resources and challenge patriarchal frameworks within state policies. Feminist movements, including more radical factions, recognized that influencing state laws and policies was key to advancing their goals. As a result, they pursued a dual approach of collaboration and resistance, advocating for legal reforms that addressed issues like domestic violence, workplace equality, and broader gender rights. Operating under conditions of limited resources, feminists strategically directed

state funding toward women-centered initiatives, amplifying their impact and reinforcing their advocacy for systemic change (Arat, 2008, p. 403).

In Türkiye, the development of legal documents aimed at preventing domestic violence has evolved. Firstly, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted and opened for signature, ratification, and accession by the United Nations General Assembly in 1979. The convention entered into force in 1981. Türkiye adopted it in 1985, and this convention officially came into effect in 1986. CEDAW is often described as an international bill of rights for women, aiming to eliminate discrimination against women in all forms and promote gender equality globally.

> In the 1990s, violence against women brought a major shift in state responsibility—from negative to positive obligations—making the state accountable for rights violations in the private sphere as well. This led to an amendment of Article 10 of the Constitution, strengthening the emphasis on gender equality, though women's demand for temporary special measures was not included. The political prioritization of violence also drove significant reforms in criminal law, introducing new crime categories and encouraging collaboration between social scientists and legal experts. In 2004, the Turkish Parliament amended the Constitution's equality clause in accordance with CEDAW, incorporating the notion of state responsibility to secure equality in practice. Yet, the principle of positive discrimination, strongly advocated by women's organizations, was not included. (Ertürk, 2020, p. 22)

CEDAW General Recommendation No. 19 on violence against women was adopted by the CEDAW Committee in 1992. General Recommendation No. 19 establishes the foundational understanding of gender-based violence as a form of discrimination against women and outlines state obligations for accountability. CEDAW General Recommendation No. 19, adopted in 1992, was introduced to remedy the Convention's silence on the issue of violence against women. It characterizes gender-based violence as a form of discrimination that significantly undermines women's ability to exercise their rights and freedoms on an equal footing with men. Furthermore, acts of violence occurring within the private sphere are recognized not only as violations of the Convention itself but also as potential breaches of states'

obligations under international human rights law and other relevant treaties. (Ertürk, 2023, p. 98)

Recommendation No. 35 was ratified in 2017, and it updates this framework to address the evolving nature of violence in modern contexts. It calls for a comprehensive response that recognizes gender-based violence as a multifaceted issue encompassing public health and human rights, necessitating proactive and sustained action from states. (CEDAW, 2024) The Recommendation No. 35 has addressed the implications of gender-based violence against women on sexual and reproductive rights in greater detail than ever before, providing states with more sensitive and precise guidance on this issue. (Acar, 2023, p. 176)

During this time, the first women's shelters, run by public institutions, began operating under the Agency for Social Services and Child Protection. In terms of legal progress, a major milestone was the enactment of Law No. 4320 on the Protection of the Family in 1998. While such institutions marked progress in acknowledging women's issues, they also signaled potential co-opting of the movement by the state, limiting the independent nature of feminist activism. By bringing voluntary women's organizations into state-led initiatives, the activism that initially drove change could risk becoming constrained by bureaucratic or political agendas, rather than remaining purely responsive to grassroots demands. (Kardam & Ecevit, 2002, p. 91).

Şirin Tekeli (Berktay Mirzaoğlu, 1998, p. 346) discussed why the shift in mentality among women could not occur in the 1980s. After 1980, many people remained unconvinced by feminist ideas. Several key challenges contributed to this situation. One of them is the theoretical limitations. The feminist movement faced inadequacies in theory and analysis, which hindered its ability to address women's issues comprehensively. Second is the consciousness-raising groups. The model of consciousness-raising groups, successful in different contexts, struggled to gain traction in Türkiye. The movement found it difficult to utilize face-to-face discussions effectively, limiting its outreach. The third one is elitism. The movement largely remained within elite circles, which prevented it from connecting with women from diverse social and economic backgrounds. This elitism restricted its ability to broaden

its base and address the concerns of a wider audience. Fourth is a lack of resources. Access to financial and other vital resources was a significant challenge for organized feminist groups, weakening their capacity to sustain and expand their efforts.

Efforts to introduce legal regulations aimed at promoting gender equality gained significant momentum in the 2000s. The Istanbul Convention, signed in 2011, played a crucial role in shaping Türkiye's legal framework on violence against women. It addressed shortcomings in Law No. 4320, which primarily focused on preventing violence within marriage. In response, Türkiye enacted Law No. 6284 in 2012, which expanded protections to cover physical, sexual, psychological, and economic violence within families, households, or among individuals considered family, regardless of whether they live together. This law aligned with the principles of the Istanbul Convention, offering broader protection against domestic violence. (Kaptanoğlu Yüksel & Dayan, 2022, p. 412).

In light of all this, it can be said that significant legal gains and changes took place in the 1980s and 1990s in Türkiye regarding the prevention of violence against women. In the 2000s, however, there was a significant shift in focus.

4.5.2. National Responses: Policies, Reforms, and Social Challenges

By the 2000s, the evolution of the feminist struggle from the "No to Beating" campaign to the "No to Femicide" campaign reflected a significant shift in focus and strategy within the movement. The feminist struggle is discussed with issues such as the fact that this may be one of the consequences of rural-urban migration in Türkiye, that economic difficulties may give rise to these issues, or that women's resistance may be a kind of suppression since they are now voicing their demands for rights in the public sphere more, so what happened to the Istanbul Convention, but what kind of motivation was behind the adoption of the Istanbul Convention?

The case of Nahide Opuz is indeed a pivotal moment in the discourse around domestic violence and state responsibility in Türkiye. Nahide Opuz, who lives in Diyarbakır, was a woman who faced severe domestic violence from her husband for many years.

In this case, the applicant accused Türkiye of failing to protect her and her mother from domestic violence, which led to her mother's death and her mistreatment. Despite repeated abuse from the applicant's husband, both he and his father were acquitted after being indicted for attempted murder. The violence continued, and the husband's father eventually killed the applicant's mother. Although convicted, his sentence was reduced due to claims of provocation and good behavior. The European Court of Human Rights (ECHR) ruled that Türkiye violated Articles 2, 3, and 14 of the European Convention on Human Rights and ordered the state to pay damages to the applicant in 2009. (ECHR, 2024)

In this decision, it is underscored the consequences of the state's inaction in protecting women from domestic violence. These articles mean Article 2 is the right to life, Article 3 prohibition of torture, and Article 14 prohibition of discrimination. Article 2 refers to the failure to protect women from domestic violence can lead to violations of this fundamental right, especially in cases of femicide. The European Court of Human Rights (ECHR) has addressed cases where authorities have failed to adequately protect victims of domestic violence, often highlighting a significant issue: the tendency of law enforcement and judicial systems to view domestic violence as a "family matter" rather than a serious crime that requires intervention. (Kuyucu, 2015, pp. 6-7) Based on Article 2 of the European Convention on Human Rights, the ECHR reached two key conclusions in the Opuz case: foreseeability and the public interest in investigations. The Court determined that the perpetrator's violent attack was foreseeable, meaning the authorities should have anticipated the risk. Additionally, in cases of severe violence and a high likelihood of recurrence, the state must continue investigations in public interest, even if the victim withdraws their complaint. This highlights the state's duty to protect individuals from ongoing harm, regardless of the victim's actions. The Court found that delays in issuing injunctions and lenient punishments for perpetrators, often influenced by customs or traditions, created a discriminatory environment that fostered domestic violence. This led the Court to conclude that the applicant and her mother were victims of gender-based violence and discrimination due to judicial inaction. At last, the Court has recognized that violence against women is fundamentally an issue of inequality and how it obstructs the full enjoyment of other rights. (Londono, 2009, p. 667)

This verdict has brought shame to Türkiye. This sense of moral and political disgrace was instrumental in shaping the political context that led Türkiye to take a leading role in developing the Istanbul Convention. (Direk, 2023, p. 416) The Istanbul Convention strongly condemns domestic violence and emphasizes the state's obligation to prevent, investigate, and prosecute such acts. (Convention, Article 5) It requires governments to take active measures to protect victims, hold perpetrators accountable, and ensure that domestic violence is addressed as a severe violation of human rights.

Between the late 1990s and early 2000s, Türkiye embarked on a significant reform process known as the era of "Europeanisation." This period was characterized by efforts to align with European Union standards, driven by the goal of EU membership. Reforms focused on democratization, human rights, judicial independence, and gender equality, notably advanced women's rights and supported the feminist movement, as reflected in initiatives like the Istanbul Convention. (Gulel, 2019, p.1)

4.5.3 The Rise of Femicides: Analysis and Patterns in Türkiye

The way violence against women is understood has changed over time, influenced by historical context, culture, and the viewpoints of individuals or institutions addressing it. Initially seen as a private issue within the home, it gained recognition as a social problem needing broader intervention. Over time, it was also treated as a criminal offense, identified as a public health crisis, and more recently framed as a severe human rights violation. Each perspective reflects society’s evolving understanding of the issue.

The murder of Munevver Karabulut was a turning point in the discussion of femicide in Türkiye. This case explains that in 2009, 18-year-old Münevver Karabulut was brutally murdered. Her body was found discarded in a waste container in the Etiler district of Istanbul, with her head severed from her body. This horrific crime shocked the public and drew widespread attention to the issue of violence against women in Türkiye (Bianet, 2024). Gulsum Kav, a founder of the Will Stop Femicide Platform, sees the murder of Munevver Karabulut as a cornerstone. According to her, at the end of the 1990s, honor killings were more common in Türkiye, and considerable

knowledge was built around this issue. Over time, however, the nature of these killings has changed. They are no longer about honor or decisions made by family councils, but rather a more modern issue—suppressing women's right to make their own choices. This shift has led to an increase in gender-based murders, which we now refer to as femicide. (Filia, 2024)

Despite Türkiye's formal adherence to international frameworks like CEDAW, a notable shift in political rhetoric became apparent in the early 2010s. One striking instance occurred in 2010, during a consultation meeting with women's non-governmental organizations attended by around 60 groups. At this event, then Prime Minister Erdoğan declared that, despite Türkiye's commitment to CEDAW, he did not believe in gender equality. He asserted that women's primary role, and ideally their sole focus, should be homemaking and motherhood, by what he described as their divinely ordained nature (fıtrat). Significant institutional changes occurred. The General Directorate of Women's Status and Problems, created in 1990 as part of Türkiye 's obligations under CEDAW to promote gender equality, was abolished in 2011. It was replaced by the Ministry of Family and Social Policies, which categorized discrimination against women alongside issues affecting children, the disabled, and the elderly, framing it primarily as a social welfare issue. This reconfiguration positioned women primarily as individuals in need of "protection" rather than as full rights holders. (Kandiyoti, 2024)

In 2012, Prime Minister Erdoğan voiced strong opposition to abortion, stating, "There is no difference between killing a baby in the womb and killing a baby after birth." He further remarked, "I consider abortion to be murder, and no one should have the right to permit it." He also criticized elective cesarean sections, describing them as "unnatural" and unnecessary. (BBC, 2024) In 2013, the Yourtcu Women's Forum took its first action in response to the AKP's draft law, titled "Population and Family Policies Legislation Studies." The proposed legislation aimed to encourage women to work part-time, offering a framework that emphasized "secure" employment, potentially with assistance in areas such as childcare. However, there was widespread criticism of this law for reinforcing traditional gender roles by pushing women towards part-time work rather than full participation in the labor force. Critics argued that such

policies risked reducing women's economic independence and might have undermined efforts towards gender equality in employment. (Karakuş, 2013).

When some politicians emphasize motherhood as the primary or most “suitable” role for women, it reinforces societal prejudices and restricts women’s participation in the workforce. For instance, Minister of Health Mehmet Müezzinoğlu visited the first baby born in Türkiye on New Year’s Day in 2015; he stated that women should prioritize motherhood as their primary "career," rather than pursuing other professional ambitions. He emphasized his view that a woman's role as a mother should be central, sparking widespread discussion on women’s career opportunities and gender roles. (Diken, 2024) Such statements contribute to gender inequality by endorsing traditional gender roles, which can further limit women's economic independence and increase their reliance on men for both financial and emotional support. This reinforcement of societal norms ultimately perpetuates existing inequalities, undermining broader efforts toward gender equity.

In a related incident, Prime Minister Recep Tayyip Erdoğan commented dismissively on a female protester who was injured during a demonstration, using vague and diminishing language to refer to her gender identity. This language exemplifies how dismissive attitudes in politics can discourage women’s civic engagement and detract from serious issues related to women’s rights and public participation. (CNNTürk, 2017). These examples illustrate how political discourse surrounding gender can influence public perception and hinder progress toward achieving gender equality.

This section will highlight two cases of femicide, examining both the commonalities among these murders and the aspects that set them apart. We will also explore why certain cases receive more attention in society. Özgecan Aslan, who was killed in 2015, her murder elicited widespread outrage because she was a university student killed while taking a minibus home. In contrast, later femicide cases, like that of Pınar Gültekin, who was killed in 2020, prompted media discussions about the victims' conformity to societal values. Gültekin's relationship with a married man was framed as a factor in her death, unfairly shifting blame onto her instead of focusing on the crime itself. Şule Çet, a 24-year-old university student, died in 2018 after falling from

the 20th floor of a plaza in Ankara. Initially, Şule Çet's death was considered a suicide. However, suspicious circumstances and new evidence that emerged afterward suggested the possibility of murder and sexual assault.

In Turkish legal discourse, certain myths and stereotypes rooted in false beliefs about sexual assault are often invoked, impacting the pursuit of justice and the accurate assessment of cases. Survivors of sexual assault are frequently subjected to unfair accusations of being provocative or promiscuous, which shifts blame onto them rather than focusing on the perpetrator's actions. Legal biases often assume that a complainant's prior sexual experience implies likely consent in the incident at hand or diminishes her credibility as a witness. Additionally, there is a stereotype that a woman dressed in a sexually appealing or provocative way is less credible or somehow responsible if she is assaulted. These harmful beliefs lead to unjust treatment of survivors and hinder fair case evaluations. (Dufraimont, 2019, p. 330) This victim-blaming narrative minimizes the gravity of the crime and perpetuates harmful stereotypes, hindering both justice and societal support for survivors. The role of the judiciary and the state contributes to the perpetuation of femicide. This is evident in how legal systems may fail to protect women adequately, enforce laws effectively, or hold perpetrators accountable, thereby creating an environment where violence against women is tolerated or overlooked.

Atılgan (2024, p. 1500) argues that the role of the judiciary and the state promotes femicide. In Türkiye, certain court rulings have reduced sentences for men convicted of femicide, citing women's independence or rejection of male authority as "provocations" that justify leniency. Examining these court decisions reveals that sentences are often reduced for reasons such as a wife refusing sexual intercourse, requesting more frequent intercourse, wearing white pantyhose, showering frequently, cooking pasta regularly, coming home later than her husband, going out without his permission, seeking a divorce, refusing reconciliation, or using birth control pills. Feminist critics argue this judicial bias reinforces patriarchy and undermines women's autonomy, driving activism for legal reforms to ensure gender-neutral justice. The masculinity defense highlights the extent of gender inequality in the courtroom, revealing how "states of masculinity" and masculine codes are reflected in everyday

practices and decisions. Additionally, this defense leads to reduced punishments but contributes to the social construction of masculinity. (Atılgan, 2024, p. 1501)

The case of Özgecan Arslan involved her being a female university student who was raped by the minibus driver she had taken, portraying her as an innocent victim in the eyes of society. In contrast, Şule Çet's case sparked discussions about her presence at a plaza for work, questioning what she was doing at night. Pınar Gültekin's situation was viewed negatively by society due to her relationship with a married man, leading to a perception that she bore some responsibility for her murder. Defendants who seek to introduce evidence about a victim's clothing or the victim's action do so to argue that the victim contributed to her victimization. (Lennon et al., 1993, p. 415)

In 2016, a Parliamentary Investigation Commission was established to examine factors impacting family integrity and divorce rates, aiming to identify measures to strengthen the family institution. (Official Gazette, 2016) Women's advocacy groups have been actively opposing the controversial report from the Parliamentary Commission aimed at "protecting the integrity of the family." Gülbahar (Soygüt & Aras, 2020, p. 161) notices that certain issues remain at the forefront of public discourse, and efforts are underway to initiate changes. For instance, the topics of limiting alimony for divorced women, granting amnesty to child abusers, lowering the age for sexual intercourse and marriage involving children, providing impunity for rapists who marry their victims, amending Law No. 6284 on violence, etc. Alongside its focus on protecting family integrity, the document also indicated a move toward abolishing alimony. The Minister highlighted two proposed options: implementing a time limit for alimony payments and allowing judges to determine the duration of alimony.

In Türkiye, discussions surrounding the reintroduction of family headship in the civil code, the abolition of poverty alimony, early marriages for girls, and the support of marriage between rape victims and their perpetrators are currently underway. However, they are often withdrawn when these proposals provoke a social backlash. These anti-gender movements typically take reactionary steps and backtrack in response to public outcry, which forces the feminist movement to stay on the

defensive. Additionally, the discourse is largely shaped by these reactionary movements.

While progress has been made in advancing women's legal rights, major obstacles remain. Women still face limited access to financial resources, education, and quality public services, including insufficient women's shelters. Persistent sexist attitudes and lengthy bureaucratic processes in the justice system exacerbate challenges, often leaving women vulnerable. Additionally, limited awareness and training among law enforcement and healthcare professionals, along with inadequate support systems, reduce the effectiveness of efforts against domestic violence. (Sallan Gül, 2013, p. 115) To tackle these issues, a comprehensive approach is needed that addresses the interconnected causes of gender-based violence. This strategy should focus on eliminating gender inequalities, promoting women's rights and perspectives, supporting economic empowerment, and improving welfare and employment opportunities for women.

Fragmented approaches focused solely on either the victim or the perpetrator are insufficient in understanding and addressing the phenomenon of violence in the short term. Violence is a problem that continues to be reproduced as part of the global political economy in which we find ourselves. Whether our struggle takes place at the national or international level, ultimately, the establishment of women's rights and the elimination of violence against women require a comprehensive strategy that goes beyond narrow approaches. For this reason, states must conceive their efforts to combat violence beyond national borders. From a feminist perspective, there is a need for new forms of global solidarity. (Ertürk, 2020, p. 24)

Unexpectedly, 2021 and 2022 amendments were introduced to the Turkish Penal Code aimed at protecting divorced women. Acts such as intentional killing, intentional injury, torment, and deprivation of liberty committed against a divorced spouse are now classified as aggravating circumstances, resulting in increased penalties for these crimes. In addition, the criminalization of stalking and the prohibition of mediation in stalking cases represent important legal advancements. The intentional aggravated murder of a woman is now classified as a crime requiring life imprisonment. The new

provisions also raise the minimum sentences for crimes such as injury, torture, torment, and threats when committed against women, reflecting a strengthened legal (Tekin, 2023, p. 26).

Despite the 2021 and 2022 amendments to the Turkish Criminal Code, the ongoing femicides in Türkiye reveal a stark divide between law in books and law in practice. Examining the root causes of these femicides highlights a disturbing pattern: women are frequently killed for seeking a divorce, asserting control over their own lives, or resisting male dominance. This reality underscores that legal reforms alone are inadequate to combat violence against women; achieving gender equality and fostering a transformative shift in social attitudes are essential. The existence of these laws is overshadowed by critical gaps in enforcement, emphasizing the need for more comprehensive and effective mechanisms to safeguard women's fundamental rights and freedoms.

The extensive review of literature and historical context on violence against women reveals the multi-layered nature of this issue, encompassing dimensions of power, patriarchy, societal structures, and political influence. Over time, the issue has transitioned from being considered a private matter to a recognized public health and human rights crisis. Various factors, including neoliberal policies, rising anti-gender movements, and inadequate state support, contribute to the persistence of gender-based violence and reinforce traditional gender roles. The feminist movement's efforts have led to significant legal and social advances, such as the Istanbul Convention and reforms like Law No. 6284, aimed at combating domestic violence. However, the recent erosion of these protections under neo-conservative ideologies threatens to reverse these gains, as evidenced by the state's limitations in enforcing laws effectively and addressing systemic discrimination. In addition to that in the context of shrinking democratic spaces and the consequent erosion of the rule of law, it is particularly significant that the state in Türkiye demonstrates a persistent failure to implement existing legal frameworks on violence against women. Addressing violence against women requires a holistic approach, targeting both policy and societal attitudes to eliminate inequality and support women’s independence and safety.

CHAPTER 5

THE ISTANBUL CONVENTION AND GENDER EQUALITY

Analyzing the Istanbul Convention through the lens of feminist theory brings to light the ideological and social tensions behind Türkiye's decision to withdraw. This approach expands the focus beyond legal analysis and delves into the cultural and societal conflicts that shape views on gender roles, social norms, and political ideologies. This chapter will provide a concise overview of the Istanbul Convention, followed by an exploration of its connection with CEDAW. The chapter will then examine the Istanbul Convention from social, political, and legal perspectives, focusing on its intersections with the feminist struggle in Türkiye. For Türkiye, the Istanbul Convention represents more than a legal document; it symbolizes a broader social change. This study aims to highlight the Convention's contributions to advancement of the feminist movement in Türkiye, approaching this from both social and political aspects. Finally, this chapter will discuss the significance of the Istanbul Convention, its impact, and the underlying factors leading to its eventual abolition in Türkiye.

The Istanbul Convention, formally known as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, addresses violence against women as a severe violation of human rights and a form of gender-based discrimination. Recognizing violence against women as a human rights violation marks a significant shift in international legal frameworks.

Defining human rights involves establishing the limits of governmental power regarding the basic needs and dignities of individuals. The principle that human rights are inherent to every person, regardless of time or place, embodies the concept of universalism. Universalism, rooted in the belief that certain rights are inalienable and

apply equally to all, represents a revival of natural law theory in the twentieth century. This resurgence reaffirms the idea that human rights are not granted by governments but are intrinsic to human nature, requiring universal protection across cultures and legal systems.

5.1. A Brief History of the Istanbul Convention

The Istanbul Convention, adopted as an international treaty by member states of the Council of Europe in 2011, aims to prevent and combat violence against women and domestic violence. Both Council of Europe members and non-members have the opportunity to sign and ratify the convention upon invitation by the Committee of Ministers of the Council of Europe. (Meurens et al.2020, p. 26) Türkiye 's commitment to implementing the Council of Europe's Preventing and Combatting Violence against Women, including Domestic Violence, known as the Istanbul Convention, is significant as it was the first country to sign and ratify the treaty. Throughout the drafting process of the convention, Turkish representatives played a pivotal role in finalizing its content. (Guney, 2020, p. 133)

In addition to that the Istanbul Convention is the first international treaty to specifically address violence from a gender perspective. It officially became effective in Türkiye on August 1, 2014. In 2011 it was opened for signature. In 2012, Türkiye enacted the Law to Protect Family and Prevent Violence against Women (6284), which aims to align the country's national legal and policy framework with the requirements of the convention.

5.1.1 A Historical Perspective on Violence Against Women and Domestic Violence

The United Nations General Assembly (1948) composed the Universal Declaration of Human Rights (UDHR) as a significant document regulating human rights. While doing this, in Article 2 of this declaration, everyone's race, color, gender, language, religion, politics, etc. It is stated that they can enjoy all the rights and freedoms outlined

in this Declaration without any discrimination. This declaration is one of the first bans on discrimination against women. (UNDR,14.07.2023)

The second one is CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), adopted by the UN General Assembly in 1979 and entered into force in 1981 after receiving ratification from twenty countries. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) represented a great effort in the formal international recognition of women's rights as human rights within the framework of the United Nations. (Šimonović, 2014, p. 590) The other legal document, the Belém do Pará Convention, one of the inter-American conventions, entered into force in 1995. This convention defines violence against women and states that women have the right to live a life free of violence. The existence of violence is a violation of human rights and fundamental freedoms. This convention points out that the States should establish a mechanism for protecting and defending women's rights to tackle the phenomenon of violence against physical, sexual, and psychological integrity, providing either in the public or private sphere. This Convention promised to stop the violence occurring in the family, domestic unit, or in any other interpersonal relationship within the community or by the State. Women who are part of a family or who share or do not share the same residence with their partner are protected by this Convention. With the help of the convention, A follow-up mechanism (MESECVI) was created to control the fulfillment of states' obligations at the national level. MESECVI is one of the accountability mechanisms. It appraises the convention's implementation by State and its agents critically.

In addition to that there is no direct emphasis on obstetric violence in this convention. Obstetric violence means the appropriation of women's bodies and reproductive processes. In this sense, health professionals make dehumanization of women and treat them abusively. As a result, women lose their autonomy in medicalization and natural process. In other words, women could not make decisions about their bodies and sexuality anymore. (Annborn & Finnbogadóttir, 2021, p. 1) MESECVI has maintained a stand against the problem of obstetric violence. According to the decisions of MESECVI, the signatories to the convention should take action against this type of

violence. Only three of State that signed the Convention of Belém do Pará accepted obstetric violence as a crime in 2014.

The term "obstetric violence" is not explicitly mentioned in the Istanbul Convention, but the Convention does address sexual violence within a broader context that indirectly covers obstetric violence. By framing obstetric violence as a form of sexual violence, the Convention provides a more expansive framework for protecting women's rights in healthcare settings. This approach goes beyond reproductive healthcare, emphasizing the need for dignified, respectful treatment of women in all healthcare encounters, particularly during childbirth. In this sense, the Convention's provisions on sexual violence can be interpreted as part of a broader effort to prevent obstetric violence and ensure women receive healthcare that respects their autonomy and dignity. At this point, it would be appropriate to make a comparison of the CEDAW and Istanbul Convention frameworks.

5.1.2. A Comparison of CEDAW and Istanbul Convention Framework

CEDAW's scope encompasses the prevention of all forms of discrimination against women across political, economic, social, cultural, civil, and other spheres (Article 1). In contrast, the Istanbul Convention focuses specifically on preventing all forms of violence against women and girls, including domestic violence. However, the Istanbul Convention allows State Parties to extend certain protections to male, elderly, and child victims of domestic violence, offering flexibility in its application to cover a broader range of individuals affected by domestic violence. (Article 2(2)). (The Istanbul Convention and CEDAW Framework, 2022)

There are some standards to prevent and end violence against women and domestic violence in the Istanbul Convention. It is the first pan-European legally binding instrument. Before this convention, the problem of violence against women was tackled with a patchwork approach, and soft law measures and no comprehensive legal framework was developed. Neither EU treaties nor the Charter of Fundamental Rights does not have any protection for women from gender-based violence. (Abels et al., 2021, p. 352)

The CEDAW Convention introduces two major advancements in human rights and anti-discrimination law. First, it acts as a targeted tool to protect women from both direct and indirect discrimination across diverse areas of life. Furthermore, CEDAW requires state parties to actively support the development, advancement, and empowerment of women. This requires states to move beyond simply guaranteeing formal equality between women and men. Instead, they must take concrete actions to make this equality a reality, breaking down structural barriers and fostering true gender equality throughout society. (Šimonović, 2014, p. 592) CEDAW recommendation 19 (1992) emphasizes the general capacity for women's human rights and the state's responsibility to provide effective protection. It calls for states to adopt comprehensive measures to prevent and address violence against women, recognizing it as a violation of human rights. In other words, the Convention defines gender-based violence as a form of discrimination against women. Such violence includes physical, mental, or sexual harm, threats, coercion, or deprivation of liberty, and it can violate women's human rights even if not explicitly mentioned in the Convention. (CEDAW General recommendation 19, 1992, 6., 7. paragraph)

On the other hand, Recommendation 35 (2017) takes a more assertive approach, focusing on specific actions to strengthen national legal frameworks. It highlights the need for states to implement concrete legal measures and improve the enforcement of laws to better protect women from violence and discrimination. This recommendation calls for more direct and detailed steps to reinforce the legal protections available to women, ensuring their rights are safeguarded. (General Recommendations, 2024)

In line with Articles 2 and 3 of CEDAW, and in light of the human rights law paradigm concerning rights and freedoms, state obligations can be clarified and categorized into three types of duties. Under international human rights law, state obligations toward gender equality can be articulated through the tripartite framework of respect, protect, and fulfil. The obligation to respect requires State Parties to refrain from adopting laws, policies, regulations, programs, administrative procedures, or institutional structures that directly or indirectly undermine women's equal enjoyment of civil, political, economic, social, and cultural rights. The obligation to protect compels states to safeguard women against discrimination by non-state actors and to abolish customs

or traditions that perpetuate prejudices of gender inferiority or superiority, while also taking concrete measures to dismantle stereotypical gender roles. Finally, the obligation to fulfil demands that states adopt a broad range of measures to ensure the enjoyment of equal rights by women and men, both de jure and de facto, which may include the implementation of temporary special measures where appropriate. (Tarhanlı, 2023, p. 27)

In addition to that, CEDAW General Recommendation No. 35 emphasizes intersectionality. Through General Recommandion No. 35, the Committee highlights that women are more likely to experience multiple and intersecting forms of discrimination with aggravating negative effects, and therefore, gender-based violence may affect certain women in different degrees or in different ways. (Güneş, 2021, p.1761)

Discrimination on the basis of sex and gender impacts women in diverse and multilayered ways, producing effects that differ significantly from those experienced by men. Accordingly, the Committee stresses that States Parties must identify and prohibit intersectional forms of discrimination, as well as acknowledge the compounded negative consequences such discrimination creates for particular women and women's groups, when interpreting and applying the Convention. (Tarhanlı, 2023, p. 32)

5.2. Challenges and Limitations of the Istanbul Convention in Combating Violence Against Women

This part will highlight the structural features of the Istanbul Convention and provide an overview of its articles.

5.2.1. The Framework of the Istanbul Convention

The first international treaty is the Istanbul Convention, which aims to stop violence from a gender perspective. The structural nature of violence against women and women affected by domestic violence excessively while the Convention recognizes

men as the victims. The Istanbul Convention has four main parts holistically to stop the violence. These are related to integrated policies, prevention of all forms of violence, protection of victims from further violence, and prosecution of perpetrators. (Meurens et al., 2020, p. 12)

The purpose of the Convention is to protect women from all forms of violence. It aims to eliminate, prosecute, and prevent violence against women and domestic violence. Additionally, the Convention seeks to promote substantive equality between women and men and contribute to the elimination of all forms of discrimination against women. It aims to develop a plan for support to all victims of violence against women and domestic violence and generate policies based on protection against violence. At this point, international cooperation will be encouraged to stop the violence against women and domestic violence. The Convention accepts a holistic approach to providing support and assistance to organizations and law enforcement agencies to effectively collaborate on eliminating violence against women and domestic violence.

As a result, prevention, protection, criminal prosecution, and policy coordination are the focal points of the Convention. It is essential to apply conventions to all victims of domestic violence. Parties should take a particular interest in women who are victims of violence and gender-based violence. In situations of armed conflict, this Convention should be applied too. This is the scope of the Convention. In Article 3, the definitions of violence against women, domestic violence, gender, and gender-based violence against women, victims, and women are explained. (Istanbul Convention, 2011)

Violence against women is recognized as a violation of human rights and a manifestation of gender-based discrimination. It encompasses acts of harm or suffering inflicted upon women, including physical, sexual, psychological, or economic harm. This includes threats, coercion, or unjust restrictions of their freedom, regardless of whether these occur in public or private spheres. Physical, sexual, psychological, or economic violence within a family or domestic setting is called domestic violence. This domestic violence is not explained depending on whether the perpetrator and victim lived together at any point. Violence against women based on gender refers to acts of violence aimed at women because of their gender or actions

that remarkably negatively impact women. In this context, girls under 18 are accepted as women.

The Istanbul Convention covers some essential parts to promote gender equality and protect victims. These essential parts are definitions and scope (Chapter I), integrated policies and data collection (Chapter II), prevention (Chapter III), protection and support (Chapter IV), and substantive law (Chapter V), Investigation, prosecution, procedural law and protective measures (Chapter VI), migration and asylum (Chapter VII), International co-operation (Chapter VIII), monitoring mechanism (Chapter IX), relationship with other international instruments (Chapter X).

The first chapter outlines the purposes of some definitions, and general obligations of states. Chapters II to VI outline the obligations of states in different activities: integrated policies and data collection.

Chapter V includes the substantive law, part of the law. It is relevant to the determination of rights, liabilities, and duties. (Richards & Curzon, 2011, p. 450)
In the Istanbul Convention, the part of substantive law should be considered a significant document in criminal law. There are many referrals to types of crimes against women. For example, physical and psychological violence, stalking, sexual violence and harassment, forced marriage, female genital mutilation, forced abortion and sterilization, etc.

Chapter IX's monitoring mechanism provides the tracking mechanism for whether the states fulfill some obligations. Organizing the system of taking violence against women into consideration is the responsibility of states and their relevant authorities. If a non-state actor is unsuccessful in fighting against violence, the state will be responsible for meeting the needs of international obligations. (Topa, Półtora, 2014: 137) The Istanbul Convention states that the group of experts on action against women and domestic violence will be comprised. This group of experts is called GREVIO, which monitors the Parties' implementation of this Convention. The procedure of the group of experts (GREVIO) election takes part, and the working procedures of GREVIO have been explained in detail. (Article 66-68)

Chapter X explains the convention’s relationship with other international instruments. These instruments will not influence this convention. If the bilateral and multilateral agreements aim to supplement or strengthen this convention's targets, the parties can conclude these agreements. (Article 71) There is no need to explain Chapter XI amendments to the Convention and Chapter XII final clauses in this study because many conventions involve this kind of part to how to apply it.

In the light of these, the Istanbul Convention is based on four key pillars: prevention, protection, prosecution, and coordinated policies. It promotes raising awareness about gender-based violence, empowering women, and training professionals to respond effectively. It ensures that victims are protected through measures like restraining orders and safe shelters, and it strengthens the criminal justice system by criminalizing violence, imposing severe penalties for perpetrators, and supporting victims throughout legal proceedings. Additionally, it encourages interagency cooperation and the development of gender-sensitive, human rights-based policies to address violence against women comprehensively. These pillars work together to create a holisticapproach to combating violence against women and supporting survivors. (Council of Europe, 2011)

5.2.2. The Ratification of the Istanbul Convention and the Feminist Movement: Advancing Women's Rights in Türkiye

This part of the study seeks to examine the influence of the feminist struggle on the adoption of the Istanbul Convention. While the preceding chapter provided an analysis of the development of the feminist movement in Türkiye, it did not delve into the specific actions and strategies employed by feminist actors in their pursuit of the Convention. This chapter will focus on the investigation of the role of the feminist movement in advocating for the ratification of the Istanbul Convention.

From the early stages of drafting the Istanbul Convention, the women’s movement was actively involved, with women’s organizations in Türkiye participating in related meetings. The movement collaborated closely with influential figures, such as Feride Acar and Yakın Ertürk, who held international human rights roles, fostering a steady exchange of knowledge and experience. Türkiye became the first country to sign the

Convention on May 11, 2011, and ratified it on March 14, 2012, without reservations. Although political commitment was essential for ratification, many members of the women's movement note that this support was not initially forthcoming. (Ayata & Candaş, 2018, p.186)

The next chapter examines a central research question regarding the renewed phase of the Istanbul Convention's adoption: the positive influence of the feminist movement on this process. In this chapter, the impact of the feminist movement on the Istanbul Convention will be analyzed through the subjective perspective of participants in the movement.

The Council of Europe's (CoE) efforts, such as promoting women's participation in decision-making processes, have significantly contributed to the institutionalization of feminism across its member states. While NGOs, bolstered by the Council of Europe, have taken a leading role in feminist activism and policy advocacy, some critics argue that this "NGO-isation" has diluted the political edge of feminist issues. Nonetheless, NGOs have played a crucial role in advancing women's rights, particularly throughout the negotiations for the Istanbul Convention (Sosa, 2020, p. 28)
As in Europe, the feminist movement in Türkiye was first institutionalized before developing into a civil society movement. It began as a movement led by educated middle-class women, but expanded to the grassroots, especially as issues such as violence against women gained prominence. Platforms such as "We Will Stop the Deaths of Women" women's instant actions (the number of killed women instantly), and increased media attention helped to broaden the movement.

In the 1990s, the feminist movement in Türkiye became more diverse, with different factions emerging, including Kemalist feminists, Islamist feminists, and Kurdish feminists. These divisions were influenced by the social and political debates of the time. Today, the debate on women's right to life is largely shaped by feminist groups protesting in courtrooms to raise awareness of femicide. More recently, violence against women, often linked to issues such as their dress or refusal to conform to societal expectations, has become a more frequent and visible topic of public debate. While institutionalization has certain advantages in feminist politics, it also poses

challenges. It can perpetuate hierarchical structures, often dominated by privileged groups such as white women, and focus on practical outcomes rather than broader feminist concerns. In a project-based activism environment, the organizations can become competitive rather than collaborative, potentially losing sight of core feminist values. In addition, prioritizing efficiency can lead to a more managerial, problem-solving approach, limiting creative or ethical political strategies. Finally, while working on specific issues can promote unity, it can overlook the diversity of women's experiences and risk reinforcing essentialist and exclusive views. (Coşar & Onbaşı, 2008, p. 340)

The feminist movement in Türkiye faces significant barriers in achieving gender reforms due to the ruling AKP's pro-family stance, which prioritizes traditional gender roles and undermines feminist objectives. The movement also struggles with its public image, as protests are often led by women who do not align with conservative norms, leading to the perception that feminists represent a small, elite minority. Additionally, the political environment has limited opportunities for lobbying, forcing activists to resort to street protests that lack significant policy impact. The movement's polarized political context further impedes alliances with conservative women, and despite internal growth, its influence on policy reforms has diminished. (Gonzales, 2016, p. 209)

On the other hand, the Istanbul Convention imposes numerous commitments on states, particularly based on prevention, investigation, and protection. Countries are required to implement measures to address violence against women, including raising awareness, ensuring effective investigations, and providing adequate protection for victims. If states fail to take these necessary actions, they may face consequences, including the imposition of compensation for the harm caused by their non-compliance. The phenomenon of violence against women can be attributed to weak state capacity and underdeveloped criminal justice systems. These acts of violence not only violate women's political rights but also breach other laws. However, existing legislation remains insufficient due to widespread impunity for criminal offenses. To effectively address this issue, further engagement and activation of state actors and policies are needed to strengthen legal frameworks and ensure accountability for

perpetrators. (Piscopo, 2016, p. 77)

Alongside the signing of the Istanbul Convention in 2011 and its enactment in 2014, another key development was the implementation of the National Action Plan, which will be evaluated in connection with the Convention's impact. The 2012-2015 period, addressed by the I. National Action Plan, marked significant progress in combating violence against women, largely driven by the support of the feminist movement. The II. and III. National Action Plans, developed after the Istanbul Convention, adopted its four core principles—prevention, protection, prosecution, and policy improvement—to address gender equality and combat violence against women. Significant advancements included the 2016 establishment of Violence Prevention and Monitoring Centers (ŞÖNİM) under Law No. 6284, and in 2018, the Women's Empowerment Strategy Document and Action Plan (2018-2023), led by the General Directorate on the Status of Women (KSGM). (Akçabay, 2022, p. 162) The Purple Roof Women's Shelter Foundation published a monitoring report on Coordination in Combating Male Violence in Türkiye. According to this report, Violence Prevention and Monitoring Centers (ŞÖNİM) fail to fulfill their coordination roles, do not offer the support mandated by regulation, and lack in providing qualified social services to women. These shortcomings prevent women from accessing necessary resources and exercising their rights. Deficiencies and implementation problems in the current system render the law ineffective due to poor, incorrect, or incomplete enforcement. (2021, p. 36)

The Istanbul Convention imposes positive obligations on states to ensure the protection of women, including a duty of care, and mandates compensation for victims if these obligations are not met. However, the Purple Roof Women's Foundation's report highlights a significant factor contributing to this gap: the inconsistent implementation and enforcement of gender-sensitive policies by the government. While laws may exist on paper, their practical application is frequently hindered by a lack of political will, insufficient resources, or inadequate training of personnel responsible for enforcement. This discrepancy between legislation and practice undermines the effectiveness of measures designed to combat violence against women. As demands for rights have increased, the boundaries of human rights norms have

expanded and their content has diversified, while opposing movements have also been set in motion. For this reason, there remains an unbridgeable gap between the theory and practice of human rights. In this regard, women's rights have become a particularly challenging field. The struggle carried out for half a century has confirmed that the issue of women's human rights is not merely about the application of objective legal norms, but rather that human rights law itself constitutes a dialectical field of struggle—one shaped by ideological biases, conflicting interests, and diverse ethical values. Today, it is evident that the very ground of this system is shifting, and that the problem of incompatibility between theory and practice is not primarily legal in nature, but instead closely tied to politics and the balance of power. (Ertürk, 2020, p. 91)

5.2.3. Withdrawal from the Istanbul Convention: The Struggle for Women's Rights

In 2021, a movement emerged advocating for the country's withdrawal from the Istanbul Convention, arguing that it promoted divorce and undermined traditional values. In response, Turkish women and human rights advocates urged the government to uphold the Convention and enforce laws to address rising levels of gender-based violence and femicide. Nationwide protests and social media campaigns supporting the Istanbul Convention called for justice for women lost to gender-based violence and sought to raise global awareness of the issue. However, the Turkish government ultimately announced its official withdrawal, the reasons can be seen as promoting values, including homosexuality, that were incompatible with Türkiye's social and family norms. (Kanbur, 2021, p. 354)

The Opponents of the Istanbul Convention argue that from a causal perspective, the correlation between the effectiveness of the Istanbul Convention and the rise in violence against women appears to be the most objective data we can observe. In other words, contrary to what is often assumed, the Convention does not directly prevent domestic violence; it may not have the capacity to do so on its own. While we may not assert a definitive causal relationship initially, we notice that as the Convention's implementation becomes more effective, incidents of violence against women seem to rise alongside it. (Aktay, 2020) According to these views, the Istanbul Convention

clashes with traditional views on family, gender roles, and sexuality. They believe the Convention promotes LGBTQ+ rights under the label of non-discrimination, seeing this as "homosexual propaganda" that disrupts societal norms. Furthermore, the Convention undermines family structures by not defining "family" to traditional values, allowing for a more fluid interpretation that they worry may erode established roles. Additionally, the Convention's inclusive definition of gender is seen as conflicting with Islamic teachings, which emphasize divinely ordained differences between men and women that shape distinct roles and characteristics. There is strong political resistance to the Istanbul Convention, as violence against women is inherently tied to politics and rises alongside authoritarianism. Public discourse reveals a troubling distinction between "innocent" and "non-innocent" victims, where women are judged by their lifestyles or perceived morality. This harmful use of language legitimizes societal prejudices and ultimately influences legal practices, undermining justice for women. (Yalçın, 2020, p.13)

Following Türkiye's withdrawal from the Istanbul Convention, the IV. National Action Plan (2021-2025) moved from a structured, service-oriented focus to more ideological statements, adopting a conservative, religious, and family-centered approach to gender equality. This shift has weakened rights-based legal protections, limiting access to justice for women facing violence and increasing their vulnerability. (Akçabay, 2022, p. 169)

The repeated portrayal of women as victims in courtrooms—particularly in cases of rape, murder, or coerced suicide—intensifies the challenges of the feminist struggle. This pattern reflects an entrenched imbalance within legal and societal frameworks that often positions women defensively, requiring them to validate their experiences and rights within systems that may inadequately support or recognize them. Özkazanç (2013, pp. 61-62) asked a question about redefining the political subject of feminism without reinforcing a narrative that positions women solely as passive victims of male violence. This challenge involves reframing violence not just as a problem that targets women but as a systemic issue rooted in gendered power dynamics, where women are active agents, not merely subjects of harm. To develop a radical perspective on violence, we could approach it not as a problem to be managed or eradicated through

legal measures that externalize it, but as a fundamental issue embedded in the fabric of social relationships that implicates us all. This approach requires recognizing that we are not only victims of violence but also, in various ways, participants in the structures and dynamics that perpetuate it.

As a result, there is a bias in treating gender and sexuality as secondary issues in politics. In Türkiye, gender politics is fundamental to the ruling AKP's ideology, which emphasizes policing gender norms and upholding conservative family values. This focus serves three main purposes: it reinforces a populist "us vs. them" divide, setting an authentic national identity against "anti-national" groups; it combines neoliberal welfare policies with conservative family ideals; and it normalizes violence in political discourse and everyday practice. Women, trans, and queer activists argue that heteropatriarchal discourse legitimizes oppression and violence against those who defy traditional gender norms. Rising femicide rates in Türkiye underscore the urgency of confronting this neoconservative "politics of intimacy." As masculinity faces growing challenges, the drive to reassert hegemonic masculinity fuels a "masculinist restoration," making gender-based violence a central issue in the current political landscape. (Korkman, 2016, p. 155) There is a disruption in traditional masculinity alongside major societal shifts, particularly as men’s and women’s roles evolve. Women participate in public life actively, entering professional fields, expressing personal goals, and advocating for changes to support these new roles. This shift is often seen as a challenge to established notions of masculinity. In response, some suggest the promotion of more conservative attitudes that reinforce traditional gender roles as a temporary way of managing this tension. It could argue that key factors behind the decision to withdraw from the agreement include the crisis of masculinity, the influence of neoliberal and conservative policies, and the growing demand for women's rights.

CHAPTER 6

FINDINGS AND ANALYSIS

Gender-based violence is recognized as a human rights issue. Violence against women (VAW) stems from pervasive gender-based inequality and represents a fundamental violation of human rights. This deeply entrenched inequality manifests as physical, sexual, psychological, and economic harm, causing suffering for women in both public and private spheres. (UN, 2024) On the other hand, violence against women, including intimate partner violence and sexual violence, is a significant public health concern and a breach of women's human rights. According to WHO estimates, around 1 in 3 women globally (30%) have experienced physical and/or sexual violence, either by an intimate partner or a non-partner, at some point in their lives. (WHO, 2024)

The Istanbul Convention has made a significant impact in Türkiye by providing a clear and comprehensive definition of violence, including psychological, economic, and physical forms. Two surveys on violence against women were conducted in Türkiye, one in 2008 and the other in 2014. The 2014 survey on violence against women shows that 38% of women in Türkiye have experienced physical and/or sexual violence in their lifetime. Consistent with the findings of the 2008 survey, these data show that physical and sexual violence often occur at the same time. (Hacettepe, 2024) This results of 2014 research is that domestic violence is more prevalent among women employed in insecure jobs without social protection. Women are better protected from domestic violence only when they work in civil servant positions with a regular monthly salary. The risk of violence is lower for public sector employees compared to those in the private sector. Women who own at least one property face less domestic violence than those who do not. Women who hand over all of their income to other family members are more likely to experience sexual and economic violence than those who contribute only part of it or spend it at their own discretion. Women who

are the sole providers of household income are exposed to all forms of domestic violence at the highest levels. The lack of economic resources significantly increases women's risk of experiencing physical and economic violence at home. In other words, having economic independence provides women with protection against these forms of violence. (Ecevit & Yüksel-Kaptanoğlu, 2020, p.184)

As mentioned above, the Istanbul Convention was signed in 2011 and entered into force in 2014, while Law No. 6284 on the Protection of the Family and Prevention of Violence against Women was implemented in 2012. The name of Law 6284 has been criticized for focusing primarily on the protection of the family, which may limit its scope. In contrast, the Istanbul Convention provides broader protection for families and individuals in dating relationships and even divorced partners. The Istanbul Convention ensures that all women, regardless of their marital status or the nature of their relationship, are protected from gender-based violence, providing a more inclusive and comprehensive approach to the protection of women's rights.

This findings and analysis section is divided into three sections, each addressing a specific aspect of the Istanbul Convention. This part will examine the social, political, and legal dimensions of Türkiye's gender regime before the Istanbul Convention, highlighting how feminist mobilization and earlier legal reforms created the groundwork for its adoption; it will then turn to the period during the Convention, analyzing the political atmosphere, legal commitments such as Law No. 6284, and how feminist actors used the Convention as both a legal and political tool while also facing the limits of state implementation; finally, it will address the aftermath of Türkiye's withdrawal, establishing the link between this decision and the feminist movement, showing how the withdrawal signaled a conservative turn in state gender policies.

In the first part, the social, political, and legal dimensions of the women's movement in Türkiye during the preparation process of the Istanbul Convention will be analyzed. Legal amendments related to women's rights in Türkiye in the early 2000s and the impact of the feminist movement on society will be presented based on notes collected from the field. The changes made to the Turkish Penal Code and the Civil Code in the

early 2000s can be regarded as achievements of the women's struggle that has continued since the 1980s. At the same time, the adoption of the Istanbul Convention can be seen as a significant moment—a peak point—in the women's movement from the 1980s to the present. The underlying reasons for the rise and growing influence of anti-gender movements following this peak will be examined.

In the second part, the political and social climate in Türkiye during the adoption of the Istanbul Convention will be examined. The analysis will also seek to understand the impact of the women's movement in Türkiye on the formulation of Law No. 6284. The gender policies of that period will be recognized as key elements of the broader social and political transformation.

The signing of the Istanbul Convention will be considered the most significant step toward achieving gender equality. As violence leads to the exclusion of women from the labour market and/or the mechanisms of social reproduction, it will be acknowledged as a cause of discrimination. This, in turn, results in the intergenerational transmission of gender roles and compels women to live in a more unequal society.

Third part will present fieldnotes documenting developments during Türkiye's withdrawal from the Istanbul Convention. This fieldwork aims to shed light on the underlying factors contributing to the gender backlash in Türkiye.

Special attention will be given to observations related to the proceedings at the Council of State following the withdrawal, as these legal challenges represent a critical juncture for the women's movement.

The chapter conceptualizes this period as a historically significant moment, particularly in illustrating how legal mechanisms can serve as a site of feminist resistance. It underscores the importance of mobilizing through legal frameworks to build collective action around gender equality and anti-discrimination.

Accordingly, the chapter offers a critical analysis of the interplay between law and society and its broader implications for the trajectory of the women's movement in Türkiye.

6.1. Women's Struggles and State Dynamics in Türkiye: A Pre-Istanbul Convention Perspective

This section examines the developments leading up to the signing of the Istanbul Convention, as well as the key debates that emerged during the negotiation and adoption process. Particular attention is given to the Convention's conceptual framework, its relationship to other international human rights instruments, and its connection to feminist legal theory. In addition, the section analyzes the relevant domestic legal instruments in Türkiye before the Convention's adoption and explores their broader social implications.

The reforms to the Turkish Civil Code and Penal Code in the early 2000s represent direct outcomes of the sustained and organized efforts of the women's movement in Türkiye. These legal changes stand as significant milestones in feminist advocacy aimed at challenging institutionalized gender discrimination and promoting equality within the legal system. Approximately one in five participants referenced a legal amendment, highlighting its significance as a precursor to the Istanbul Convention and its relevance to the issue of violence against women. This is Prime Ministry Circular No. 17 of 2006 on the Measures Taken for the Prevention of Violence against Women and Custom and Honor Killings.

Prime Ministry Circular No. 17 of 2006, issued five years before the Istanbul Convention, is a key legal document as it reflects the accomplishments of the feminist movement in Türkiye before the Convention's signing. This legal document was sent by the Prime Ministry to all public institutions, media organizations, and civil society, placing a positive obligation on the state to actively work towards preventing violence against women.

In this legal document, the state must work to eliminate economic inequality between men and women, adopting positive discrimination policies until full equality. Combating violence against women should be established as a national policy, with a comprehensive plan encompassing legal, institutional, educational, and cultural measures. The process for seeking remedies for victims of violence should be

simplified and carried out in a way that respects women's privacy, including providing free access to health records. To prevent violence, harmful traditions must be identified, educational programs developed, and training provided for family members to address domestic violence. Special units for female victims of violence should be set up in health institutions, with staff trained to recognize signs of violence and make necessary reports. The root causes and social costs of violence against women must be investigated, data collected, and a national database created. Efforts to combat sexism in the media should be intensified, with informative programs aimed at promoting social transformation for women, alongside regulations to encourage women's active participation in society. (Circular No. 2006/17)

That circular was useful. It also outlines how women's policies will be formulated in the struggle against it. It also discusses prevention and protection strategies. One of the participants emphasized the Circular No. 2006/17. She noted that she frequently referenced this legal document in her lectures and, with evident enthusiasm, described it as a notably progressive text. When she was talking about this document, she was excitedly explaining.

> "This is a prime ministerial circular, long before the Istanbul Convention. Measures to be taken to prevent acts of violence against children and women and honour killings, Prime Ministry measures. And it is so comprehensive that it has sent details to all institutions that should work in coordination with the realisation of the solution proposals on violence against children. Then, the institutions that should coordinate with the realisation of the solution proposals on violence against women were explained at length. There are things to be done to all institutions, but there are things I have underlined, for example, in service institutions, before the Istanbul Convention. Service institutions for women and men, policies, legal regulations, and practices contrary to equality between women and men must be abolished. Positive discrimination against women should be recognised as a state policy until the equality of men and women in society is achieved. In 2006, this was enacted." (P3, Ankara)

One of the participants, an attorney, shared an anecdote about implementing Prime Ministry Circular 2006/17. While the Bayburt Governor’s Office stated that these

incidents of violence against women had never been seen in their province, there was a bitter smile on the face of the participant.

> "The circular, which was implemented effectively in stages, was later shelved and removed last year. Circular No. 17, introduced in 2006, was replaced by a meaningless, brief circular. The original circular provided concrete measures for violence prevention for institutions, and the Ministry of Family and Women monitored its progress with quarterly reports. Various organizations, including universities, the media, and sports clubs, submitted reports, although some, such as the Bayburt Governor's Office, falsely reported that there was no violence against women. The circular was initially taken seriously but lost momentum later on. The Minister of Family and Women sent frequent inquiries about the progress, while the Women's Movement of Türkiye and other NGOs played a significant role in its creation. However, it would have been more effective if the Istanbul Convention had supported it."(P12, Istanbul)

Recognizing the importance of addressing violence against women, the Prime Minister's Office acknowledged its significance in the context of gender equality. The inclusion of the women's movement in decision-making processes represents one of the key mechanisms with the potential to transform the state's perspective. While the Prime Ministry Circular appeared to open the door for such change, it cannot yet be said to have produced a substantive shift in state policy. Despite signs of progress, entrenched structures of resistance, often referred to as patriarchal social culture, remain largely intact. For example, although the state has formally declared through international conventions that domestic violence constitutes a public issue, many state actors continue to treat it as a matter of private concern. (Uygur, 2013, p. 890)

Another participant also emphasized the importance of the Prime Ministry Circular and stated that the path to the Istanbul Convention did not happen overnight.

> "That circular is very important because it also reveals how women's policies will be created in the struggle, first addressing how to prevent and protect. In other words, that circular is very good, but it has not found its application area. That is another matter. However, it is very important in terms of what needs to be known about the circular. Concerning the Istanbul Convention, it holds significant value, particularly

> in terms of the principle of intersectionality, as it brings certain elements. It was also important at the time. Many variables are important, but there is a background to this. Such a development, in other words, would not happen suddenly."(P6, Ankara)

This document should be evaluated in conjunction with the amendments to the Turkish Civil Code and the Turkish Penal Code introduced in the early 2000s, as these legal reforms are the direct outcomes of the prolonged and determined efforts of the women's movement in Türkiye. Together, they reflect the significant achievements of feminist advocacy in challenging discriminatory practices and advancing gender equality within the legal framework. A new Civil Code, which occurred in 2001, eliminated the legal supremacy of men in marriage and granted women expanded rights, marking a crucial step toward equality in family law. In 2002, the Turkish Civil Code was amended to introduce significant reforms. The first was the recognition of the division of marital property in cases where a marriage ends through divorce or death.

The second, in line with Article 15(b) of CEDAW, was the recognition of equality between spouses in choosing the family residence. A third amendment adopted the principle that both spouses contribute to the income and expenses of the marital union, recognizing both labor and property as part of the marital estate. In addition, Article 124 set the minimum marriage age at 16 for both girls and boys under exceptional circumstances, while Article 175 abolished provisions that discriminated based on gender in relation to alimony obligations. (Özkan Duvan, 2024, p.269)

Following the success of the Civil Code reform, Women for Women's Human Rights (WWHR) launched the Campaign for the Reform of the Turkish Penal Code from a Gender Perspective. After an intensive three-year effort in 2004, the Turkish Parliament approved the new Penal Code. The campaign achieved substantial success, significantly advanced gender equality and strengthened protections for women's human rights, particularly in the areas of sexual and bodily autonomy. (Anıl et al., 2015, p.1)

In this instance, the political pressure exerted by the feminist movement and the state's

acknowledgment of the need for reforms to align with international human rights standards played a significant role in driving the adoption of these progressive legislative changes.

One of the participants summarizes one of the relationships between human rights and women's rights as follows. She said this especially to demonstrate where the Istanbul Convention logically fits.

> "When we talk about international human rights, I feel the need to explain how I perceive them. Although modern law, particularly within the framework of modern liberal legal systems, is typically based on positive law and the definition of legal norms through formal rules, this framework proved inadequate after the Second World War. In my view, the development of international human rights law marks a significant turning point in the evolution of modern law.
>
> What do I mean by this? Simply put, a regulation becomes "law" through procedural mechanisms. However, the fact that something is codified—whether as a statute, a decree-law, or a constitutional article—does not necessarily mean it aligns with the sense of justice or the expectations of rights that people associate with the law. Therefore, especially after World War II, the events that occurred during the war also significantly impacted this process. This is an important process in terms of addressing the content of the norm beyond expectations, in other words, the law, or determining this content. It is the process of developing human rights and international human rights regulations.
>
> But of course, these also happen gradually, as you know. First of all, the basic texts emerge. Here, the Universal Declaration and others emerge. Then, we are talking about a field that begins to become more specialized, and here another field has emerged that addresses the problematic events of the basic concepts of liberal law and the developments that need to be resolved. As you can imagine, this expandable field of law develops with the discussions that started in the United States within the framework of racial discrimination against Blacks. But then, especially in the women's freedom struggle that progressed in a parallel way and spread throughout the World." (P1, Istanbul)

The evolution of women's rights and the feminist movement in Türkiye should not be viewed as separate from international developments. The adoption of CEDAW in 1979

and the Beijing Platform served as important reference points; the European Union proved to be a more influential force in advancing gender equality in Türkiye during the 2000s. (Uzgoren, 2020, p.126)

Since the 1990s, the Council of Europe has taken significant steps to protect women from violence, culminating in the Istanbul Convention. Early initiatives included the 2002 Recommendation Rec (2002)5 and a Europe-wide campaign (2006-2008) that highlighted the widespread issue of gender-based violence. The Council's Parliamentary Assembly called for binding measures to prevent violence, protect victims, and prosecute offenders, recognizing the need for harmonized legal standards. This growing political will led the Council of Europe to establish an expert group, CAHVIO (Ad Hoc Committee for Preventing and Combating Violence Against Women and Domestic Violence), in 2008 to draft a comprehensive convention. Over two years, the committee developed and finalized the draft text in December 2010. (Council of Europe, 2024)

One of the participants emphasized the importance of CEDAW and highlighted its connection to the issue of violence against women.

> "There are several conventions established globally on women's human rights. These are written texts that specify what these rights are and how states should protect them through laws and actions. First and foremost are the written and binding legal texts. Foremost among them is the United Nations CEDAW Convention. What is interesting is that the CEDAW Convention contains no provision directly addressing violence against women. In the context of trafficking, there is a gap concerning violence against women through human trafficking, and this gap is not only evident in Europe but also other parts of the world. Indeed, in many countries, such violence against women is a visible violation of women's rights, and because it is so clearly a violation, this deficiency has been emphasized in the international arena over the years."(P21, Ankara)

Berktay (2020, p. 89) argues that CEDAW introduced a major political shift in Türkiye, replacing traditional benchmarks like the Ottoman legal legacy and Sharia with modern international standards. The treaty exposed flaws in the 1926 Civil Code,

giving the women's movement a clear reform agenda, though real progress would take nearly two decades. Efforts in the 1980s by activists met resistance from political elites and saw little success. Türkiye only pledged to lift its reservations to CEDAW after the 1995 Beijing Conference, officially doing so in 1999. However, actual amendments to the Civil Code lagged. The European Union added further pressure by highlighting the need for reform in its pre-accession reports to ensure compliance with CEDAW. Fuller compliance was achieved following the legal reforms of the Civil Code in 2001 and the Penal Code in 2004.

As a signatory of CEDAW, Türkiye's national legislation was increasingly aligned with international standards. This created tensions and contradictions at all levels: with international treaty obligations, and between existing national legislation and the stated policies and goals of the AKP (Justice and Development Party) government, which contravene both. The women's movement in Türkiye has long sought and exploited openings created by cracks in the structure of male privilege to push for further reforms and advocate for an expansion of rights. This era foreshadows the closure of such spaces, both within civil society and government administration, and a sustained assault on the existing legal system. (Kandiyoti, 2016, p. 112) The Istanbul Convention similarly found entry through this fissure, becoming an integral part of Türkiye's political agenda.

One participant responded negatively to the question of whether the feminist movement directly impacts the Istanbul Convention. She regretted that a myth was being created. She stated that the Turkish State had a direct impact. She explained that bureaucrats in the Foreign Ministry of Türkiye reached out to her then and assigned her the task. This participant criticized the attitude of European countries towards violence against women, they might be highlighting the following issues:

> "Let me say that Europe has avoided dealing with the issue of violence against women for a long time. This was openly voiced by many official delegations of European countries when the first negotiations on the Istanbul Convention began. There was always a question mark in people's minds about whether violence against women was a European problem. It was seen as a European problem because immigrants were coming.

> They viewed the issue as if only immigrants faced this problem. But of course, this is not true. Violence against women exists among non-immigrant Europeans as well. It is everywhere. Now, there is an increasing awareness of whether gender inequality is a contributing factor to this issue.
>
> This is how the first studies for the Istanbul Convention began. During these studies, in the first phase, as I have explained elsewhere, the Secretary General of the Council of Europe established a task force that met with seven independent experts. Since Türkiye was a state interested in the subject, it was requested that Türkiye also provide a member to this task force. At that time, it was deemed appropriate for me to participate as an independent member, meaning from Türkiye, but being an independent." (P21, Ankara)

From the 1990s onward, legal amendments have often been understood as the outcome of an interactive relationship between feminist movements and the state, whereby feminist actors played a significant role in shaping legislative change. Türkiye 's first anti-violence legislation emerged directly from cooperation between feminist activists and government institutions. This collaboration began in earnest after the CEDAW Committee's strong critique of Türkiye 's 1990 report prompted state officials to actively engage women's organizations in preparing the 1996 follow-up report. The resulting state document marked a significant departure, thoroughly addressing gender-based violence while acknowledging both its prevalence and the absence of effective countermeasures. This shift largely reflected the alternative "shadow report" produced by the feminist coalition Women's Human Rights—New Ways (KİH), which included representatives from Mor Çatı. The reporting process had tangible political consequences. Feminist academics participating in the consultations noted its impact on Işılay Saygın, the Minister for Women and Family Affairs, who led Türkiye 's delegation to CEDAW in 1997. The Committee particularly commended the minister's engagement and the report's unprecedented candor, interpreting these as evidence of genuine governmental commitment. Significantly, this international recognition translated into domestic action. Upon returning from New York, Minister Saygın prioritized the anti-violence legislation, pushing it through despite substantial resistance from conservative elements within the governing coalition. This episode demonstrates how strategic feminist engagement with international mechanisms and

state institutions can produce progressive policy change even in politically constrained environments. (Açıkalın, 2025, p. 1502)

This participant explicitly stated that her involvement was the result of an assignment by the Turkish Ministry of Foreign Affairs, emphasizing that the feminist movement did not have a direct influence on her role. She further underscored that both her education and that of other Foreign Affairs officials should be viewed as accomplishments of the Republic, rather than outcomes of feminist advocacy. This perspective highlights the complexity of attributing legal reforms in the 1990s—and the development of the Istanbul Convention more broadly—solely to feminist influence. It is important to acknowledge that the extent of direct feminist impact on these transformations on the Convention remains difficult to delineate.

The feminist movement substantially influenced the adoption of Law No. 6284 on the Protection of the Family and the Prevention of Violence Against Women. One participant even claimed that the feminist movement played a key role in signing the Istanbul Convention without reservations and Law No. 6284. According to this account, both developments are seen as direct outcomes of sustained feminist advocacy and mobilization.

This participant describes the process behind the drafting of Law No. 6284 as follows:

> "We collaborated with many women's and LGBTI + organizations to develop this law. We established the End Violence Platform and submitted our proposals to the ministry as a draft law. These proposals were informed by the Istanbul Convention, which was still in its draft stage. The ministry expected us to submit them in a format that would align with its framework, as it was already working on something similar. While we were compiling proposals through the End Violence Platform, discontent began to emerge from certain circles. These objections were largely related to the Istanbul Convention. Several meetings were held with the Ministry, during which we collectively decided not to rush the process. If the Convention was signed without reservations, Law No. 6284, as the implementing legislation, will be more easily secured. I was aware of the discontent from these groups, as they had previously voiced similar objections during the enactment of the Turkish Penal Code and Law

> No. 4320 (the Law on the Protection of the Family). When the Istanbul Convention was being prepared in Ankara, efforts were underway—under the influence of these same circles—to ensure its adoption with reservations. I even witnessed one of these individuals personally."(P12, İstanbul)

In the early 2000s, she played a significant role in the reform processes of the Turkish Civil Code and the Turkish Penal Code. As one of the leading legal figures within the feminist movement in Türkiye, she emphasized that a strategic approach was adopted during the law-making process, anticipating possible oppositional reflexes and resistance. This deliberate strategy reflects the growing political experience and legal acumen accumulated by the feminist movement over time, particularly in navigating institutional dynamics and shaping legislative outcomes.

These events are recounted with great enthusiasm, as she notes that this is the first time she has shared these stories. What is particularly significant is how the feminist movement was able to influence political processes, as well as the persistent resistance to acknowledging women's experiences. Her narrative highlights the impact of feminist activism on policymaking and the broader societal pressure to validate women's voices.

She continues that

> "One of these was the public case. Cases related to violence were to be recognised as public cases. Some groups were against the public prosecution of violence against women. They wanted these offences to be subject to complaint. As soon as the woman gave up her complaint, it should have been dropped. At that time, a Justice and Development Party MP was constantly inflicting violence on his common-law wife. He broke his wife's fingers. The woman also complained about this. Then the woman withdrew her complaint under pressure from her family, but the public case continued. Some members of the Supreme Court went to the Minister of Justice, who works for the Justice and Development Party. They asked for a public case to be cancelled. The Minister of that period said there was no such issue on our agenda. Even broken bones were not the subject of reservation. There was the possibility of two more reservations. The first one was a compensation obligation on the state in the Istanbul Convention,

> which imposes a compensation obligation on the state, and the other was related to simple medical intervention and bone fracture.
>
> It imposed an obligation to compensate the state for the damages caused by the state itself and for not preventing the damages caused by third parties. They objected that this would burden the state. They also objected to the fact that simple medical intervention was considered violence. Because our men accept only a broken bone as violence. We deliberately aimed to slow down the legislative process on violence against women to prioritize the signing and ratification of the Istanbul Convention by Türkiye without any reservations. Our strategy was to ensure that the Convention would be adopted in its entirety before moving forward with domestic legal reforms. Immediately following this process, our objective was to enact an implementing law. As representatives of Türkiye, we intended to present this sequence as a model to the international community, emphasizing that Türkiye was not only the first country to sign the Istanbul Convention but also the first to adopt national legislation to implement it."(P12, İstanbul)

In fact, at that time, we asked a journalist to write an article on the subject for it to be signed without reservations, and we also asked the opposition parties to support the process, she said.

> "We engaged in dialogue with all political parties and encouraged opposition parties to express their support for women's organizations throughout the process. We also requested alignment with our strategic decision to slow the legislative process. As a result, the Istanbul Convention was opened for signature in Istanbul and was ratified by Türkiye without any reservations. This outcome was not incidental; it resulted in sustained and deliberate feminist advocacy. The ratification without reservations was achieved through persistent efforts to prevent the inclusion of any such limitations, reflecting the effectiveness of the feminist movement's strategic engagement with both political actors and legislative processes."(P12, İstanbul)

Notably, similar debates to those that emerged during Türkiye's withdrawal from the Istanbul Convention were also observed among member states' representatives during the Convention's drafting process. As a result, the drafting of the convention involved intense debates over whether to focus specifically on violence against women or adopt a broader gender-neutral approach covering domestic violence against men, children,

the elderly, and same-sex partners. Key disagreements centered on defining gender-based violence, particularly around including "sexual orientation" and "gender identity," which some argued conflicted with traditional values. While feminist advocates emphasized gender as a social construct, political resistance led to compromises in text, with terms like "violence against women" being softened to gain wider acceptance. Critics viewed gender-neutral provisions as diluting feminist goals, but these concessions were necessary to secure political support. Despite opposition, diplomatic negotiations ensured the convention's adoption with only minor adjustments, balancing feminist principles with pragmatic compromises to achieve consensus. (Acar & Popa, 2016, pp. 304-316)

The drafting process of the Istanbul Convention was marked by ideological conflicts, particularly over whether the convention should focus specifically on violence against women or adopt a broader, gender-neutral approach. Key disagreements included the inclusion of terms like "sexual orientation" and "gender identity," which faced opposition from some states due to perceived conflicts with traditional values. Although feminist actors advocated for a gendered understanding of violence, political resistance led to compromises in the text. These concessions, such as softening language around "violence against women," were seen by some as diluting feminist goals but were deemed necessary for achieving political consensus.

6.2. During the Sign of the Istanbul Convention: The Role of Feminist Movement

The Istanbul Convention highlights the crucial relationship between legal norms and social facts, demonstrating that it is challenging to conceptualize legal norms independently of social phenomena. Although law is often depicted as neutral and separate from society in liberal legal theory, it is, in fact, deeply interconnected with and influenced by social contexts.

Legal norms, such as those outlined in the Istanbul Convention, cannot be fully understood or effectively implemented without recognizing the societal conditions and dynamics that shape and are shaped by them. This interdependence underscores the

importance of viewing law not as an isolated entity but as a social institution that both reflects and influences the realities of the society in which it operates. The relationship between norms and facts is inherently dialectical, wherein norms, understood as legal rules or laws, are not static entities but are shaped by the political, social, and economic contexts within which they operate. While norms often maintain an appearance of isolation and possess an inherent authority within the legal framework, they are continuously influenced by social facts, which refer to the lived experiences and material conditions of society.

This influence is not always immediate, as the interaction between norms and facts unfolds over time, with the timing and extent of this impact varying according to the socio-political and historical context. The interplay between norms and facts thus reflects a dynamic process wherein legal norms both shape and are shaped by the broader social reality.

One participant also emphasized the social dimension of law, highlighting the relationship between society and law and the influence of power on this dynamic.

> "From the perspective of the sociology of law, law is not a static or independent entity; it is created by society and, in turn, influences and transforms that society. This mutual relationship between law and society is an essential reality. Law can be understood as a form of social engineering or a tool, though its effectiveness and purpose are deeply shaped by the intentions of those who wield it. I contend that law cannot exist or function apart from politics or power structures. While legal principles may act as a boundary or limit to power, serving as a check against arbitrariness or dictatorship, the law itself remains fundamentally a tool. The critical question, therefore, lies in who controls this tool and how it is applied. Even a legal text designed to promote equality can be distorted into something entirely contrary to its intended function depending on the motivations and actions of those who produce or enact it." (P3, Ankara)

In addition, Cotterrell (1998, pp. 171-181) emphasizes the need to integrate sociological perspectives into legal scholarship, arguing that law is deeply influenced by social contexts and cannot be fully understood in isolation. He highlights that law possesses its way of interpreting the world, shaped by various social factors, but there

is no singular "law's truth"; instead, diverse perspectives and practices inform its meaning. He critiques the isolation of legal doctrine, noting that such detachment undermines a deeper understanding of the law's role in society. He underscores the law's intellectual openness, asserting that its vulnerability to sociological and interdisciplinary insights enables it to adapt to and address evolving social realities. As mentioned, law is often regarded as a normative structure distinct from social reality, yet it fundamentally shapes human behavior and influences social reality. As a social phenomenon, it evolves in tandem with society, mirroring its changing norms and values.

P3 perceives and engages with the law through her experiences and theoretical background, emphasizing its functional dimensions. She identifies the repressive function of law, which maintains social order by enforcing norms and sanctioning deviance, highlighting its use as a tool for control and discipline. She emphasizes the legislator's will and whether the aim is truly gender equality.

> “Even a text that aims to ensure equality can be transformed into a function that is the opposite by the hand that produces or uses it. Our constitution has equality, but how we interpret that equality is very important. That is the determining factor. Who will interpret it? The legislator will interpret it with the legislation he/she enacts; the judge, prosecutor, and lawyer will interpret it in practice; and the academy will interpret it through the professors.
>
> But this is a manifestation of a completely interconnected power dynamic. In other words, I try to convey the meaning I give to equality to my student here on the bench, but tomorrow that judge, prosecutor or lawyer will feel connected to the meaning he/she gives to equality on the bench and may quickly forget what he/she learned at school, replacing it with another definition of equality.
>
> Therefore, having a definition of equality in the constitution and saying, "Yes, we can base gender equality on this when we read it," may not make much sense. For example, the Supreme Court makes many decisions stating that the principle of equality should be interpreted as equality due to differences in nature. Or, while applying these provocation rules related to masculinity, they can do this by legitimizing a male nature.” (P3, Ankara)

She emphasizes this characteristic of law that appears neutral but is dependent on the will of those who hold power. This recalls a critique of legal positivism. Quinney (2002, p.16) argues that much of the research and theoretical work within the sociology of law has been shaped by a positivist orientation, which tends to accept the legal order as a given and focuses primarily on understanding its operational mechanisms. This approach often neglects more foundational questions concerning the necessity of law, its underlying purposes, or what constitutes a just legal system. When justice is considered, the emphasis typically lies on the fairness of legal procedures rather than questioning the legitimacy or structure of the system itself. While there may be calls for reforming specific laws, the broader framework of the legal system is rarely subjected to critical scrutiny.

The object of criminal law, as shaped by the dominant class, is to perpetuate its existence and maintain its power. By enforcing laws that preserve the current order, the system ensures the continuation of class oppression and the capitalist economy. (Vago & Barkan, 2017, p. 51). Weber contends that, although the law provides formal equality, substantial economic inequalities between parties in a contract can lead to coercion. The propertied class, by leveraging its economic power, can impose terms that leave the less advantaged party, such as a worker, with little genuine choice. As a result, the legal framework may give the appearance of protecting individual freedoms, while in reality, it reinforces inequality and sustains the dominance of those with greater resources. (Milovanovic, 2003, p.11)

The facilitative function of law provides frameworks that enable social and economic interactions, structuring relationships and cooperation within society. Law, in its facilitative function, allows for coordination, planning, and the expectation that certain behaviors will follow others predictably. As long as there is alignment in our expectations, we can plan, engage, respond, and move projects forward with relative ease. However, Luhmann argues that as society becomes more complex, there is an increasing need to structure how we behave and how we expect to behave. Law responds to this need by providing a system that organizes and regulates these expectations. According to Luhmann, law is necessary in any society to manage its growing complexity. (Milovanovic 2003, p. 13) The rules ensure predictability,

accountability, and fairness in agreements and disputes. One of the participant highlights the discrepancy between the existence of legal frameworks and their practical implementation. According to her, this gap stems not primarily from social dynamics but from the failure to enforce legal provisions in Türkiye. She further argues that this reflects the negative connotation that political power attributes to issues concerning women.

> “I have worked extensively with CEDAW. CEDAW states that equality on paper alone is not enough—it is not formally sufficient; it must truly be reflected in practice. That is why I believe law and practice complement each other in this way. Having worked extensively on international reporting, I have observed this often. For example, in United Nations meetings in Geneva or official state reports submitted to mechanisms like the CEDAW Committee, the response is always the same: "There is Article 10 in our constitution, everyone is equal, etc., so we already guarantee this. But real equality does not exist. First, it does not address general equality, only equality from a gender perspective. That article encompasses equality in many areas. Therefore, if we discuss the law, it may need to be more specific. But the core issue is not the law itself; it is the implementation of the law, the part where it is put into practice. The greatest deficiency in Türkiye is that we see no equivalent of the law in real life. Right from the very beginning, from the highest levels of government, despite what the constitution states, there exists a clear and explicit written example demonstrating that women and men are not treated equally. In other words, while the constitution states one thing, those who implement it say another. This contradiction manifests visibly—it has a social counterpart. Once more, mere words on paper are insufficient; true equality must be rooted in every mind. "(P18, London)

What the participant describes serves the exact ideological function of law. The ideological function positions law as a vehicle for embedding and perpetuating certain ideologies, shaping societal beliefs, and influencing cultural norms. The legal framework, with its rules and doctrines, offers through interpretation and evaluation of social relationships and events that reflect the key themes of the dominant ideology. As the legal system is encountered regularly in everyday life, its consistent reinforcement and dissemination of this dominant ideology become crucial mechanisms for establishing ideological hegemony. Through this process, the law helps to solidify and legitimize existing power structures, influence societal beliefs,

and maintain the status quo. Poulantzas characterizes the state as "relatively autonomous," meaning that the capitalist state is not completely free to act in the interests of the ruling class.

Instead, it is influenced and constrained by various social forces, which limit its ability to act solely according to the interests of those in power. These forces, such as labor movements, social pressures, or public resistance, play a role in shaping the state's actions and prevent it from fully aligning with the capitalist class without taking broader societal factors into account. (Wacks, 2012, p. 180) The role of the state and the autonomy of law are closely interconnected. The power to make, enforce, and interpret laws that shape social order rests with the state as a political entity.

The autonomy of law is linked to liberal legal theory, which emphasizes the importance of law as an independent and impartial system that should operate free from political, social, or economic pressures. Feminists have a critique of liberal legal theory. They contend that the idea of the legal person is gendered because the law consistently constructs men as the default, rational, impartial, and universal, while women are portrayed as emotional, specific, and subordinate. This binary reinforces gender inequalities by shaping perceptions of women's bodies and identities in ways that limit their legal recognition and sustain masculine dominance. Liberal feminists primarily aim to reform liberal legalism by advocating for equal rights, increased representation, and the elimination of legal barriers that hinder women's participation in legal and societal institutions. They maintain that justice within the legal system can be achieved by recognizing women as rational and autonomous individuals and by enhancing their presence within existing legal structures, for instance, through greater representation in the judiciary. (Hunter, 2013, pp. 15-18)

The participant (P4, İstanbul) defines herself as a feminist and adds: "As feminists, we have many criticisms of liberal legal theory – especially regarding its male-biased conception of the individual and its failure to recognize women as individuals within the system. Yet Türkiye's current legal system makes it impossible to even speak of a liberal legal order. She expressed profound sadness about this.

> "We are searching for concepts of liberal legal theory in Türkiye, but we cannot find them. There is something called the Constitutional Court in our lives, but it does not truly exist anymore. Because they keep saying this court should be closed, or they refuse to comply with its decisions. For example, the European Court of Human Rights has ruled on many cases involving Türkiye, ordering long-term detentions. Yet Türkiye complies with none of these decisions. Therefore, Türkiye cannot progress under liberal law theory. "(P4, İstanbul)

The Istanbul Convention in Türkiye was shaped by the interplay of the law's repressive, facilitative, and ideological functions. The repressive function responded to public outcry over violence against women, pressuring the government to adopt stronger legal measures. The facilitative function provided a framework for legal protections and resources for women, such as restraining orders and shelters. The ideological function represented a shift in legal and societal values, challenging patriarchal norms and prioritizing gender equality.

Beyond its functional roles, the Istanbul Convention addresses a vital social need driven by the persistent advocacy of feminist movements, women's rights organizations, and activists. While legal texts are often shaped by the interests of those in power, aligned with Austin's theory of law, where a sovereign authority issues commands, the Istanbul Convention is distinctive. It is a legal framework developed by women and grounded in their lived experiences. One participant highlighted how the Convention is informed by the realities of women's lives, making it a powerful reflection of their struggles.

> "The Istanbul Convention is a human rights agreement written by women. In the struggle for this, it is a legal text rather than a text to be written in the last fantasy or fiction section, against patriarchy, written by women, which can transform patriarchy and the states included in the agreement. The convention signed by states that accept monitoring regarding violence against women represents a dream come true. How was it written? It is also very powerful because it is not a text written in the ivory towers that are always discussed theoretically. On the contrary, a beginning emerged with the priority of whether women accept their own experiences as truth in real life, these experiences, eliminating negative experiences, and protecting them at work." (P14, Ankara)

This participant's emphasis on women's lived experiences necessitates establishing a theoretical connection between this thesis and feminist standpoint epistemology. The foundational question driving the Istanbul Convention's formulation was: 'Are these merely individual experiences, or collectively shared realities among women?' The affirmative answer confirms their collective nature. The crucial achievement lies in how these gendered experiences have been transformed from subjective realities into codified legal text, attaining generalizable normative status. This transition warrants the application of strong objectivity frameworks. The convention thus marks a paradigm shift: experiences historically invalidated through systematic exclusion from juridical discourse now hold formal recognition and validation across signatory states. Standpoint theory allows women to express silenced or marginalized voices. This approach builds women as the legal subject, and the Istanbul Convention creates space to hear these voices while developing social justice and equity discussions. Scales (1986, p. 1385) proposes feminist jurisprudence that questions the idea of legal objectivity by exposing its gendered roots. It reveals how supposedly neutral laws often uphold inequality, while advocating for a legal approach that is more attentive to context and social realities.

One of the participants explains proudly that the Istanbul Convention was constituted under difficult conditions and shares why it was named the Istanbul Convention.

> “It was not an easy process. There were negotiations, give-and-take bargaining. But it was the best that could happen. The draft text that came out of CAHVIO (Ad Hoc Committee for preventing and combating violence against women and domestic violence) is going to the Council of Ministers of the Council of Europe. A lot of effort was made to convince Russia and Bulgaria. Türkiye has taken a significant step and made considerable efforts in terms of planning. If the presidential term continues, the final meeting of that period is held in the presiding country. The reason for the name "Istanbul Convention" was that the last meeting was held in Istanbul.” (P21, Ankara)

One participant also mentioned that she had attended one of the draft working meetings of the Istanbul Convention attended by Feride Acar. A big smile appeared as she recounted the time in that meeting. She spoke with pride. She stated that this meeting was filled with fierce negotiations between countries. She said that a similar discussion

took place in Türkiye regarding whether the Istanbul Convention was about domestic violence or violence in the family.

> “In the meeting I attended, there was a debate between one wing that wanted the convention to include domestic violence and the other wing that defended the family. A Dutch female MP, a member of the European Parliament, defended that the convention should be related to violence in the family. She was almost a standard-bearer of that view. A male MP from Portugal also defended this convention, which generally included domestic violence against women. In other words, he was defending our reaction. The result was good because it was accepted as "domestic violence." It was not accepted as "family." But it was translated into Turkish as "family." This greatly affects the scope of the convention. "Domestic violence" is a broader concept; it includes lives under the same roof that do not require blood ties or marriage ties. Unfortunately, it was translated into Turkish as "family,". Therefore, I support it, continue to call it domestic violence, and continue to be perceived as domestic violence; I continue to emphasize it. I did not know there was such a meticulous convention preparation process. These international conventions, under the influence of the right and left political wings, states agreed on a minimum level of change, and I felt fortunate to witness the transition through full bargaining in this process.” (P12, İstanbul)

On the other hand, the definition of the legal subject within the Convention continues to be a matter of debate. Nevertheless, the Istanbul Convention places a particular emphasis on women and their protection against gender-based inequality. In contrast to the Istanbul Convention, the legal system has been criticized for overlooking the specific needs and lived experiences of women. In addition, the Convention not only guarantees family unity but also extends protection to partners and the divorced.

6.3. The Istanbul Convention Through a Feminist Lens

In the 1970s, feminist legal theory contributed significantly to developing feminist legal practice. Feminist lawyers identified themselves as ‘women’s rights’ advocates, focusing on achieving legal victories through legislation or litigation. Their legal theory was primarily practical and had as its goal the persuasion of those in power

within state institutions (Whitman, 1991). Over the past decade, feminist legal scholarship has moved away from advocacy before judges and increasingly focused on critiquing the law itself as a product of patriarchy. This shift was largely driven by the shortcomings of the formal equality approach, which assumed neutrality but struggled in cases such as pregnancy, where judges often saw gender differences as biological. Inspired by feminist critical theory from other fields, legal scholars began to question whether traditional legal analysis misrepresented the real issues at stake for women. (Whitman, 1991, p. 494)

In Türkiye, the 1980s was a very important period for the feminist movement. During that period, a campaign to protest violence against women emerged in Istanbul, Ankara, and other cities. It was called No to Beating. The campaign was sparked by a controversial 1987 court ruling in Çankırı, where a judge denied the divorce petition of a pregnant woman who had suffered ongoing domestic violence. In his decision, the judge referenced a traditional proverb, "'A stick on a woman's back and a child in her belly," reflecting a deeply entrenched cultural mindset that legitimized violence and upheld unequal power dynamics within families (Işık, 2002, p. 46).

In this section, the feminist character of the Istanbul Convention was explored, especially in interviews conducted by social scientists. As a result of these discussions, the most common theme was that it did not represent a single feminism. Only one participant emphasized the feminist standpoint theory, while others claimed it was more of a mixture of liberal feminism and radical feminism. It was also stated that feminism of difference and third-wave feminism were emphasized.

One of the participants did not decide on what the feminist character of the Istanbul Convention was.

> "For example, which feminist wave does the Istanbul Convention belong to? Is it the result of a feminist wave? Is it a product of the third wave? When discussing the third wave, concepts such as people of colour and intersectionality come to mind. But when I think about it, it should not be evaluated according to whether it belongs to a feminist wave. This convention contains many common elements of different feminisms. From a feminist perspective, I believe it is more important to focus on what the Convention

> contributes to feminism. What stands out is that it recognises different types of violence, such as not defining intimate partner violence solely as spousal violence, removing violence from the concept of domesticity, acknowledging violence outside the public sphere, and defining discrimination-based violence against women. The fact that it defines gender equality may be linked to second-wave feminism, as it critiques patriarchy. Alternatively, it may be connected to third-wave feminism, as it uses the concept of intersectionality when defining different groups of women. However, I still think it is difficult to choose the feminist waves." (P16, Ankara)

This analysis considers the Istanbul Convention with the demands of the women's movement from which it originated, as well as how the movement, as a force of social opposition, has transformed these demands over time. The women's movement is frequently conceptualized through the framework of feminist "waves," each characterized by distinct demands and achievements in the pursuit of women's rights. These waves are historically situated, with each corresponding to a specific temporal context. However, a critical limitation of this categorization lies in the fact that the Istanbul Convention, as a comprehensive social and legal text, does not align neatly with any single feminist wave. Nevertheless, this categorization remains valuable in illustrating the trajectory of the women's movement and the stage of its progression embodied by the Istanbul Convention. One participant similarly observes that the Istanbul Convention represents the culmination of different waves of feminism.

This participant argues that;

> "In my opionion, the Convention cannot be fully explained by any single form of feminism. Since it is a fundamental legal text, it contains elements of liberal feminism, but the Convention also incorporates aspects of the feminism of difference. There is an opinion that the demand for rights or rights-based documents is more closely associated with liberal feminism. I believe that liberal feminism is present everywhere, given the extensive criticism of liberal feminists, but it has not yet been fully realized in the demands of liberal feminists. On the other hand, since radical feminists have initiated studies on the female body, sexuality, and particularly sexual abuse and rape, the Convention is also related to these issues. Additionally, there is the feminism of difference. I believe the Convention brings together all these feminist perspectives." (P17, Ankara)

Another participant disagrees with the view that rights-based documents are exclusively associated with liberal feminism, as, in her view, socialist and radical feminists also advocate for women's rights.

This participant emphasizes the interconnectedness of equal rights feminism and radical feminism. She preferred the term "equal rights feminism" over "liberal feminism" and emphasized the global rise of human rights, highlighting how this development has influenced global feminism.

She argues that;

> “Because every kind of struggle for rights has other radical and socialist dimensions, or we can say that both radical and socialist movements have a connection with the struggle for rights and law, but let's not call it liberal feminism, but rather equal rights feminism. Some may also call it equal liberal feminism. We see that this has left its mark on post-80s developments in feminism. In other words, we see that the human rights perspective has become very dominant. This is a cyclical situation. In terms of world history, it has been a cyclical situation. The human rights perspective coming to the fore, determining the entire political field, was a special historical situation. And feminism assumed a great strategic position and influence within this. But at the same time, of course, this was also something that marked the global women's movement. But something like this also happened. This kind of equal rights feminism became very intertwined with some radical feminist themes. Especially in the criticism of violence, in the analysis of violence, and the criticism of the analysis of violence against women, the views and perspectives brought forward by radical feminism were expressed to a great extent. But there is almost no difference between these two today. Therefore, the Istanbul Convention reflects this unity. In other words, I think it reflects the merging of radical feminist themes, analyses, and perspectives on violence with equal rights.” (P15, Ankara)

The radical feminist emphasis within the Istanbul Convention is particularly noteworthy.
This is evident from the very first page of the Convention, which includes the following statement:

> "Recognising that violence against women is a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women. Recognising the structural nature of violence against women as gender-based violence, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men." (P15, Ankara)

The radical feminist dimensions of the Istanbul Convention foreground women's lived experiences, which often remain unacknowledged within dominant legal and social frameworks. These experiences challenge male-centered conceptions of reality and are frequently situated within the context of sexual violence, highlighting the structural nature of gender-based oppression. The state plays a central role in sustaining gender inequality by embodying and enforcing a masculinist perspective that exerts control over women's sexuality. Legal and institutional frameworks are portrayed as mechanisms that reflect and reinforce male dominance, positioning women as objects within a hierarchical power structure. The state legitimizes this control through norms, policies, and representations that normalize male authority and the objectification of women. It constructs a social order that serves male interests, often through the coercive regulation of women's sexuality at multiple levels. While it may occasionally temper extreme expressions of this control, such moderation primarily functions to preserve its overall normalization. From this feminist perspective, the state is not a neutral actor but is fundamentally shaped by male norms and practices, actively contributing to the gendered reproduction of social and sexual inequality (Mackinnon, 1983, p. 644).

One of the participant agree with MacKinnon that;

> "The convention is a legal text. This text has a feature that includes more legal rights. I think this text is about the recognition of a right. I also think of deriving this right from a very class-based analysis. Therefore, I think it is a text belonging to radical feminism. It can not be proved historically. The separation of property relations is crucial to understanding the radical feminism aspect of the Istanbul Convention. This legal text includes both feminist and class-based analysis. We can evaluate this text

> from two main axes: liberal/radical feminism, and look at the formal/substantive equality. The text contains both radical/liberal feminism and formal and substantive equality. While there are some things about equality of opportunity related to liberal feminism, the patriarchal roots of inequality are related to radical feminism. Equality is a legal term and establishes the claim for rights. There should be gender equality. The subject of the legal system is no longer male. I challenge that the subject of the legal system is male. I think that the feminist structure of the text is a legal exit." (P4, Ankara)

In part of this interview, this participant focused on substantive and formal equality. This kind of equality is related to de jure and de facto statuses of gender equality. As mentioned, substantive equality ensures a fairer allocation of advantages, whereas formal equality focuses on impartial processes and uniform application. While substantive equality prioritizes redistributing benefits more equitably, formal equality adheres to neutral procedures applied consistently. (Forowicz, 2017, p.193) The section on formal and substantive equality emphasized by this participant is mentioned in the Convention as follows.

"Recognising that the realisation of de jure and de facto equality between women and men is a key element in the prevention of violence against women"

Another participant states the difference between formal and substantive equality, emphasizing gender equality and justice.

> "I compare the concept of gender equality with gender justice. Gender justice is a concept that refers more to cultural characteristics, that is, it refers more to traditions and customs. It refers more to differences. What we expect from gender equality is not only formal equality. Because it will be possible to talk about equality when substantive equality, as well as formal equality, is achieved in the prevention of violence. However, not everything is solved even when formal equality is achieved. For example, in divorce cases such as child custody, everything continues like a new world war. There is a big fight and a struggle. Women do not reach equal rights equally. When you include traditions, cultural, and social differences, and justice in the agenda, you accept that only formal equality is sufficient. However, not saying that the state should have obligations for substantive equality is an approach that exonerates the state from its obligations." (P11, Ankara)

In Türkiye today, there remains a vast gap between the de jure and de facto statuses of gender equality and women's human rights. (Acar, 2010, p. 15) This gap means that women have some formal rights but lack substantive equality. For example, women have the right to access law school, but we often do not see them in decision-making mechanisms, such as judges and prosecutors. The Convention's emphasis on de facto equality envisions challenging the socio-cultural values and stereotypes underlying gender identities that contribute to discrimination. (Ertürk, 2016, p. 60)

Another participant underscored that the Istanbul Convention reflects the lived experiences of women. This participant attributed liberal characteristics to the Istanbul Convention as an international law text and then related it to radical feminism, as it examined gender power dynamics and criticized traditional institutions such as marriage, religion, family, and the state, as the other participants emphasized. According to her, the Convention is essentially based on a theoretical perspective shaped by women's experiences. This is also related to the Feminist Standpoint theory. She explains the relationship between the Istanbul Convention and the Feminist Standpoint theory as that;

> "I think that the Istanbul Convention is the text that reflects feminist standpoint theory the most, because there is a truth, and this truth is drawn from the experiences of women. This text can be described as a transition from liberal feminism to radical feminism, because as a result, it aims to transform states, their legal systems and sanctions, and because it includes such an action, it can be associated with radical feminism." (P14, Ankara)

This participant emphasized women's experiences based on the truth of women's lives. The Istanbul Convention was derived from these women's experiences as a legal text. Farganis (1994, p. 31) contends that experiences are shaped by cultural context: women's patterns of thought and behavior, such as nurturance, care, emotional expressiveness, and non-repressive interactions, do not stem inherently from biology, but rather emerge from the caregiving roles they have historically been expected to fulfill. At this stage, feminist theory maintains that a woman's standpoint offers an epistemic advantage, representing a "true" rather than a "false" consciousness in Hegelian-Marxist terms. Feminist theory serves a threefold purpose: expressing

women's voices, raising women's awareness of their distinctiveness, and transforming differences into strengths. Smith (2004, p. 265) paid attention to experience and how it's dealt with in social relations. She stated that experience is a mode of expression, a language game, in which what has yet to be voiced engages in a dialogical struggle to claim language already laden with meaning before the moment of speech. It is thoroughly infused with social relations, including those embedded in discourse, both about the subject being discussed and the context of the speaking act. Experience provides direct insight into the inherently social nature of individuals' worlds; it appears in how people speak, the categories they employ, the relations they implicitly establish, and what is assumed or deemed speakable.

This thesis argues that lived experiences of women played a significant role in shaping the Istanbul Convention. It is important to emphasize that, for a long time, women's experiences were excluded from legal recognition, and the Convention marks a critical moment in which these experiences are acknowledged through a legal framework. As such, women's life experiences provide an epistemic advantage in understanding the dynamics of power relations embedded within legal texts. The Istanbul Convention should therefore be evaluated as a legal document that foregrounds women and as one shaped and informed by their lived experiences. In practice, feminist standpoint research employs a range of methodologies, including both qualitative and quantitative approaches, to engage participants, typically from oppressed groups, in reflecting on how their gender, race, social class, and sexual orientation shape their experiences within the social world. Moreover, feminist standpoint researchers critically reflect on and disclose how their social group status influences their interpretation of the data. (Campbell & Wasco, 2000, p.782)

In this sense, standpoint theory emerged as a means to empower oppressed groups, prioritize their lived experiences, and foster the development of an "oppositional consciousness." (Harding, 2014, p. 2) Taking a standpoint involves developing the most accurate understanding of how knowledge of gender is connected to women's experiences and the realities of gender. Feminist knowledge can be produced from a standpoint wherever women experience unequal, gendered social relationships, which in turn fosters a feminist political consciousness. It is a method of exploring, rather

than assuming, how women's experiences differ from those of men, intersex individuals, or others due to their specific social relationships with the exercise of male power. Before examining how a feminist standpoint can advance feminist methodology beyond debates on objectivity and the challenges faced by standpoint theorists, we situate the concept of standpoint at the limits of modern thought. Haraway uses the metaphor of feminists climbing a greased pole while holding on to both ends to illustrate the challenges of producing valid knowledge about gendered social life. On the one hand, the feminist researcher holds onto feminism's commitment to science and reason to accurately represent gendered experiences and effectively challenge patriarchal knowledge. Feminists, as Haraway notes, aim to create "enforceable, reliable accounts of things."(Ramazanoglu & Holland, 2002, p. 61) This metaphor highlights the challenge of balancing a commitment to scientific rigor and reason with the need to critique and counter patriarchal knowledge systems. It symbolizes the struggle to advance feminist epistemology in a way that is both credible and oppositional to dominant power structures. One way to address this tension is through the articulation of "partial visions" and the situated nature of produced knowledge, emphasizing the context and perspective from which knowledge is generated. (Leurs, 2015, p. 54) Standpoint epistemology asserts that aspects of an agent's social identity, which are not directly epistemic, can shape what the agent is capable of knowing. (Toole, 2019, p. 59)

This study proceeds from the premise that the drafting process of the Istanbul Convention rendered visible the specificities of women's experiences within legal systems. Aligning with this participant (P14, Ankara) perspective, it is argued that the Convention's gender-specific provisions grounded in women's epistemic advantages through the lens of feminist standpoint theory.

By centering women's lived experiences of violence, the Convention exposes the strong objectivity of law, and this strong objectivity benefits from marginalized perspectives that generate transformative knowledge, challenging dominant epistemologies that perpetuate gendered invisibility.

6.4. Global Significance of the Convention in Advancing Women's Empowerment

The Istanbul Convention is an international human rights convention. A striking aspect of its international dimension is that it represents an achievement of the global women's movement. This movement, which brings together northern and southern women's struggles, can be defined as the collective efforts of women worldwide to advocate for equal rights, justice, and freedom. Another important feature of the Convention's international character is its binding nature for nation-states.

Feminist movements have also long had a transnational dimension. Historically, international organizations such as the International Council of Women and the Women's International League for Peace and Freedom played pivotal roles in uniting women's movements globally, supporting national efforts, and fostering transnational dialogues on equality and rights. These networks not only shaped early feminist mobilizations but also helped reignite activism after periods of decline, such as during the mid-20th century. This legacy underscores the enduring interplay between local and global feminist efforts. (Ferree &Mueller, 2004, p. 586)

The two participants (P11 and P15) emphasize the achievements of the global feminist movement, highlighting that the Convention is the result of a long process of accumulation. They shared her experience with enthusiasm.

> "The Istanbul Convention is the result of this accumulation. This is because the United Nations already has the CEDAW (Declaration on the Elimination of Discrimination against Women in 1979) addressing the protection of women from violence. However, the Istanbul Convention is much more recent.
>
> It represents nearly 40 years of accumulated progress, shaped by the global struggle for women's rights and the achievements gained through the efforts of women's rights movements worldwide." (P11, Ankara)

International feminism has long been intertwined with struggles over nationalism, racism, colonialism, and self-determination, sometimes aligning with socialist movements and sometimes acting independently. (Ferree & Mueller, 2004, p. 587)

P15 highlighted the commonalities between women's movements across different regions, particularly emphasizing how the articulation of non-Western movements with the global women's movement has strengthened the latter.

"The global women's movement, which developed around the United Nations from 1975 onwards, was strengthened by the influence of the Second Wave Women's Movement in the West. The women's movement, which had been brewing for a long time in non-Western geographies, carried the influence of women's organizations in national liberation struggles, even though it was not directly feminist. Soviet bloc countries also had a strong influence. Through this interaction, the United Nations became the center of the women's movement in 1975, and CEDAW was signed in 1979. After 1979-80, the global women's movement achieved great success, with the signing of the Istanbul Convention in 2011 marking the peak of this movement. This process overlapped with other human rights and environmental movements, creating a great force."(P15, Ankara)

While examining the conceptual dimension of the Istanbul Convention, the effects of the global feminist movement were highlighted. One of the key starting points of the international feminist movement is its struggle against the patriarchal social order. To understand the patriarchal social order, it can be briefly explained how the roles of men and women have changed. In patriarchal cultures, men hold power and define the world based on their gendered experiences, viewing themselves as independent, competitive, and rational. Institutions are created to reward these traits, while women's experiences and characteristics are excluded. Women are often seen as the "other," judged according to preconceived expectations about how they should behave, feel, and think. Roles traditionally attributed to women, such as caregiving, are devalued in this system. (Bender, 1989, p. 948)

One of the participants conceptualizes the Istanbul Convention as a challenge to the patriarchal order. She agreed with the other participants that the Istanbul Convention is an accumulation of the global feminist movement, too. She solemnly stated:

> "Now, the patriarchal system is very deep-rooted, very old, and super organized, and at the same time, it is a system that has trapped and oppressed women to an incredible extent. Historically, it has been going on for centuries. Now, if we think of certain areas of action in the struggle against this, for example, European culture. First of all, of course, the feminist struggle of women against the patriarchal system (I mean for

> Europe, which has been going on for the last 200 years) is making very important progress.
>
> The same thing can be thought of for Latin American feminist movements, but they are different; they follow a different course. The South Asian women's movement, the women's movements in Africa, there is already a struggle and movement everywhere, geographically and globally. On the other hand, much more important, much more advanced steps have been taken in Europe, and I say the Istanbul Convention is a very important text produced by European feminist women and produced by using the accumulation of the global feminist movement."(P13, İstanbul)

According to the Istanbul Convention, ratifying states are required to adhere to comprehensive, legally binding standards for preventing gender-based violence, protecting victims, and punishing perpetrators. (Kalantary & Moti, 2022, p. 3) These standards provide a common legal and policy framework that transcends national boundaries. The Convention also generates cooperation between states to combat gender-based discrimination in dealing with human trafficking, migration, and forced marriages. It sets universal norms for prevention, protection, and prosecution. Women's rights are accepted as human rights, which means universal norms for all women. It refers to the global norm.

One of the participants describes one of the most important features of the convention as its legally binding nature. She highlights that the power behind the Convention stems from the struggle of the global women's movement. She also notes that the convention introduces a new language and concepts to international texts from the 1970s onward. In her own words, she emphasizes it as follows.

> "The Istanbul Convention on violence against women is significant because it is binding and imposes obligations on the states that are parties to it. Binding legal texts on violence against women are relatively few, with soft law texts predominating in this area. The Convention is valuable not only in this respect. It is also valuable in the historical context in which it was born. It reflects the rising women's movement and the momentum that followed, creating a snowball effect. It has also surpassed important thresholds. Its newness is evident in its language, its concepts, and the inclusion of articles absent in earlier texts—achievements made possible by the

> movement behind it. Importantly, it accomplishes all this as a binding text.” (P5, İstanbul)

She has introduced a concept beyond its legally binding nature. It is important to explain what "soft law" is. A range of institutions are involved in creating what is known as "soft law." While this form of law does not impose binding obligations on state parties, states are often pressured to comply. Declarations and other actions of the United Nations General Assembly are usually considered nonbinding, and the regulations produced by various institutions are generally classified as soft law (Marmor, 2012, p. 381).

Therefore, unlike other international human rights treaties, it would not be appropriate to define the Istanbul Convention as a mere soft law document, because the Convention imposes positive obligations on states to prevent, protect, and prosecute violence against women and to implement holistic policies. In these respects, the binding nature of the convention on states differs from other documents in this field. The Istanbul Convention obliges states to abolish discriminatory laws and practices, introduce legal measures to prevent and combat all forms of gender-based discrimination, and enshrine the principle of equality between women and men in national constitutions or other relevant laws. (Article 4/2).

One participant highlighted the role of the European Court of Human Rights and its binding as follows:

> "The internationalization of the Istanbul Convention holds significant importance for the European Court of Human Rights (ECHR), as its evolving interpretations are reflected in the Court's judgments. This is particularly crucial because the judgments of the ECHR are binding. For instance, these rulings have played a key role in influencing the Constitutional Court's decisions on violence against women. The ECHR bases its judgments on the Istanbul Convention, interpreting it alongside the European Convention on Human Rights. This approach is essential and aligns with the Court's purpose. Moreover, these developments are mirrored in the Constitutional Court and subsequently in the Supreme Court, highlighting their impact on national law reform.” (P6, Ankara)

This participant explains how, despite being an international document, the Istanbul Convention is binding on judicial decisions in Türkiye.

One of the participants emphasized the role of Türkiye in drafting the Istanbul Convention and the binding role of the legal system in Türkiye.

> "Although the Istanbul Convention is an international convention, it is also a local and national convention. This is because the blood of Nahide Opuz's mother and Nahide Opuz herself was involved in drafting the Convention. The Opuz v. Türkiye case is a highly significant case. During the drafting process of the Istanbul Convention, the findings and conclusions in that case, reflected in the judgment of the European Court of Human Rights (ECHR), were incorporated into the Convention as an international legal mechanism. The Opuz case asserts that the state must protect its citizens' right to life, particularly women. The state failed to treat women and men equally, disregarding gender inequality. It did not uphold the right to a fair trial or access to justice. This ruling is a landmark legal decision, not only in the context of Türkiye but also in international legal literature. The Opuz judgment was issued against Türkiye. This was among the key factors that led Türkiye to sign the Istanbul Convention. The same AKP government that later withdrew from it. Following the Opuz v. Türkiye judgment and the state's severe condemnation, the Republic of Türkiye declared its willingness to address these shortcomings. (P9, İstanbul)

The fact that the Convention is a human rights document also means that some universal norms must be accepted. Article 42/1 of the Istanbul Convention explicitly prohibits the justification of violence against women based on cultural values. It states that Parties must take the necessary legal or other measures to ensure that culture, custom, religion, tradition, or so-called 'honor' cannot be used as a justification in criminal cases involving acts of violence covered by the Convention.

One of the participants explained the Vienna World Conference on Human Rights in 1993, which marked a pivotal confrontation between universalist and cultural relativist conceptions of human rights. She meticiolusly told this opposition:

> "The Vienna Conference is an important conference for human rights historians because, for the first time, it is a conference where states that accept human rights as

> a universal value and those that view human rights as a relativist cultural production come face to face. Especially at that time, of course, Türkiye was not like this, but countries like Indonesia or Saudi Arabia, etc., say that this human rights ideology is an imposition of the West. "We have our values. A woman should cover herself. After that, it is possible to marry three women. It is not valid for a woman to testify, etc. These are our values. Therefore, when something conflicts with these, since these are our cultural values. We will defend them." Why they came face to face is, maybe in this polarized world we live in, maybe the first thing that emerged there. In other words, the first seeds of such things emerged there, even after the collapse of the Soviets. Therefore, it is also a very strong message aimed at countries that understand gender with a cultural relativist perspective. Supposedly, now it was saying that women's rights are human rights. They should be approached within this framework, and states have provisions on this issue; these are the provisions. "(P19, London)

This provision signifies the separation between positive law and moral values. If one accepts cultural relativism, the notion that legal validity remains independent of moral judgment becomes meaningless. Legal positivism is associated with the separability thesis. According to legal positivism, law is distinguished from other mechanisms of social control by its precise subject matter, universal applicability, and formal processes of enactment and enforcement. This definition assumes that in societies with developed political institutions and specialized law-making and enforcement agencies, law can be separated from other normative systems. (Vago & Barkan, 2017, p. 11) This is related to liberal legalism, which adopts the method of reasoning by prioritizing jurisprudence over the sociology of law. Article 42/1 of the Istanbul Convention, which implies the positivist aspect of law, explicitly prohibits the justification of violence against women based on cultural, traditional, or religious values. P21 describes her memory of the addition of the article regarding honor killings to the convention as follows: She recounts this memory with pride, emphasizing her role in ensuring that this article was reinstated in the final text.

> “I couldn’t attend one of the convention preparation meetings because my mother-in-law passed away. They assigned someone from the Ministry of Foreign Affairs to take my place. The assigned person was not familiar with this issue. However, in that meeting, honor killings were removed from the draft of the Convention.

> They were returning in a "purified" form from the draft. I stated that we, as Türkiye, would not accept this in the next meeting. I am telling this incident for this reason. Liberal groups can claim that this does not exist out of cultural respect. However, it is a situation that goes against international human rights norms—a kind of reactionism. Every state is also a member of the CEDAW community. The funny part of this incident is that it was associated with my name intensely. Because I insisted so much, my friends mentioned this article with my name." (P21, Ankara)

In the Convention, the reduction of punishment or the inability to punish on the grounds of religion, honour, and cultural factors such as these are included in two articles. One of them is article 12/5 and the other is 42/1-2.

One participant also emphasised that preventing violence is not a problem that can be addressed solely through law enforcement mechanisms; rather, it is more crucial to transform the stereotypes against women. She specifically noted that such attitudes should not be legitimised under the pretext of cultural norms.

> "The Convention refers to holistic policies on the prevention. So what does this mean? The Istanbul Convention states that to prevent violence against women, you must prevent not only individual violence but also stereotypes. For example, traditions or issues called cultural discrimination arise from stereotypes. For instance, our culture accepts this as normal, so it is necessary to challenge the value judgments that society considers acceptable. Articles 12 and 42 of the Istanbul Convention emphasise that stereotypes are not an excuse for violence against women." (P11, Ankara)

One of the participants emphasizes that the Istanbul Convention sets a regional standard and affirms fundamental human rights that resonate with the broader goals of the global feminist movement.

> "The Istanbul Convention sets a standard even for its region. It sets a standard for the elimination of violence. That standard of the convention gives women an argument or a tool. They can go back to their own country and say, "Look, this is the standard for this work, and it should be done this way." We have used this tool, and we are still using it. Of course, other countries are also using it. In my opinion, besides the

> convention being an international text, it is very valuable to create a text based on different experiences in different countries. It is valuable for more than one country to adopt that text and for women's movements in that country to wage joint struggles together when the time comes. I find the effort to develop the text together valuable in this sense. ” (P5, İstanbul)

P1 similarly agrees that;

> “The Istanbul Convention is an international human rights convention and, therefore, part of international human rights law, which provides it with a degree of immunity. In other words, it represents a norm that has achieved consensus among different countries and has become regarded as an ethical declaration. Therefore, at least at the level of the Council of Europe, it represents a text that has been regionally agreed upon by states and nations.” (P1, İstanbul)

Another participant focuses on the different aspects of the Convention that;

> “The international process that led to the emergence of the Istanbul Convention, Türkiye 's position as the leading actor in this process, and the accompanying social dynamics were vital in creating a synergy, a policy, and a culture. This was an internationally recognised, multilateral, powerful legal text. If the constitutional scope of Article 90, considering the international conventions in the constitution to which we are a party, if they contradict each other, their definitions of supremacy, etc, we still have a long way to go in terms of translating the law into practice and then concretising it. I believe that this is related to generating a legal culture of gender equality. ” (P2, Ankara)

She advocates for a legal culture supporting gender equality across the legal system. This perspective suggests that gender equality should function as a fundamental principle in state governance. In evaluating the judicial system in Türkiye, it is essential to consider the gender distribution among judges, lawyers, and prosecutors. Opportunities for gender mainstreaming should be examined with attention to issues such as women's access to justice, the elimination of structural barriers, and the development of more inclusive and accessible legal mechanisms by the state. Gender mainstreaming was introduced as a principal global strategy for promoting gender

equality in the Beijing Platform for Action, adopted at the Fourth United Nations World Conference on Women in Beijing in 1995. (UN 2002, p. 5) Gender mainstreaming is a strategic framework designed to integrate a gender perspective into all aspects of policy, programme, and project development to advance gender equality. It involves a comprehensive assessment of the potential impacts of proposed actions, such as legislation, policies, or programmes, on women and men across all sectors and institutional levels. The primary aim of gender mainstreaming is to embed gender equality into decision-making processes, foster institutional change, and promote equal participation and equitable outcomes for all genders. To realize the principle of transformation through gender mainstreaming, legal instruments, most notably CEDAW, outline the necessary measures. These instruments underline that the achievement of gender equality requires the dismantling of entrenched prejudices within society. (Şimşek, 2020, p. 78)

Most gender mainstreaming policies incorporate six key components: a dual strategy that combines mainstreaming gender with targeted actions for achieving gender equality; the use of gender analysis, a shared responsibility approach, where all staff are accountable while receiving support from gender specialists; the provision of gender training, support for women's decision-making and empowerment; and the establishment of monitoring and evaluation mechanisms. (Moser & Moser 2005, p. 12) Public policies that prevent the emergence and persistence of structural inequalities in society, while simultaneously transforming society as a whole in line with gender equality, embody the principle of gender mainstreaming. (Şimşek, 2020, p. 145)

Notably, this participant described the Istanbul Convention as a legal and social text, a framework for gender mainstreaming. In particular, the Convention emphasizes the active role of state institutions, the education and health sectors, the private sector, and media organizations in preventing discrimination against women. The participant highlighted the Convention’s comprehensive approach, noting its focus on preventing violence, intervening in violent cases, and monitoring the process until gender equality is achieved completely.

6.5. The Istanbul Convention as Living Law: Constitutional Challenges

In examining the relationship between law and society, this study has focused on understanding the contrast between the living law and the law in the books. The law in the books refers to the formal law itself, created by a power. Living law includes certain rules in the legal system based on societal needs or the demands of those engaged in its practice. Pribán (2017, pp. 6-7) criticizes legal formalism and advocates a sociological approach that sees law not merely as a set of rules but as a social phenomenon shaped by culture, ideology, and social practices. He emphasizes the distinction between internal and external perspectives on law, arguing that these are essential for interpreting positive law from both legal and sociological perspectives. Pribán (2017, pp. 6-7) stresses the value of interdisciplinary and cross-cultural approaches in socio-legal studies, which have broadened the field by incorporating insights from the social and political sciences. The evolution of socio-legal studies is described as a transformative journey, moving from a critique of traditional jurisprudence to a more nuanced understanding of law in its social context. It also addresses contemporary challenges in the field, urging scholars to revisit and refine classical distinctions to better grasp the dynamic role of law in modern society.

In discussing the living law versus the law in the books, one of the lawyers I interviewed stated that they preferred it because positive law does not always reflect the realities of law as it exists in life.

> "I believe that law is very much alive. Perhaps this perspective comes from my bias as a practitioner—a lawyer. Even when something is not explicitly recognized in formal legal law, we pave the way for its recognition. For example, in recent years, the concept of Battered Women Syndrome has been widely discussed and has entered the legal literature in the United States. Similarly, in European countries, acts committed by women who are victims of violence have been framed in this context. In Türkiye, discussions on self-defense have gained prominence with cases like Çilem Doğan and others. When you look at it, law is a living mechanism—it evolves, changes, and transforms. This dynamic nature of law is precisely why there is no need to adhere to one hundred percent of formal legal law. However, we also encounter a paradox: those who establish the formal rules of law often fail to comply with them

> themselves. Since the 1982 constitution was accepted, it has been amended hundreds of times. The vast majority of these changes came during the period of the AKP government. In other words, they are not complying with formal legal law, even with the Constitution, they have changed and transformed it themselves." (P9, Istanbul)

While emphasizing the concept of living law, the participant also highlights that the formal rules of law have not been respected in Türkiye over the past 20 years. In this context, she states that the Constitution has been repeatedly violated.

Discussing the constitutional issue concerning the Istanbul Convention will be particularly useful for uncovering the relationship between the women's movement and the law. It may be helpful to address the constitutional value and constitutional status of the Istanbul Convention. Since this study is based on sociology, the detailed legal evaluation will not be discussed; instead, the focus will be on briefly highlighting the significance of the Istanbul Convention within the legal system.

According to the Constitution, the Istanbul Convention is a treaty on fundamental rights, falling within the framework and procedure outlined in the final paragraphs of Article 90. Özbudun (2022) argues that, however, a foundational principle of public law—parallelism in jurisdiction and procedure—applies. Consequently, the termination of a treaty whose ratification is contingent upon the approval by the Turkish Grand National Assembly (TBMM) must likewise require parliamentary authorization for its withdrawal. Any unilateral executive action to the contrary would constitute a manifest violation of constitutional norms.

One of the participants explained the constitutional value of the Istanbul Convention.

> "With the 2004 constitutional amendment, treaties on fundamental rights were granted special protection, placing them in a higher and more protected position within the hierarchy of norms. In our system, this means that all international treaties that have entered into force according to the prescribed procedure carry the force of law. For this reason, the Istanbul Convention has a more protected position in Türkiye's legal system. The treaty on fundamental rights also carries the force of law. However, the

> constitution stipulates that if these treaties conflict with laws enacted by the legislative body, the principle of interpretation in favor of human rights prevails. This is because we often perceive international human rights treaties as providing greater protection. As a result, when there is a conflict between a law and a fundamental rights treaty, the judge must resolve the dispute based on the provisions of the treaty." (P11, Ankara)

She highlighted the constitutional value of the Istanbul Convention, describing it as containing very detailed regulations that recognize various forms of violence, such as economic and psychological violence, as acts of violence. Additionally, the Convention addresses the historical structures of violence that are deeply ingrained, socialized, and difficult to dismantle, focusing on these systemic issues rather than individual cases. The constitutional value of the Convention is particularly important in the context of discussions surrounding the period of withdrawal from the Convention.

One of the participants argues that;

> "The Istanbul Convention has a structure that strengthens the constitution because one of its core principles is equality. The Convention contains important provisions to ensure equality, not only for women but also for LGBTI+ people. The implementation of the Convention, therefore, supports strengthening the concept of equality in the Constitution and facilitates the recognition of violence as a form of discrimination."(P8, Adana)

Similarly, the other participant adds that;

> "Article 10 of the Constitution stipulates that women and men are equal, imposing positive obligations on the state to ensure this equality. However, these provisions are quite abstract. The Istanbul Convention helps to concretize these rules in daily life. It is understood that if an international treaty on fundamental rights has been duly ratified, it carries the force of law. Therefore, the Constitution effectively delegates the required actions to the Istanbul Convention."(P7, Ankara)

The Convention has played a vital role in advancing the rights and freedoms protected by the Constitution, significantly contributing to making the Constitution a living

document. The decisions of the Constitutional Court have had both direct and indirect transformative effects. The Istanbul Convention has become a standard-setting instrument in safeguarding fundamental rights, including the right to a life in dignity, the right to develop one's material and spiritual existence, respect for private and family life, gender-sensitive judicial processes, the right to a fair trial, the protection of children from all forms of violence and abuse, and the implementation of the principles of equality and non-discrimination in line with international human rights law. Its role in the prevention of all forms of violence against women has contributed significantly to fulfilling the positive obligations outlined in Article 5 of the Constitution—namely, the state's duty to ensure individual freedom and to guarantee the right to live free from violence (Anayasa Hukuku Araştırmaları Derneği, 2024).

P4 articulated a sense of frustration regarding the role of the Constitution.

> "Gender equality should be included in the Constitution. However, she noted that following Türkiye 's withdrawal from the Istanbul Convention, achieving equality between women and men within the constitution has become challenging, and including gender equality in a new constitution has become even more difficult." (P4, İstanbul)

The Istanbul Convention is undoubtedly binding only on the states that are parties to it, as is true for all international treaties. However, its significance goes beyond this, especially in shaping the interpretation of existing legal instruments and promoting 'trans-judicial communication' among courts.

Although the Convention may not be directly enforceable by other regional human rights courts, national courts, or UN treaty bodies, it can still serve as a reference point to encourage more gender-sensitive interpretations of current legal provisions (Vido, 2020, p. 73).

The living law and the law in practice are closely related; however, a participant noted that the extent to which the law in practice aligns with the law in books depends on government decision-making. She notes that the ruling power does not adhere to the principle of equality outlined in the constitution and does not believe in the equality of

men and women. Moreover, the acknowledgment of certain concepts in formal law by the governing administration is significant for establishing the legitimacy of the law within society. She similarly stressed that;

> "Article 10 of the Constitution includes provisions on equality. However, when it comes to the law, greater specificity is needed. The primary issue, however, is not the law itself but its implementation and practical application. This is a significant shortfall in Türkiye, where the law often lacks a tangible equivalent in real life.
>
> A major contributing factor is the conflicting messages from government officials. Despite the constitutional assertion of equality between women and men, there has been a clear and explicit discourse from the highest levels of government rejecting this principle, particularly since 2010. This creates a stark contradiction: while the Constitution declares one thing, its implementers convey something entirely different. This contradiction has profound societal repercussions. For equality to be meaningful, it cannot remain merely as text; it must also take root in the collective mindset and be reflected in actions."(P18, London)

The relationship between the Istanbul Convention and the Constitution offers a significant lens for understanding the dichotomy between law in action and law in books. The Istanbul Convention's role in ensuring the acceptance of the equality article in Türkiye's constitution and recognizing violence as a form of discrimination highlights how international legal frameworks can influence domestic laws and societal norms. The Istanbul Convention's provisions, particularly those addressing education, health, the private sector, and media support, demonstrate the concept of "living law."

Calavita (2010, p. 114) emphasizes the interplay between law in books and law in action, arguing that they are mutually constitutive and that this dynamic elucidates the relationship between legal frameworks and social structures by demonstrating how the formal law is embedded within societal contexts. According to her, the nature of law's journey from the books into action, the parameters of these agendas, and the mechanisms of legal meaning-making vary by social location and its attendant social processes. If we shadow law as it leaves the page, we follow it into some obvious locales like regulatory agencies, but we track it into some more unlikely hangouts, too.

Suppose we observe closely and listen carefully to what transpires in these venues. In that case, we learn not only about the ways of law but also about institutional logic, racialization, tensions in the political economy, and the real dynamics of power.

6.6. The Implementation of the Istanbul Convention in Türkiye

The first part of this section dealt with the relationship between the Constitution and the Istanbul Convention, focusing on understanding the factors contributing to the divergence between law in theory and law in practice. One of the key questions posed to interview participants concerned the extent to which the Istanbul Convention was implemented following its adoption. This inquiry pertains to the presence or absence of political will and broader social dynamics. The analysis seeks to uncover the reasons, as mentioned by feminist respondents, that led to Türkiye's withdrawal from the Convention.

One of the participants emphasizes that the private sphere is political and highlights the state's role in intervening in private life.

> "After the adoption of the Istanbul Convention, the concept that the state can intervene in the private sphere and that the private sphere is political came to the fore. Until then, for example, when a woman who was subjected to violence went to the police or judicial administration units, these issues were accepted as domestic problems. This approach put the woman back into the same spiral of violence. Investigation and prosecution were not carried out. However, since the Istanbul Convention adopts a preventive, protective, and interventionist approach in these matters, it aims to prevent violence against women. With this convention, many projects have been carried out for prevention. In particular, training on gender equality was given to judges and law enforcement officers, and many public service announcements were prepared to raise public awareness to prevent violence, such as ‘When you encounter violence, behave in this way, do not do that.’ I may not be able to give a positive answer whether the Convention has been fully implemented as it should be. However, prevention activities were attempted through many projects, studies, and in-house and in-service training. When we look at this as a legal culture, I think there is a difference between coming into force legal texts and continuing to protect them. Creating small changes through

> such things created a basis for the Istanbul Convention. This basis was also reflected in the language of politics or the language used in the media." (P2, Ankara)

The distinction between private and public spheres is mentioned in the definitions section of Article 3 of the Convention as follows.

> "violence against women' is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life"

Feminists argue that the private realm, particularly domestic and family life, has historically been devalued, silenced, and privatized, hindering issues such as violence against women, reproductive rights, and domestic abuse from receiving the necessary public and legal attention. Feminists emphasize that many personal experiences are inherently political and should be treated as public issues. The slogan "the personal is political" challenges the idea that personal problems are private and should remain outside public discourse. Feminists argue that family violence, reproductive choices, and caregiving are deeply political issues that cannot be restricted to the private sphere without reinforcing injustice. (Gavison, 1992, pp. 19- 29)

One of the most significant aspects of General Recommendation No. 35 (III A. 22) is its emphasis on the state's obligation to protect women from violence, including that perpetrated by non-state actors or third parties. This document holds states accountable for failing to prevent or respond to harm inflicted on women by third parties. As such, it represents a foundational text that legitimizes state intervention in the private sphere in cases of violence against women. The Istanbul Convention establishes a robust framework of legally binding obligations for State Parties, requiring the adoption of specific measures to prevent and combat violence against women, including domestic violence. (McQuigg, 2017, p.6) The Istanbul Convention is based on the view that violence against women constitutes a human rights violation, as it defines values and demands regarding violence against women through universally accepted human rights norms. From this perspective, there is a clear convergence, mutual

reinforcement, and complementarity between CEDAW Committee's General Recommendation No. 35 and the Istanbul Convention. (Acar, 2023, p. 177) In analysing the relationship between the Istanbul Convention and CEDAW, particular attention must be paid to the following aspects, which illuminate their complementary roles in advancing gender equality. As in CEDAW, the Istanbul Convention also contains a provision affirming that positive measures aimed at preventing violence against women or protecting women from such violence shall not be considered a violation of the principle of non-discrimination. (Kuyucu, 2014, p. 95)

The other participant underscores the obligations that the Istanbul Convention imposes on the Turkish state and the implementation of the Convention, that;

> "One of the requirements of the Istanbul Convention was the expansion of shelters and the establishment of emergency violence or assault centers. However, such centers have not yet been established. In other words, when a woman who has been raped goes to a police station, she is under the authority of the judicial police. Instead, she should be kept under the supervision of a psychologist or a lawyer. Under the scrutiny of police, women will be victimized multiple times and re-traumatized. When the process moves from the investigation stage to the prosecution stage in court, many women choose not to proceed with the legal process or to file a complaint due to social codes, traditional structures, shame, fear of ostracization, and other concerns. In this sense, the failure to establish assault zones and emergency violence centers reflects a broader failure to meet the state's responsibility"(P10, Ankara)

One of the participants agrees with that:

> "Implementation of the Istanbul Convention must be considered alongside Law No. 6284. This is because the Convention is not a legal instrument that can be enforced directly within the domestic legal system. Law No. 6284 came into force one year after the Istanbul Convention, addressing a technical requirement by outlining how to implement the Convention's provisions within Turkish law. It established the institutional mechanisms necessary to enforce the Convention. Under Law No. 6284, judges, local authorities, law enforcement officials, and certain administrative institutions were assigned responsibilities based on the framework of the Istanbul Convention.

> In the dialectical relationship wherein law transforms society and society creates law, the state was obligated to establish mechanisms beyond legal frameworks to facilitate societal transformation. This entailed incorporating gender equality into the education system, media, health workforce education, and administrative staff on the Istanbul Convention.
>
> Legal amendments alone are insufficient to achieve gender equality. As expressed, efforts to introduce legal practices addressing violence against women were made in a society largely unfamiliar with the concept of equality and lacking a developed understanding of it. Ultimately, only the law enforcement-related obligations imposed by the Istanbul Convention were partially implemented, specifically, with actions such as dispatching police officers after perpetrators of violence. "(P3, Ankara)

When addressing violence against women, it is essential to examine the gap between existing legal regulations and the state's actual responses to violent incidents. This gap may stem from the inconsistent enforcement of legal norms, the state's failure to take necessary actions, or unresolved cultural tensions, such as the persistence of patriarchal relations.

One of the participants argues that the political will is the first condition for the implementation of the Convention.

> "The Istanbul Convention has never been effectively implemented. From the beginning, there has been a clear political will opposing the Convention's core principles. Rather than struggling against gender inequality and violent relationships, the state has resisted addressing them intentionally. This oppositional stance has permeated nearly all levels of the bureaucratic apparatus. Law enforcement officers, for instance, often normalize violent behavior, and when they do so, they face no consequences. Civil servants tasked with enforcing the law are rarely held accountable for failing to do so. This lack of accountability has become embedded in the legal system.
>
> Furthermore, bureaucratic personnel often receive inadequate training, or no training on gender equality and the Convention. Even when training is provided, the rapid turnover within the bureaucracy prevents the continuity of institutional knowledge. As a result, officials may either lack essential information or, in some cases, choose not to act on what they do know due to

> a prevailing lack of political will. This systemic inertia extends from high-level state authorities to local law enforcement, reinforcing a pattern of non-implementation. This institutional resistance is mirrored in societal attitudes, particularly among men, who think the state is on their side.
>
> The rarity of punitive measures and the rhetoric that normalizing such violence reinforce this thought. Ultimately, the most significant barrier to the full implementation and eventual dismantling of the Istanbul Convention was the unwillingness of the implementation by political will. "(P18, London)

Kandiyoti (2016, pp.108-109) uses the normalization of violence, which social processes transform ideas and actions into taken-for-granted natural realities. She defines the gender based violence related to the suspension of the rule of law and the operation of impunity.

Although Türkiye's legal framework is, in principle, capable of holding perpetrators accountable, many offenders, particularly rapists and murderers, receive lenient sentences. This is often due to 'good behavior' reductions granted for superficial displays such as wearing a tie in court, showing remorse, or invoking male honor as a mitigating factor.

One of the participants agrees with Kandiyoti that there is also a situation of men looking out for each other:

> "In 2014, while researching violence against women in Türkiye, a döner master who had killed his wife in prison was interviewed. The man expressed his astonishment as follows: The journalists, male journalists, male judges, police officers — everyone treated me well, but how could they give me a sentence of 20 years? Men have a problem with internalising the law. The judge appears to treat the act of femicide as a routine if he'd committed an ordinary offence. It also points out that men are mostly protected within the judicial system. " (P17, Ankara)

Returning to the implementation of the Istanbul Convention, one of the other participants argues that:

> "During the implementation phase of the Istanbul Convention, the most challenging phase for us was what we experienced with the law enforcement agencies. We encountered a lot of resistance from the police. There are many examples reflected in the press. In the law enforcement agencies, the words, "You come to the police station a lot, you are running out of our parchment paper, please go home, your husband can beat and love you," were very real and very common. When we went beyond the police and went to the prosecutor's office, we were met with similar behaviour from the prosecutor. However, since the prosecutor was trained in law, they were a little more sensitive to the issue. I want to say that the biggest resistance was from public institutions and law enforcement agencies. The law enforcement agencies resisted a lot, but with the persistent demand and struggle of women, that resistance was broken recently. I was a speaker at many meetings about violence against women. At these meetings, I would advise women to do the following when they go to the police: You go to the police station, but they try to send you home. The moment you say "6284," that policeman realizes that this woman knows the law and that he cannot send her back. "(P9, Istanbul)

Current challenges include a lack of gender-sensitive policies, weak enforcement of legal frameworks, insufficient data collection, limited resources, and the absence of coordinated and transparent monitoring mechanisms. On the other hand, the overwhelming dominance of men among lawmakers and policymakers leads to legal frameworks and practices that predominantly serve male interests. In institutional settings where key public officials, such as judges and law enforcement officers, are mostly men, violence against women is frequently obscured, minimized, or disregarded. Those in positions of power often form a "patriarchal alliance" with male perpetrators, reinforcing systemic impunity and gender bias. (Sallan Gül et al. 2017, p. 216)

In Turkey, the feminist movement long avoided open conflict with the state, but recent years have seen the government pursue a new gender regime through labor and body politics. Neoliberal policies of flexible labor and reduced social services have pushed women into precarious work while also reinforcing their roles as mothers and caregivers.

Discourses opposing abortion, promoting large families, and prioritizing motherhood, framed in religious-conservative language, have further naturalized women's secondary status. In response, feminist politics directly challenges these power structures, aiming to transform them at their roots. (Cankurtaran, 2024, p.429)

Another participant exemplifies that state obligations under the Istanbul Convention are not adequately ensured. As evidence, she recounts a harrowing case of femicide, which she shared with evident sorrow.

> "There used to be a concept of blaming murdered women—what we call victim-blaming. Questions like: "What was she doing out at that hour?" "Was she wearing a skirt?" "Why did she divorce?" But now? That mindset belongs in the dustbin of history. Because women face violence from the ages of seven to seventy, from the moment they're born until the moment they die. It cuts across all boundaries: age, education, religion, and social status. Women are being killed, openly, shamelessly, in broad daylight. There's no room for victim-blaming anymore. Take the case of Ayşe Tuğba Arslan, murdered in Eskişehir. She went to the police station again and again. She filed complaints, only to be turned away each time, 23 times total. In her final petition, she wrote: "Will you protect me only after I'm killed?" In 2019, she was killed in the street, before she could submit this petition, which was in her bag. Ayşe Tuğba Arslan's case is one of the most harrowing examples of femicide in Türkiye. This is how women in this country are treated—condemned to die like her. This is the reality we're confronted with." (P20, Ankara)

This participant is a volunteer from the platform "We Will Stop Femicide" who shared her on-the-ground experience. It reveals how the feminist struggle has transformed the response of state institutions to women's murders. She paid attention to the change of discourse that;

> "The state's policy on femicide was not accepted at first. At that time, we were constantly petitioning ministries. Under the right to information laws, we demanded explanations—how many women were killed each month and why. They would respond that no such data existed. After this, when we began systematically publishing the data monthly, the ministry was forced to explain the number of women. The interesting part? Our numbers never matched the Ministry's. Moreover, key details

> where the killings occurred, who the victims were, who the perpetrators were, how the murders were committed, and whether restraining orders existed, were not recorded. The Ministry of Interior only published bare numbers: “30 women killed this month.” This development was very significant in reporting the numbers by the State action. Once the term 'femicide' entered the discourse, no one could deny it any longer. When we spoke of violence against women, they could no longer counter with the tired argument—"But men are killed too, men face violence too."(P20, Ankara)

In 2018, GREVIO submitted a report to the Turkish government regarding whether the Istanbul Convention was being implemented in Türkiye. The most notable part of this report was its commentary on Türkiye 's education system. GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) expresses concern that some recent policies in Türkiye have not been reviewed against these criteria and, as a result, may unintentionally lead to increased de facto inequality and heightened exposure of women to violence. One such policy is the education reform known as the 4+4+4 system, which allows students, with parental consent, to opt for home schooling or continue their education in religious vocational schools (imam hatip schools) from the age of 12. While GREVIO (2018, p.13) acknowledges the positive aspect of extending compulsory education from 8 to 12 years, it shares CEDAW’s concern that home-based and religious education may reinforce traditional gender roles for girls as wives and mothers, and it can have particularly negative effects on girls. Based on its observations concerning Türkiye, the CEDAW Committee has noted that violence against women predominantly affects women and that the discriminatory judicial passivity in Türkiye has created an environment that fosters domestic violence. (Kuyucu, 2014, p.111)

This section has illustrated that while the Istanbul Convention introduced a comprehensive legal and institutional framework to combat gender-based violence, its implementation in Türkiye has remained uneven and incomplete. The divergence between the Convention’s legal provisions and their practical application is rooted in structural deficiencies, insufficient political will, and deep-seated patriarchal norms that permeate both institutional practices and broader societal attitudes. Interviews with feminist activists and legal experts reveal that despite certain advances, such as training programs and awareness campaigns, systemic resistance, especially within

law enforcement and bureaucratic institutions, has significantly impeded meaningful enforcement. Moreover, the reluctance to integrate gender equality into education, media, and public policy, as well as the failure to establish critical support mechanisms like emergency response centers, reflect a broader pattern of institutional inertia and societal ambivalence toward women's rights. The state's tendency to normalize violence, shield male perpetrators, and overlook its obligations under both international and domestic legal instruments contributes to a culture of impunity.

Ultimately, the Istanbul Convention's fate in Türkiye exemplifies the tension between formal legal commitments and the sociopolitical realities that shape their enforcement. Feminist accounts not only document the failures of state institutions but also highlight the transformative power of activism in reshaping discourse and pressuring the state toward accountability. The struggle for the full implementation of the Convention thus reflects a broader contestation over the meaning of justice, equality, and the role of the state in protecting fundamental rights.

6.7. A Step Backward: Withdrawal from the Istanbul Convention in Türkiye and Gender Backlash

Türkiye's decision to withdraw from the Istanbul Convention was officially announced by the Directorate of Communications of the Presidency in the following terms:

> "Türkiye unilaterally withdrew from the Istanbul Convention on 20 March 2021. The Convention, which aims to safeguard women's permanent rights, has been misappropriated by groups seeking to normalize concepts incompatible with Türkiye's social and family values. This decision in no way implies that the Republic of Türkiye has compromised on protecting women. Even outside the Convention, Türkiye remains unwavering in its fight against domestic violence and in upholding women's rights."(İletişim Başkanlığı, 2021)

Türkiye decided to withdraw from the Istanbul Convention primarily due to the government's perception that feminist and LGBTI+ movements threaten the traditional Muslim cultural identity and the family structure it seeks to protect. The government

viewed empowerment policies, such as those promoting gender equality and LGBTI+ rights, as disruptive to the "cultural and religious family values" and as contributing to increased divorce rates and domestic violence. (Direk, 2023, p. 415)

This decision by the Presidency was heavily criticized primarily because it did not comply with proper legal procedure. Eroğlu (2021, p. 2) crititicized the withdrawal from Convention that from an administrative law perspective, the decision to withdraw from the Istanbul Convention may appear valid when assessed in terms of the competence of the issuing authority. However, in substance, the Presidency exceeded its constitutional powers by assuming a function that lawfully belongs to the legislature. The withdrawal from an international convention, particularly concerning human rights that had previously been ratified by the parliament through a legislative process, solely by presidential decree, also violates the principle of parallelism in authority and procedure. Therefore, the annulment of the presidential decision in question has been deemed necessary. Many legal experts have voiced critical opinions about the President's decision. However, we do not include all of these statements here, as the legal arguments have generally been addressed in relatively limited depth.

Participants recount the political developments in Türkiye that culminated in its withdrawal from the Istanbul Convention, emphasizing the growing influence and mobilization of reactionary movements in shaping this decision. The participants were asked to specify the period in which the regression of women's rights in Türkiye commenced. While the majority indicated a similar timeframe, it is important to emphasize that their responses varied regarding social and political factors contributing to this decline. Most of the respondents identified 2010 and 2011 as the years when women's rights began to decline. Interestingly, 2011, the year the Istanbul Convention was adopted, was also described as the peak of gender equality. One participant (P9, İstanbul) referred to the Istanbul Convention as a "pole star," emphasizing its role as a key point of orientation in the struggle for gender equality.

One of the participants (P12, İstanbul) actively took part in the preparation of Law No. 6284 as a member of the End Violence Platform. The relevant provisions had previously been part of the Turkish Penal Code and Civil Code. Drawing on her

experience at the time, she was able to develop a strategic approach that contributed to the signing of the Istanbul Convention without reservations and the adoption of Law No. 6284.

This participant argues that

> "In 2010, during a speech in Dolmabahçe, Recep Tayyip Erdogan publicly stated that he did not believe in gender equality. He reacted with anger. I consider this moment a significant turning point. His remarks were explicit: "I do not believe in the equality of men and women." Later, he reinforced this stance by referencing a woman's words, declaring, "Whoever opens a daycare for children will also open a nursing home for the elderly." This statement carries profound implications, particularly regarding women's employment, social participation, and childcare responsibilities. His rejection of gender equality reflects a broader ideological framework. Following this period, no new daycare centers were opened; existing ones were not maintained but shut down. I argue that 2012 marked another critical juncture. That year, significant legislative efforts, such as the ratification of the Istanbul Convention and the passage of Law No. 6284, faced intense resistance. Negotiations were contentious, with repeated breakdowns in discussions. Ultimately, the laws were passed on March 8 (International Women's Day), but President Erdoğan expressed strong opposition. "(P12, İstanbul)

After stating that "whoever opens a daycare for children will also open a nursing home for the elderly," he expressed strong anger, emphasizing that the state had failed to take the necessary steps towards gender equality since 2011.

One of the participants agreed that the Dolmabahçe meeting marked a turning point for the women's movement.

> "When the AKP first came to power, it did not immediately have the strength to intervene in gender equality reforms. In fact, during a meeting in Dolmabahçe in 2010, the President stated that women and men are not equal—an early indication of his perspective on gender equality. However, at that time, long-standing struggles for reforms in the Penal Code and Civil Code were reaching their conclusion. The AKP had not yet consolidated its power and was therefore unable to fully oppose or reverse

> these efforts. Although the party already held similar views on gender equality, the reforms implemented during its first term were largely the result of accumulated efforts, like water building up behind a dam that finally began to flow when the gates were opened. " (P5, İstanbul)

Here, the dam symbolizes the women's movement itself, an accumulation of efforts stretching from the "No to Beating" march of the 1980s to the adoption of the Istanbul Convention. In Türkiye, feminist organizations employed a multi-pronged advocacy approach, strategically combining direct parliamentary engagement with evidence-based policy formulation and widespread grassroots mobilization. This sustained, coordinated pressure campaign effectively institutionalized feminist policy objectives, representing a watershed moment in the constitutional recognition of gender equality within the Turkish legal framework. (Negrón-Gonzales, 2016, p. 203) Feminist groups in Türkiye today use various strategies to protect their previous legal gains. They build alliances among different women's organizations around specific issues, such as reproductive rights or legal protections against violence, to reinforce collective resistance. These networks are often flexible and issue-based, enabling diverse groups to unite temporarily despite differences in identity or approach. (Gülel, 2019, p. 12)

One of the participants argues for the change of political power that

> "After 2010, there was a change of direction in the political power in Türkiye. At that time, the AKP was also in the process of "changing its shirt." But we saw this change more clearly after the Gezi resistance in 2013. Still, there was an effort to combat violence against women from 2011 to 2014. In this issue, there were many trainings. Civil society initiatives supported by the European Union were ongoing. There were some seminars on gender equality targeted at judges and prosecutors. Similar efforts were made in family courts. As I said, there were options such as the preparation of laws and the training of administrators. Even during this period, between 2011 and 2014, policies were given more importance on protecting the family. The AKP government began increasing the visibility of family protection policies, especially after 2010. While such a perspective had existed before, the continuation of freedoms had been prioritised. The headscarf controversy, the feminist movement had tried to be more inclusive, as there was a partnership and a resistance focused on women's freedom. But by the 2010s, despite discussions about houses with boys and girls,

> culture, etc. Conservatism began to be emphasized more strongly in terms of gender roles. Democracy had already started to be abandoned at some point. The Gezi resistance marked precisely such a period. However, this trend had already gained momentum after 2014. After 2016, under those conditions, an increasingly conservative and authoritarian stance began to be presented and reinforced. Therefore, it is no longer possible to speak of the Istanbul Convention being implemented by the ruling political power. The Convention has instead become a subject of constant debate, instrumentalized to attract the votes of the conservative circles on which the political power increasingly relies. "(P1, İstanbul)

Neo-conservatism assigns greater moral value to the private sphere, thereby increasing the vulnerability of disadvantaged groups within existing power relations. (Acar & Altunok, 2013, p. 20)

The other participant emphasized the EU accession period, which had an impact on women's politics in Türkiye. She spoke with regret about the political support that intellectuals (Second Republicans) gave at the time.

> "The AKP's electoral support has declined compared to previous years. More significantly, however, the party's political axis has shifted, with changing levels of influence among different voter blocs. During the initial period of EU accession negotiations, Türkiye 's EU membership aspirations led many intellectuals, particularly the so-called "Second Republicans," to support the AKP as a pro-democracy force. The government consequently needed policy measures to maintain its support. The Istanbul Convention represented a strategic breakthrough in this regard. By ratifying the convention, Türkiye projected an image of progressivism, human rights commitment, and Western-oriented reform—an important signal for intellectuals who support the EU. This suggests that women's rights issues have served as an instrumental political tool for the government. "

Between the late 1990s and early 2000s, Türkiye experienced a period of reform commonly referred to as the era of "Europeanisation." Since the late 2000s, however, the country has undergone a process of de-Europeanisation and authoritarian transformation. (Gülel, 2019, p. 1) The period leading up to the adoption of the Istanbul Convention can be characterized as one of Europeanisation, while the subsequent phase reflects a process of de-Europeanisation. This trajectory is

significant in understanding both the advancement and the loss of momentum in gender-related policy developments. Ayata, Doğangün, (2017, p. 2) indicate that in the 2011-2015 period, the AKP governments have reinstated an intensely religious and conservative gender climate. One of the participants stressed the crisis of neoliberalism and the rising of neofascism that;

> "2011 is the beginning of regression all over the world. I argue: In 2008, we encountered the first major global crisis of neo-liberalism. It was a very effective crisis, and immediately around 2011, reactions against neoliberalism, as well as reactions to the deficit of democracy, both problems related to the crisis of liberal democracies in the Western world, and, of course, reactions to authoritarian structures in peripheral countries, exploded. The process that started with the Arab Spring in 2011 spread all over the world in waves. Square movements, right? Everywhere, there was a mass wave of progressive, leftist movements. With a little delay, the same wave came to Türkiye in 2013. 2011 was a turning point in this respect. Around 2010–11 was the period of such a massive and progressive rise. After the retreat of the left wave, populist movements and regimes, which we can call the new right, extreme right, began to rise within a few years. Of course, these were coming from behind, but in the vacuum caused by the withdrawal of the left, these right-wing populist movements began to gain a lot of power. Because discontent with neoliberalism began to articulate from a right-wing and fascist perspective. And that is how it started to find expression. From that day until today, this trend has deepened a lot. Today, there is a kind of neofascism everywhere. "(P15, Ankara)

One of the participant shares the similar thoughts that

> "If we consider the period around 2011, we observe a regression in gender equality, a rise in authoritarian and neoliberal-authoritarian regimes, and a further retreat of democratic governance. "(P16, Ankara)

The participant (P15, Ankara) states that the rise of neoliberalism reached Türkiye from Europe in 2011. She directly explains how these neoliberal policies have negatively impacted women's policies. First of all, it is useful to examine the relationship between neoliberalism and women's policies. Neoliberalism facilitates the re-privatization of women's roles by weakening public social services and shifting

the responsibility for social reproduction onto individuals. Neoliberal economic growth policies maintain the illusion of gender neutrality. While the expectation that all adults should engage in paid labor is universalized, policymakers avoid addressing how childbirth and child-rearing affect women's ability to compete in the labor market. As a result, the cost of motherhood is privatized, intensifying class divides among women. Populist attacks on liberal institutions often target those that promote women's rights, such as domestic violence shelters, legal protections, gender quotas, women's ministries, and even gender studies. (Goetz, 2019, p. 12) On the other hand, the prevailing neoliberal rationality, with its emphasis on organizational efficiency and market profitability, promotes ostensibly gender-neutral policymaking approaches. However, this purported gender-blindness systematically excludes groups experiencing intersectional inequalities, particularly single mothers and low-income women, from social protections. Consequently, these populations remain disproportionately vulnerable to the compounding effects of entrenched gender disparities and structural inequities. (Acar & Altunok, 2013, p.20)

One of the participants emphasized that neoliberal policies should be evaluated in conjunction with women's and elderly policies and employment policies.

> "When the AKP first came to power in 2002 and tried to implement neoliberal policies, leftists were saying, "Don't touch these factories, don't sell them, don't do this or that." Perhaps there was a problem in the way this was articulated. But in reality, sometimes preventing change meant protecting those institutions. For example, there are many problems related to divorce in Türkiye. But if the AKP intervenes in this issue, we are again forced to defend the old regulation in a similar way. Because if they change the existing Civil Code, there is a fear that they might introduce a law that is even more harmful to women. Just for this reason, we are accused of opposing everything, being ideological, or being disconnected from society. These accusations strike me as very strange. From this perspective, I think we need to discuss what neoliberal policies have brought when we talk about women's issues. Because through this lens, how are we going to understand pro-family policies? We need to see that conservatism, neoliberalism, informal employment, women working from home, the state's refusal to provide childcare or eldercare services, all serve a similar purpose. The state wants women to take care of children and the elderly. All of this is not independent from economic policy decisions."(P18, Ankara)

The neoliberal policies implemented decisively by the AKP (Justice and Development Party) governments have aligned seamlessly with their conservative agenda. In the neoliberal era, conservative attacks, particularly those rooted in family-centered politics, on feminist demands and welfare policies are not unique to Türkiye. The AKP has acknowledged the necessity of addressing poverty, social exclusion, and socio-economic inequalities, which disproportionately affect lower-class families. Its approach to social policy positions the family as the primary agent of both care work and social cohesion.

While this emphasis on the family did not originate with the AKP, the party has institutionalized family relations as a means to shift social responsibilities away from the state. In this way, the AKP government both responds to the welfare needs of its conservative electorate and reinforces its ideological stance. (Ayata & Doğangün, 2017, p. 8)

Following the ratification of the Istanbul Convention, the contentious abortion debate of 2012 persisted. President Recep Tayyip Erdoğan reaffirmed his opposition to both abortion and cesarean sections, controversially equating the procedure to the Uludere incident, stating: "You go to bed and wake up saying 'Uludere.' "Every abortion is an Uludere."(Anadolu Ajans, 2012) The anti-abortion campaign launched in 2012 epitomized the Justice and Development Party's (AKP) broader agenda to assert control over women's bodies and reproductive autonomy. This stance is closely tied to nationalist rhetoric, exemplified by President Erdoğan's repeated calls for families to have “at least three children.” In its effort to reinforce family unity through a pronatalist framework, the AKP advances a pro-family gender politics that substitutes the principle of gender equality with the Islamic notion of fıtrat. This concept essentializes women’s roles as mothers, caregivers, and embodiments of compassion. By invoking fitrat, the party constructs a binary opposition between gender equality and Islamic equity, enabling a discursive separation from feminist principles. This strategic framing not only legitimizes traditional gender roles but also allows the AKP to articulate a culturally specific alternative to feminist discourse, positioning its vision of gender politics as both morally superior and authentically rooted in Islamic values. (Unal, 2018, p. 4)

One of the participants observes that the government's statements regarding the signing of the Istanbul Convention, abortion, and gender inequality emerged concurrently. This alignment suggests a reluctance in the government's approach to women's policies. She states that

> "There is no temporal difference between the signing of the Istanbul Convention in Türkiye and the discourse that ‘every abortion is a Uludere’ and the statement made in Dolmabahçe that ‘women and men are not equal.’ The lack of political will in the implementation of the Istanbul Convention is the main issue. Suppose you are a judge who causes a violation identified by the ECHR, which should have been addressed in Türkiye for years. In that case, you should be held financially responsible for that compensation. So far, this regulation has not been implemented even once. If this practice is enforced, all judges will have to consider the case law of the ECHR. This would be a solution to prevent such violations. "(P5, İstanbul)

The other participant emphasized the need for more freedom and a more democratic society from 2010 to 2011, till 2013 to 2014. She had greater power to take action and make changes, and feminist movements and the LGBTI had more influence in bringing about change. She shared her experiences these days that

> “I was a volunteer lawyer for LGBTI associations in 2010-2011. This period was a time when LGBTI rights were more freely on the agenda in Türkiye. Therefore, I had the opportunity to witness the vibrancy in the social field. What I mean by vibrancy is that when you are part of the movement, you feel incredibly strong. In other words, there is a sense that you can do anything, be an activist lawyer, meet with LGBTI groups and feminist organizations, and so on. In 2013, the discussion expanded to whether gender equality was not sufficient, and whether sexual orientation could be included in the Constitution, and whether the anti-discrimination clauses could be included. I felt very empowered at that time. Unfortunately, we cannot even imagine such discussions today. We are now at a point where we are debating the first four amendments of the Constitution.” (P19, London)

This participant attributes importance to the cooperation between the women's movement and the state at that time. However, after 2013, a pro-government NGO called KADEM (Women and Democracy Foundation) was established. She says that

it is no longer possible to talk about this cooperation. Other participant stresses the moment of rupture regarding from Convention that

> "This is the moment of rupture regarding the convention; From the signing of the agreement onwards, the state began to distance itself from addressing women's organizations. Later, the state started to establish its own women's organizations. These women's organizations gradually began to antagonize. Even the women's organizations were considered an enemy. In the process leading up to the 2010s, before the referendum and so on, many collaborations could be established with women's organizations in local mechanisms. Of course, this was not seen everywhere, but they were not viewed as enemies to this extent. Right now, women are being treated as internal enemies. Those who do not share the state's views are being antagonized. After the coup attempt, it became very difficult for many women's organizations to ensure stability. It was a process that progressed step by step from that day to the present. Nevertheless, a rapid rupture occurred. "(P22, Ankara)

One of the other participants (P19, London) characterizes the period after 2013 by noting a bifurcation within women's organizations: those aligned with the government (often categorized as GONGOs, Government-Organized Non-Governmental Organizations) and secular, characterizes the period after 2013 by noting a bifurcation within women's organizations: those aligned with the government (often categorized as GONGOs, Government-Organized Non-Governmental Organizations) and secular, opposition-oriented NGOs. This division has since become increasingly pronounced. Çelebi states that KADEM aligns itself with the conservative and authoritarian labor policy agenda of the ruling party, seeking to eliminate gender equality from public discourse, policy development, and decision-making processes, while promoting an essentialist notion of gender justice. (2022, p. 326) KADEM participates in constructing a counter-feminist discourse that seeks to displace 'gender equality' frameworks with the alternative paradigm of gender justice. The government has strategically utilized KADEM's ideological positioning as a mechanism to both weaken the broader women's movement and foster internal divisions within feminist civil society. This instrumentalization serves dual purposes: fragmenting opposition to gender policy reforms while promoting state-sanctioned alternatives to feminist discourse.

6.8. A Gradual Disengagement: Some Excuses for Withdrawal from the Istanbul Convention

In Türkiye, the government's justification for withdrawing from the Istanbul Convention appears to have relied principally on two discursive strategies: first, the assertion that the Convention's provisions threatened traditional family structures; and second, the claim that it promoted LGBTI rights in ways that could potentially influence sexual orientation demographics. These arguments were mobilized to construct legitimacy for the withdrawal decision within domestic political discourse.

One participant (P5) states that following the state's ratification of the Istanbul Convention, public discourse should have shifted toward assessing the extent to which the Convention's obligations were being fulfilled. She emphasizes that the state failed to take the necessary steps to ensure its effective implementation.

Consequently, she argues that there is no considerable societal opposition to the Convention. She characterizes those who oppose the Convention in the following terms:

> "Those who oppose it include the man who uses violence, yet opposes measures against violence. His violence is unsuccessful in achieving control. [The argument is that] "You have given women too many rights, that's why women don't marry men." That's why such men claim "everything is for women." Of course, they oppose women's rights. What else could be expected? We certainly didn't expect these men to say, "It's good that the Convention came; I won't beat my wife anymore."

The state is actively pursuing anti-LGBTI policies through its approach to gender, personality, and sexuality. From what I've learned, family platform meetings were held in Saraçhane, and these initiatives were either directly organized by the state or are state-supported platforms and associations.

> "There was no widespread opposition to the Istanbul Convention in society. It did not cause significant concern, outrage, or unrest among the public. The state, however, cooperated with certain groups that wanted to withdraw from conventions such as CEDAW and the Lanzarote Convention, hated Law No. 6284, did not want to pay

> alimony to women, wanted the possibility of polygamy, and refused to pay child support after divorce.
>
> Some members of these groups are affiliated with religious sects and are connected to power centers with electoral potential. The government's stance is not so much a case of surrendering to them, but rather a form of cooperation shaped by electoral calculations and pressure from these groups."(P5, İstanbul)

During the negotiation process of the Convention, one participant (P14, Ankara) noted that queer groups were not entirely satisfied with the direction of the discussions. However, he expressed his surprise at the fact that LGBTI groups were later portrayed as supporting withdrawal from the Convention. She also underscored that Christian groups, particularly the Vatican, voiced strong opposition to the Convention's adoption. She states that

> "Queer groups have criticized the Istanbul Convention for lacking sufficient visibility and specificity regarding their rights. Despite this, one of the primary justifications presented for Türkiye's withdrawal from the Convention was its alleged promotion of queer identities. Critics of the Convention interpreted its inclusive language, particularly the absence of a requirement for a family bond in cases of intimate partner violence and its non-specific use of gender, as supporting queer communities.
>
> The Convention's recognition of partnerships outside traditional family structures, including gender-independent cohabitation, has been perceived as a threat by those who prioritize the preservation of conventional family norms. Ironically, even the mere suggestion that the queer community finds the Convention inadequate has provoked discomfort among conservative authorities." (P14, Ankara)

According to one of the participants (P21, Ankara) from those involved in the drafting process of the Istanbul Convention, the LGBTI+ movement expressed dissatisfaction with the Convention's structure, which did not adequately reflect their demands.
One of the participants (P15, Ankara) argues that

> "At the centre of the opposition to the Convention were the following claims: they saw the Convention as a Trojan horse. In other words, under the guise of combating

> violence against women, they considered this Convention a kind of conspiracy tool to implant the concept of gender into national laws. They focused on the concept of gender within the Convention. The concept of gender was seen as a justification for Türkiye's withdrawal from the Convention. They emphasised that the Istanbul Convention has an ideology, and this ideology is gender ideology. This is seen as harmful to the family, nationality, national existence, and religion. But the concept of gender or sexual orientation is not as central as they claim. It is only mentioned in one article, in Article 4, there is a principle of non-discrimination. It cannot be violated based on any form of discrimination. I think it includes sexual orientation and gender identity. It states that these cannot be reasons for discrimination. If there is a victim of violence, the provisions in the same Convention should be applied to everyone, whether they are women, lesbians, or transgender individuals. In the first part of the Convention, the terms “gender inequality” and “gender roles” are mentioned. Since the target of the Convention is gender equality, the Convention is targeted. Both LGBTI+ hostility is fuelled, and a tool that protects women from violence is destroyed. Therefore, both women and LGBTIs." (P15, Ankara)

One participant (P18, London) observed that, just as the government had previously sought to divide women’s organizations into oppositional and pro-government factions, it is now fostering a divide between women’s organizations and LGBTI+ organizations.

> "After the withdrawal from the Istanbul Convention, a divergence naturally emerged between feminists and LGBTI+ groups. Unfortunately, the government has been very effective at creating such divisions. It confines us to a specific space, to a single word. This is not only about the concept of gender—there have been other political examples of this in recent years—but in this case, it narrowed the discourse to a binary between women and LGBTI+ people." (P18, London)

However, the Istanbul Convention played a crucial role in institutionalizing the fight against violence towards women. The repeated enforcement of the obligations it imposed on the state would have led to the systematic implementation of measures to combat gender-based violence. The Convention is particularly significant for its comprehensive definition of various forms of violence and for its challenge to prevailing societal value judgments. It has enabled women to recognize that many of

their lived experiences are not isolated, but shared by others, and, importantly, that these experiences are acknowledged by the legal system, which in turn affirms the possibility of legal redress and accountability.

One of the participants (P14, Ankara) argues that

> "The goal of the Istanbul Convention is to create an international court mechanism similar to the European Court of Human Rights. For example, such a court could consider cases involving the right to prioritize women fleeing gender-based violence or misogynistic states when seeking asylum. The situation of women in Afghanistan is also being discussed. It was a convention with ambitious goals that could impact many women. The Istanbul Convention emerged as an alternative to all-male, patriarchal international institutions. As I mentioned, it aimed to establish a supervisory board, achieve a supranational status, and outline obligations for governments along with clear roadmaps. These were previously unimaginable goals. That is why it was halted. We are now experiencing a backlash. The women's movement has gone too far, some say. The feminist struggle has also been pushed back. But the toothpaste is out of the tube, you can't put it back in. Women reclaimed public spaces through organized protests and street actions. " (P14, Ankara)

The withdrawal from the Istanbul Convention is widely regarded as a significant setback to the institutionalisation of women's rights in Türkiye. However, the AKP government has justified its decision with two primary objections. The first pertains to the claim that the Convention undermines traditional family values and promotes LGBTI rights, which the government frames as incompatible with its sociopolitical agenda. One of the participants (P6, İstanbul) argues a similar view that

> "The abolition of the Istanbul Convention marked a significant setback in the institutionalisation of protections against gender-based violence. Put bluntly, this decision severely undermined the legitimacy of the AKP government. The party's discomfort with issues related to gender equality and the LGBTI movement is evident. In this context, the Convention became a political target, particularly through the discourse surrounding the concept of the "family." This strategy aimed to instill fear, leading people to associate gender equality with the idea that "our children will become homosexual." While the issue at stake is not limited to LGBTI rights, the

> rejection of traditional gender roles by women continues to provoke anxiety, especially among men. However, many conservative women and Muslim feminists had expressed strong support for the Convention. Thus, its withdrawal was celebrated primarily by reactionary circles, including religious sects. The AKP ultimately capitalised on this move, using it to consolidate its ideological stance. In doing so, the party revealed a political choice between embracing women's rights or framing it as loyalty to "my sisters." (P6, İstanbul)

She emphasized that the government's will entailed a deliberate selection between sisters (or women adhering to traditional roles) and women advocating for gender equality. In Türkiye, this constituted a political decision—indeed, one that critically influenced the trajectory of politics after 2011. Unal (2023, p. 16) argues that the AKP connects gender issues to national security in its populist discourse by framing opposition to gender equality and the Istanbul Convention as threats to the moral and cultural integrity of the nation. It depicts "gender ideology" as a destructive force that undermines traditional family values, the social fabric, and national identity. This securitization approach frames gender-related policies and movements, such as feminism and LGBTQ+ rights, as enemies that threaten the social order and sovereignty of Türkiye. In doing so, the AKP mobilizes public support for its anti-gender stance, portraying the defense of traditional gender roles and national values as vital for the country's security and moral purity. This participant (P6, İstanbul) stresses the polarization between Muslim women and Secular women. This narrative reinforces the party's populist dichotomy, which constructs a binary opposition between the 'virtuous' people and the 'corrupt' elites or external enemies. (Unal, 2023: p.17) As this participant emphasized, certain Muslim feminists expressed support for the Istanbul Convention.

Another participant (P12, İstanbul) further highlighted that some religious sects are not opposed to Convention. She states that

> "We cannot say that all religious sects were opposed to the Istanbul Convention. It would be more accurate to say that certain sectarian circles were opposed. At the stage when the Istanbul Convention was being withdrawn, we organized a panel. During this time, we also spoke with religious communities. Among them, some supported

> the Istanbul Convention. They supported it in its entirety. Some sects—those aligned with the Yeniden Refah, Hüdapar, and Saadet Party lines, and especially certain right-wing conservative, religious, or nationalist-leaning circles, opposed it.
>
> Interestingly, there were also a few men among liberals and socialists who opposed the Istanbul Convention. Their number was not large. However, opposition to the Istanbul Convention mostly came from people aligned with political Islam and the far-right conservative spectrum. "(P12, İstanbul)

Other participant (P21, Ankara) addresses opposition to the Istanbul Convention from a broader perspective, highlighting its relationship with democracy. It argues that anti-democratic social dynamics are manifested through religion. She stated with exasperation that

> "Opposition to the Istanbul Convention can be explained by the rise of authoritarian regimes around the world, the absence of democracy, and the gradual decline of democratic practices within societies. In many countries, religion is used to justify these anti-democratic or non-democratic formations and politics. These religions may differ—for instance, Orthodox, Protestant, or Catholic in Europe, and Islam in our context. Although these religions may not agree on many issues, they align in their opposition to the Convention."(P21, Ankara)

The resistance to the Istanbul Convention is closely connected to autocratization trends because the campaigns against the Convention are part of a broader effort by anti-gender and populist right-wing forces to weaken democratic institutions and undermine gender equality norms. By attacking feminist and civil society organizations, restricting their activities, and discrediting advocacy for gender rights, these campaigns contribute to the erosion of democratic space and reinforce autocratic tendencies. The gendered violence and political violence associated with these opposition campaigns serve to marginalize women and targeted groups further, obstruct their participation in societal and political processes, and facilitate the consolidation of authoritarian rule, thereby undermining democratic resilience. (Roggeband & Krizsán, 2024, pp 2-3) Türkiye's political context further intensifies the polarization surrounding the Istanbul Convention.

Türkiye has become deeply polarized over the Istanbul Convention, with two opposing camps: anti-Convention and pro-Convention. On the surface, opposition to the Istanbul Convention is merely a tool used to consolidate the populist, neoliberal, authoritarian regime.

> "The main reason for targeting the Convention is opposition to gender. This opposition does not stem from the Istanbul Convention itself, but emerges to LGBTI+ movements that have been proposed and implemented within the framework of the European Union. In Europe, there are numerous regulations concerning LGBTI+ rights. For example, laws regulating same-sex marriage, new legislative proposals for self-declared gender identity, regulations on gender transitions, and the inclusion of LGBTI+ topics in the content of sexual education taught in primary schools.
>
> These regulations, through the lens of LGBTI+ opposition, are directed at the Istanbul Convention, as they are reflected in the Convention to some extent. There is a critique of the binary gender regime through the concept of gender equality. A debate arises around the question: Why do you say gender instead of referring to men and women? Because it is argued that you are trying to create space for LGBTI+ individuals.
>
> Therefore, LGBTI opposition appears alongside the anti-gender movement. In this sense, anti-feminism is seen together with homophobia and transphobia. It is thus possible to interpret opposition to the Istanbul Convention through the lens of these movements. "(P15, Ankara)

It is not possible to identify any regulation in Türkiye that responds to the legal demands of LGBTI+ movements. Nevertheless, the general basis on which opposition to the Convention is constructed can be defined as a fear of LGBTI+ rights. Some participants argued that the polarization between anti-Convention and pro-Convention positions contributed to tensions surrounding the LGBTI and feminist movements, ultimately leading to a fragmentation between the two.

One participant (P14, Ankara) states desperately that

> "The alliance between the women's movement shaped by the third wave and the LGBTI+ movement has recently shown signs of fragmentation, particularly with the

emergence of discussions around gender fluidity. Specifically, some believe that LGBTI+ groups have come to dominate the March 8 demonstrations. Since they are unable to hold Pride marches, they aim to express their slogans during these events.

While women may want to raise slogans concerning the Civil Code or child marriage, those participating from the LGBTI+ community, at least those joining as an alternative to Pride, do not prioritize these issues and instead focus on themes such as sexual freedom. This has led to a conflict that did not exist before, where the narrowing space for LGBTI+ activism forces a shared platform with the women's movement, resulting in an agenda clash. Consequently, the Istanbul Convention cannot be overstated enough during the March 8 events. For example, a slogan such as "I am trans, and I have not completed my transition, nor do I have to" is a libertarian statement.

However, when such arguments begin to dominate the women's movement space entirely, the voices of women regarding their issues are no longer heard. There is currently such a dilemma, and it is unclear how it will be resolved. If Pride marches were allowed, perhaps March 8 would not be overtaken to this extent, or it would take on a more minor role—but since that is not the case, this conflict remains. "(P14, Ankara)

While the influence of the women's movement in Türkiye during the preparatory phase of the Istanbul Convention has been addressed in previous chapters of this study, the role and impact of the LGBTI movement have not been examined. One of the participants asks some questions about the contribution of the LGBTI+ organization to the preparation of the Convention. She critically asks these questions about the LGBTI + movement that

"How active were LGBTI organisations in the preparation of this Convention? How much did they contribute to the preparation of this Convention? In other words, how much did they take part in the negotiation processes of the countries as stakeholders? For example, when we look at the women's movement in Türkiye, we can say that LGBTI+ organisations were not sufficiently involved in the Convention preparation processes. The women's movement in Türkiye is also allergic to the LGBTI + movement. "(P16, Ankara)

When asked about perceived tensions between feminist and LGBTI+ movements, one participant (P22, Ankara) responded with visible frustration, arguing that this division is not natural but deliberately constructed by state power. Their perspective reveals an important critique of how institutional forces fragment solidarity between marginalized groups. She states with frustration that

> "I do not recall any tension between the feminist movement and the LGBTI+ movement in the context of the Istanbul Convention. Such tensions emerged within the non-feminist women's movement, but these groups were not feminist to begin with. This debate, for example, surfaced about KADEM. As you may remember, KADEM initially opposed the withdrawal from the Istanbul Convention. However, they faced pressure and were told that the Convention carried LGBTI+ implications. Subsequently, they also withdrew their support, stating that the core issue was the concept of sexual orientation. However, KADEM is not part of the feminist movement, nor is it a feminist organization. This is not a personal label; KADEM itself identifies as anti-feminist. Therefore, no conflict emerged between the feminist movement and the queer or LGBTI+ movements regarding the Convention."(P22, Ankara)

Since 2015, Pride events in Türkiye have faced systematic bans. In 2024, authorities even prohibited small gatherings, including picnics and film screenings. (Amnesty, 2024) The government's efforts to reshape family and education policies along religious lines, coupled with the erosion of legal and institutional gains and increased surveillance of women's bodies and sexualities, marked a definitive departure from the earlier, more moderate stance on gender equality. Bolstered by state discourse, segments of the pro-government public began to advocate for the explicit Islamization of family law. In this context, motherhood was not only valorized in religious terms but also framed as a national imperative, an essential duty to ensure population growth and safeguard Türkiye's rise as a global power against foreign threats. As familism supplanted the principle of gender equality, feminist movements, LGBTI individuals, and their organizations have faced increasing repression by the state. (Özkazanç, 2024, p. 39) Certain participants called particular attention to the findings of the Divorce Commission's report in 2016. The Parliamentary Research Commission (Divorce Commission) was established in 2016 to investigate the factors negatively affecting

family integrity and divorce cases, and to determine the measures to be taken to strengthen the family institution. The 2016 Divorce Commission report proposed several controversial measures affecting women's rights. It suggested allowing conditional pardons for child sexual abuse in cases resulting in marriage, and promoted chemical castration for sexual offenses.

Despite the Istanbul Convention's ban, it proposed mediation in domestic violence cases, thereby undermining women's legal protections. It also called for restrictions on when women can seek police help, demanded evidence for protective measures, and proposed secrecy in all family court cases. Other suggestions included limiting women's alimony rights, reducing the legal timeframe to file for divorce, and incorporating religious figures as family counselors, shifting advisory services from secular to religious frameworks. Women's organizations criticized these measures as tools to erode legal safeguards and increase state-sanctioned gender inequality. (Eşitiz, Boşanma Komisyonu Raporu, 2024)

But one of the participants (P1, İstanbul) said that the published Divorce Commission report had caused the alimony debate to start again.

> "In the world, in Poland, in Hungary, the Orban institutes and family conferences also have an influence. This is how the anti-family discourse spread. In Türkiye, there is no such conference on the Istanbul Convention. For example, the issue of alimony for poverty is slightly different. There is no such serious basis against alimony in Türkiye. However, it was an effort made within the framework of a longer-term attempt to disseminate the policy of protecting the family as a product of conservatization after the divorce commission in 2016. With those ideological devices, they created some confusion in society about the poverty alimony. It also had such an effect on the Istanbul Convention."(P1, İstanbul)

Supporting the divorce commission's policies to protect the family also means seeing the LGBTI + movement as anti-family and increasing the reaction against them. Because with new legal regulations, they are being prevented from being visible. To hide the inevitable impoverishment and inequality in income justice as a result of

neoliberal policies, the state gives up implementing gender equality policies for women and LGBT individuals. It makes them a target of society.

One of the participants (P10, Ankara) argues that

> "There is a political discourse that starts with the narrative of divorced men, men who were thrown out of their homes while married, men who were abandoned on the streets, poor men, and fathers who were victims, even if they were not divorced. They claimed that the LGBTI+ movement was given the right to superiority in the context of gender equality. They even claimed that LGBTQ+ inclusive education, which actively promotes gender equality, would be reduced to primary and kindergarten levels." Therefore, we are against this," they said. This was not the language of just a few citizens or a few different views. It became the language of the state and the government, and then this language led to the withdrawal from the Istanbul Convention." (P10, Ankara)

Kandiyoti (2019, p.35) took attention to the crises of men. Rates of femicide and violence against women persist, often sparked by women's perceived disobedience or refusal to adhere to traditional gender roles. At the same time, new narratives around male victimization and men's rights have surfaced, contesting the existing gender order. The term "masculinist restoration" captures this conservative push to reassert patriarchy through coercive means and ideological tools, reflecting a broader political polarization that divides society along gender lines and raises concerns over the stability of male dominance and female subordination in the face of ongoing societal change. Another criticism is that the emphasis on the traditional family is also present in the translation of the original text of the Istanbul Convention. After Turkey ratified the Istanbul Convention, numerous translation errors appeared in the Turkish version, most of which reflect political preferences rather than linguistic issues. For example, important terms such as "domestic violence" were translated as "family violence," and 'household' was translated as "family unit," limiting the scope of protection to married couples only. Other mistranslations include "sexual assault" being translated as "rape." This suggests that the translation was done by people unfamiliar with the subject matter. Furthermore, the term "violence" between "spouses or partners" has been translated as "violence between spouses or parents." It should be noted that the

incorrect or incomplete translation of international documents due to political preferences and sometimes by those unfamiliar with the subject has become chronic in Turkey. However, it is important to remain faithful to the original texts. (Bakırcı, 2015, p. 137)

In the Family Year Promotion Program, President Recep Tayyip Erdoğan stated that "Strong individuals lay the foundation for strong families, strong families build strong nations, and strong nations form strong states. This is not merely a routine observation; it is a historical truth." In a significant portion of his speech, Erdoğan targeted LGBTI+ individuals, criticizing digital platforms and cultural trends. He claimed that "content on digital platforms, particularly policies promoting gender neutrality, enables LGBTI+ and other illegitimate, deviant movements to gain ground," arguing that such policies threaten the sanctity of the family institution. (Aile Yılı, 2025) In recent years, LGBTI individuals have occupied one pole of a deepening societal polarization, while the opposing pole is frequently framed within a discourse emphasizing the "traditional family" as an ideological cornerstone. This dichotomy can be further analyzed concerning state-sponsored narratives promoting the upbringing of generations instilled with religious and national values. Additionally, administrative efforts to restrict access to abortion in public hospitals, despite the absence of a legal ban, reflect a broader ideological stance that warrants critical examination through relevant theoretical and empirical sources.

One of the participants (P22) argues that

> "But of course, it seems that we have come to a point where we have not lost what we already have. There is talk of a new legal regulation that will criminalize trans identity. At the same time, new regulations are being prepared that will ban and penalize everything related to LGBTIs in public spaces. We are in a very tense political climate for the rights of women and LGBT individuals. There are incredible obstacles for women to be visible in the public sphere. The same principle applies in the workplace. There is wage inequality and obstacles to work. When we look at the statistics, perhaps there is not a very severe inequality for women with a university degree. There is a lot of income inequality, especially for women with primary education. Class distinctions

have sharpened. Women's poverty is very severe. Gender inequality is on top of this. Violence is inevitable in this situation." (P22, Ankara)

However, this participant consistently states that LGBTI+ individuals were not the primary focus of contention. Rather, the main points of debate should be centered on persistent gender inequality, framing the debate as fundamentally concerning women's lack of equal status with men. This rhetorical strategy sought to ground the opposition to withdrawal in universal principles of gender equality rather than in more politically contentious identity politics. Gender inequality, violence against women, the consolidation of one-man rule, and the spread of undemocratic practices are all interconnected links in the same chain, particularly affecting marginalized individuals at most. Each link reinforces the other, forming a tightly bound structure of oppression. This study shows that the women's movement in Türkiye continues to resist with determination, struggling tirelessly to loosen the links of this chain and challenge the structures that sustain it.

6.9. The Strengthening of the Women's Movement in Türkiye Amid Backlash: The Case of the Council of State

Although there has been a marked regression in women's policies in Türkiye, this development must be understood alongside the strong and persistent resistance led by the women's movement. The intensity of this struggle became particularly evident during the withdrawal process from the Istanbul Convention, most visibly in the case brought before the Council of State. In 2020, women's organizations initially came together as the TCK 103 Women's Platform to prevent an amnesty for perpetrators of child sexual abuse. Shortly thereafter, in response to the debates surrounding Türkiye's withdrawal from the Istanbul Convention, they reorganized under the name EŞİK – Women's Platform for Equality. Since its establishment, EŞİK has become a central actor in the defense of women's rights, undertaking numerous local, national, and international initiatives on issues such as child sexual abuse, the Istanbul Convention, and violence against women. (Eşik, 2025) In the interviews of this study, 3 out of the 22 participants addressed the feminist struggle surrounding the Council of State case. This emphasis can be related to that these three participants also served as defense

lawyers in the case and had directly engaged with its legal and political aftermath. During this process, they emphasized that the resilience demonstrated by the women's movement in Türkiye marked a critical turning point in its ongoing struggle.

A legal challenge was initiated before the Council of State to contest the withdrawal from the Istanbul Convention, with numerous lawyers across Türkiye joining as plaintiffs.

One of the participants told the women's struggle within the case of the Council of State with giving goosebumps that

> "Thousands of lawyers came to the conference hall in the Council of State, and defenses were made on 15–20 files on this account. People came from all over Türkiye. Here is an example: I attended from the Erzurum Bar Association at that time; that is, the Erzurum Bar Association did not come to the first hearing with enough lawyers. I came to represent the Erzurum Bar Association with the authority of the Bar President. We organized as a women's platform for this Equality (EŞİK). During this process, as EŞİK, we organized efforts to inform all bar associations about the lawsuits. We issued public calls, arranged bus transportation, and carried out tremendous work to ensure participation in the hearings from all corners of Türkiye. We issued authorization documents to thousands of lawyers so they could attend the hearings. Throughout this period, parties involved in the cases, political parties, women's associations, individual women who filed suits, and lawyers, came together in strong solidarity, filling the courtroom and creating a hearing process with thousands of participants. Of course, some of the lawsuits were dismissed during this process. After all our cases were rejected, we proceeded to the appeal stage. Following rejections at that level as well, we applied to the Constitutional Court. Some of our files have not yet been concluded. For example, I took the decision to withdraw from the Istanbul Convention to the Constitutional Court after my case was dismissed by a majority vote in the Council of State. Before the ruling was issued by the 10th Chamber of the Council of State, some judges were replaced; changes were made in the panel. Now, our case is essentially before the Constitutional Court. We are waiting for the Court to take into account the Constitution and an international treaty, which it is bound to uphold, and issue its decision accordingly. We do not yet know how the case will proceed or what its outcome will be."(P9, İstanbul)

One of the participants (P5, İstanbul) argues that the contentious process of the case ultimately raised public awareness about the Convention's protections, transforming the legal challenge into a historically significant example of women's movement boundaries. This participant articulated these remarks with anger that;

> "The decision to withdraw from the Convention was not even made through a presidential decree. But even that would have been unlawful, just as the current presidential decision is also unlawful. We withdrew from this convention with a decision of the President. There is no consensus in the public decision on this. It is against the principle of procedural parallelism. While the hearings were continuing in the Council of State during that period, the President visited the Council of State. The independence of the judiciary was completely "underfoot." But during this process, more people heard what the Istanbul Convention was. More people heard the positive aspects of the Convention. In other words, the struggle that took place in that Council of State was an exemplary experience not only in Türkiye or the women's movement, but also in the struggle for rights, rights activism, legal activism of women and everyone, and therefore, in the entire world. A historical process was experienced from beginning to end." (P5, İstanbul)

Another participant said that their objections were dismissed despite of presented detailed constitutional and human rights arguments.

This was a historical case. While recounting these events, she was both proud and moved by how the women's movement achieved the outcome of the struggle in the courtroom through great resistance. She told that.

> "All women's associations and bar associations across Türkiye provided great support for the lawsuits regarding the revocation of the withdrawal from the Istanbul Convention. As the Ankara Bar Association, we had our file in the first week. I also filed an individual case. The words we spoke at the Council of State have gone down in history. Even though we explained what awaited us if we left this Convention, even though we stated how legally unconstitutional it was, the Council of State did not even consider our objections. When they listened to us for a long time, we realized that this was not a very good sign. The issue of holding the hearing in that particular courtroom at the Council of State was also part of the struggle. They initially wanted it to be held

> in a small courtroom where only 4-5 people could enter. But the entire women's movement resisted this, and in the end, everyone recognized that a case which had gained worldwide attention was not something that could be discussed and explained in front of just a few people. Eventually, it was decided that the hearing would be held in the Grand Conference Hall of the Council of State. In reality, the defenses presented in that hall have brought us to where we are today." (P10, Ankara)

Most feminists did not foresee the possibility of the Istanbul Convention being annulled overnight, as such an action fundamentally undermined the principle of legal certainty. However, from the 1980s through the 2020s, as the women's movement in Türkiye evolved, it not only engaged in a legal defense of the Convention but also emphasized the necessity of its social visibility and public legitimacy. The Istanbul Convention constituted a distinctive legal instrument that placed women at its core, provided clear definitions of various forms of violence, mandated state responsibility for preventing violence beyond the confines of the family, and imposed binding obligations on state institutions. It was not solely a legal document but also a deeply social one, offering a comprehensive framework for the protection and promotion of women's rights.

It was noted that the defense of the Istanbul Convention served as a means to broaden and deepen the struggle of the women's movement in Türkiye. When institutional and political boundaries were drawn without adequately addressing the gravity of violence against women, feminist activists transformed this limitation into a more powerful and inclusive form of resistance. Moreover, the role of social media proved to be significant in facilitating the organization and mobilization of the women's struggle, amplifying its reach and visibility nationwide.

Moreover, when I suggested that feminist struggle currently operates as a line of defense and is forced to produce resistance against regressive movements, many of the feminist women interviewed disagreed with this characterization. They firmly and confidently emphasized that the withdrawal from the Istanbul Convention was unlawful and asserted that the Convention remains in force legally.

CHAPTER 8

CONCLUSION

A key observation is that, from the 1980s to 2021, violence against women has persisted as a significant societal issue. However, the nature and scope of this violence have evolved. While earlier discussions centered primarily on domestic violence, characterized by physical abuse within the household, contemporary discourse increasingly addresses femicide, representing a more severe and alarming form of physical violence. Women today face not only the threat of domestic abuse but also the risk of being murdered, including in public spaces. The three decades since the "No to Beatings" campaign mark the passage of a generation, underscoring the enduring and shifting dimensions of this critical problem.

From the early 2000s onward, several critical legal reforms in Türkiye have emerged as milestones resulting from sustained feminist activism and advocacy. These reforms include issuing the Prime Ministry Circular No. 2006/17, substantial amendments to the Civil and Penal Code, and ratifying the Istanbul Convention. Feminist actors were instrumental in shaping Law No. 6284, drawing directly on the draft text of the Istanbul Convention, and worked to ensure its ratification without reservations, a significant political victory demonstrating the movement’s influence on legislative processes. These developments represent the tangible outcomes of a generation-long feminist struggle for gender equality and legal recognition of women's rights. Among these, the Istanbul Convention is particularly significant, as many participants in this study have described it as a "pole star," symbolizing the zenith of feminist legal achievements in Türkiye. It is a definitive marker of the progress achieved through decades of activism, reflecting both the culmination and guiding vision of the feminist movement's legal and societal goals.

This study has critically examined the evolving relationship between the feminist movement in Türkiye and the legal landscape shaped by the Istanbul Convention, within the broader framework of gender equality, legal transformation in gender politics and the development of feminist activism. Indeed, many participants highlighted that what sets the Istanbul Convention apart from other international human rights instruments is its ability to define and address newly emerging forms of violence against women. The Istanbul Convention covers both economic violence and psychological violence in addition to physical violence.

The Istanbul Convention is also an achievement of the global feminist movement because, after the 19th and 35th recommendations of CEDAW, it includes more detailed definitions of violence against women and emphasizes that discrimination based on religious references, i.e. religious rules, which are not included in CEDAW, should not be made. In other words, it emphasizes that cultural references cannot be used to support violence, especially in Article 42, which places the obligation on the state to prevent the use of culture, custom, religion, tradition, or so-called 'honor' as a justification in criminal cases initiated after the commission of acts of violence.

The central aim was to explore how feminist activism both influenced and was shaped by the adoption, implementation, and eventual withdrawal from the Istanbul Convention, and how this interaction reframing the scope and strategies of feminist struggles in Türkiye. This study has analyzed the Istanbul Convention through the lens of feminist standpoint epistemology, focusing on the dynamic interplay between legal frameworks and broader societal dynamics. The findings suggest that the Convention is not merely a legal text but a socio-political document born from the cumulative struggles of feminist movements both globally and locally, particularly in Türkiye.

Through in-depth fieldwork and interviews, this study has demonstrated how feminist actors in Türkiye played a strategic and instrumental role in ensuring the ratification of the Istanbul Convention without reservations and shaping Law No. 6284. This legal and political achievement marked a historic turning point in the women's movement, elevating women's lived experiences to the level of codified normative discourse. The Convention thus emerges not as an imposed international standard but as a legal

embodiment of long-silenced collective experiences. This refers to Feminist Standpoint theory. Feminist anti-violence activism aligns with feminist standpoint theory by prioritizing the experiences of survivors, particularly those marginalized by violence. The concept of epistemic privilege asserts that the lived realities of these individuals should shape knowledge production, enabling a deeper understanding of violence as a systemic issue. (Sweet, 2020, p.15)

The Istanbul Convention illustrates a critical moment in the dialectic between norms and facts, where gendered social realities, especially experiences of violence, found articulation in a binding legal framework. This process reflects what feminist standpoint theory calls "strong objectivity," wherein marginalized perspectives offer epistemic privilege in articulating social injustices. The Convention's gender-specific provisions reflect this shift, see experiential knowledge as a legitimate source of legal normativity. In the interviews, activists critique traditional research models that fail to capture women's experiences, advocating for survivor-driven research. This approach, rooted in standpoint theory, highlights the political nature of knowledge production and its potential to influence activism and policy. (Sweet, 2020, p.15) Moreover, the findings also highlight a reciprocal relationship between legal change and feminist mobilization. While feminist efforts helped shape the law, the adoption of the Istanbul Convention provided new discursive and legal tools that expanded the feminist movement's reach and legitimacy. This mutual reinforcement enabled feminists to frame gender-based violence not merely as individual misfortune but as a structural and systemic issue demanding state accountability.

The Istanbul Convention is a legally binding instrument that goes beyond the scope of "soft law," distinguishing it from frameworks like CEDAW by imposing concrete legal obligations on state parties. The Convention introduces a form of feminist jurisprudence that synthesizes elements of radical, liberal, intersectional, and standpoint feminist theories. Its normative commitment to both formal and substantive equality marks a paradigm shift in international human rights law by positioning gendered experiences as central to the construction of universal norms. The research also finds that the legal sphere in Türkiye has become a critical site of feminist resistance. Despite the appearance of neutrality, the law is deeply embedded within

social power relations and subject to interpretation by state actors, judges, and political institutions. The Istanbul Convention thus served not only as a legal shield but as a platform for contesting patriarchal norms embedded in state policies and legal doctrines.

The practical implementation of the Istanbul Convention highlights the state's obligation to address and prevent physical violence against women in Türkiye. Central to this is the requirement to provide sufficient support mechanisms, including shelters and sexual assault rehabilitation centers. In line with Law No. 6284, Violence Prevention and Monitoring Centers (VPMCs) were established to assist victims. However, these centers often demonstrate delays in responding to incidents of physical violence and frequently fail to fulfill their mandates comprehensively. A particularly critical issue pertains to the confidentiality of women's identities. While legal provisions stipulate the protection of survivors' personal information, judicial systems have inadvertently allowed access to their addresses, enabling perpetrators to locate and re-victimize them. Furthermore, the effectiveness of court-issued protection orders has been undermined by insufficient enforcement and reduced durations. Following Türkiye's withdrawal from the Istanbul Convention, the standard six-month suspension orders have been shortened to three months, further compromising the safety of victims.

This situation reflects a broader lack of institutional commitment among state entities, including the judiciary and law enforcement, to implement robust measures against gender-based violence. This institutional inertia significantly hinders efforts to ensure the safety and well-being of women, underscoring the need for stronger and more consistent state intervention. Officials within law enforcement and judicial bodies often perpetuate the patriarchal structures embedded in society by failing to consider gender dynamics in their practices. The Istanbul Convention addresses this issue by mandating gender-sensitive training for professionals, thereby integrating a preventative approach to combating violence against women. Furthermore, the Convention extends its scope beyond public officials, imposing obligations on media institutions, organizations, and the private sector to contribute to the fight against gender-based violence.

The Convention places several positive obligations on the state, including ensuring the protection of victims, the prevention of violence, the prosecution of perpetrators, and the coordination of comprehensive policies. It underscores the importance of establishing a holistic and systematic approach to addressing violence against women, emphasizing the need for integrated and collaborative policy frameworks throughout its provisions.

In several interviews, the scope of protection provided by the Istanbul Convention was a central topic of discussion. Participants highlighted that the Convention prioritizes women's rights, focusing on addressing gender-based violence. It was also noted that the concept of the family is not explicitly mentioned in the Convention's provisions. Instead, the Convention emphasizes the protection of individuals living within the same household, irrespective of familial ties. Moreover, the Convention extends its protection to other vulnerable groups, including the elderly and refugees, thereby reflecting its inclusive and comprehensive approach to combating violence and discrimination.

This critique of liberal legal theory highlights the limitations of its approach to the private sphere and its failure to account for the gendered nature of law. The notion that law is neutral, impartial, and separate from the private sphere has been challenged, particularly when it comes to domestic violence. The example you mentioned, where a woman is told that violence is a "domestic matter" and sent back home, illustrates the way legal systems and authorities often reinforce patriarchal norms by treating gender-based violence as a private issue rather than a violation of fundamental rights.

This critique also aligns with feminist jurisprudence, which challenges the idea of law as a neutral entity and seeks to bring attention to how legal frameworks can perpetuate gender inequalities. The lack of state intervention in the private sphere, particularly in the context of domestic violence, perpetuates the power imbalance in households and effectively protects the abuser. By relegating violence to the private sphere, the state fails to uphold its duty to protect women and ensure their safety. The Istanbul Convention represents a significant shift in this regard. By mandating state intervention in cases of domestic violence, regardless of whether the female victim

wishes to pursue charges, the Convention challenges the idea of the private sphere as beyond state reach. It recognizes that domestic violence is not merely a private issue but a human rights violation that requires state involvement. The provision that allows the state to continue legal proceedings even if the victim withdraws her complaint further underscores the state's responsibility to protect victims and prevent impunity for perpetrators. These innovations of the Istanbul Convention, in essence, aim to redefine the boundaries between the private and public spheres, ensuring that the legal system addresses violence as a societal issue rather than a private matter.

The feminist movement in Türkiye played a crucial role in advocating for the adoption of the Istanbul Convention without reservations, emphasizing the importance of comprehensive and effective legal protection for women. Two key issues became central to their struggle: including crimes that could be reported and obliged the State to compensate for crimes committed using violence.

The first issue, related to crimes subject to complaint, was critical in ensuring that violence against women was recognized as a serious offense that warranted state intervention, regardless of whether the victim reported it. This was essential for shifting the focus from a victim-centered model, which could easily be influenced by societal pressures or the victim's desire to avoid confrontation, to a state-driven, rights-based approach. Feminists pushed for a legal framework that would not place the burden solely on victims to take action, advocating for a system where the state took responsibility for addressing violence against women, even if the woman herself withdrew her complaint.

The second issue, the absence of the state's obligation to compensate for the harm caused by violence, highlighted the limitations of existing legal frameworks in addressing the long-term impacts of abuse. Feminists argued that the state should take responsibility for ensuring justice and reparations for victims, recognizing that violence often leaves lasting scars that require more than just legal remedies. This demand was aligned with a broader vision of state accountability in protecting women’s rights. To advance these issues, the feminist movement employed a range of strategies, demonstrating a measured and strategic political approach. A key tactic

was the publication of newspaper articles aimed at shaping public opinion. Through these efforts, feminists sought to garner widespread public support for the Convention and ensure its adoption without reservations.

The feminist movement faced similar pressures during the enactment of Law No. 6284, the Law on the Protection of Family and Prevention of Violence Against Women. The text that was initially prepared was later presented as the first draft during the meeting. Feminists opposed this version and successfully ensured that all aspects of the Istanbul Convention were fully incorporated into Law No. 6284. The adoption of the Istanbul Convention stands as one of the most significant achievements of the feminist struggle.

Moreover, this study has revealed that the feminist struggle in Türkiye operated within and against state mechanisms, showing both the potential and the limitations of legal reform in patriarchal political contexts. While legal advances were achieved, especially during the early 2000s, the subsequent backlash, including Türkiye's withdrawal from the Convention, interrogates the permanence of feminist gains in the face of rising authoritarianism and anti-gender discourse. Nonetheless, this very tension has reinforced the importance of law as a site of both repression and resistance. It has been used as an instrument of power and a terrain for contestation

Most of the feminists interviewed noted that the period following the adoption of the Istanbul Convention was largely defined by increasing anti-gender attacks. Some interviewees identified the rise of anti-gender movements as gaining momentum after the 2010s, while others pointed specifically to 2015 and the period following the attempted coup. They also highlighted that opposition to the Istanbul Convention inadvertently raised public awareness of its provisions and significance.

A study by the research company Konda found that public awareness of the Istanbul Convention was quite low. Interviewees noted that in 2010, the Prime Minister's statement that "women and men are not equal" marked a shift in government policy. One interviewee pointed to the 2009 murder of Münevver Karabulut as a turning point in Türkiye's handling of femicides. For the first time, a woman's murder moved from

the third page of newspapers to the front page, generating extensive public debate. Before the 2000s, femicides were mostly viewed as "honor killings." After the 2010s, however, the nature of femicide trials began to change. Women started attending court proceedings, and public discussions increasingly addressed issues like victim-blaming, the relevance of a victim's attire, and the tendency to reduce sentences for perpetrators. These changes reflected a broader societal reckoning with gender-based violence.

The study identifies several reasons behind the state's failure to implement the Istanbul Convention and its subsequent shift in gender policies. These include the rise of populist and conservative ideologies, alignment with religious-nationalist narratives, and global anti-gender movements.

The increasing marginalization of women's rights discourse in public policy reflects a broader ideological backlash against gender equality. The feminist movement has responded by not only resisting these regressive shifts but by articulating a counter-narrative grounded in rights, equality, and social justice.

Türkiye's withdrawal from the Istanbul Convention in 2021 marks a significant moment in the trajectory of feminist activism. Contrary to signaling a retreat, the withdrawal catalyzed broader mobilization within the movement. Feminists responded by broadening their advocacy strategies to encompass legal action, public awareness, strategic litigation, international advocacy, and the formation of intersectional coalitions. This expanded scope reflects a reconfiguration of feminist strategies in the face of increasing anti-gender discourses and state-backed conservatism. The legal proceedings initiated before the Council of State further illustrate how legal resistance has become integral to feminist praxis. The feminist lawyers delivered a landmark defense before the Council of State.

Both the case itself and the determined stance of the women lawyers were unprecedented in Türkiye's legal history. Through this case, women's presence in society became more visible within the legal sphere, establishing a foundation of legitimacy. The Istanbul Convention case also served as a powerful example of solidarity among feminist women in their fight for rights. It brought the women's

rights struggle into sharper focus, initially in courtrooms and later in society, strengthening women's political presence.

However, the replacement of the judges in the Council of State case by presidential decree highlighted the manipulation of the legal system as a tool of the powerful. One of the research questions explored whether these experiences had reshaped the feminist struggle. While some interviewees argued that the feminist movement had successfully expanded its scope, others emphasized the increased pressures and challenges it now faces.

The anti-gender movements in Türkiye focused on two main claims: that the Istanbul Convention was anti-family and that it promoted the LGBTI+ movement. These groups argued that the feminist struggle and the LGBTI+ movement shared commonalities, framing them as part of a single movement advocating for solidarity. The process of withdrawing from the Istanbul Convention sparked new debates within the feminist movement about the nature of solidarity with the LGBTI+ movement.

While some feminists suggested that separating the LGBTI+ struggle from the feminist movement might strengthen the feminist cause, the interviewees largely disagreed, emphasizing that such a division was not appropriate. They highlighted that the Istanbul Convention's protections for LGBTI+ individuals were already limited and called for broader legal frameworks to safeguard their rights.

Additionally, the distinct approach of the LGBTI+ movement in Türkiye compared to its European counterparts was attributed to the lack of legal recognition for LGBTI+ individuals in Türkiye. Interviewees cautioned against comparing Türkiye's political environment with the legal advancements achieved by the LGBTI+ movement in Europe, noting that the absence of legal recognition significantly shapes the strategies and possibilities for expansion of the LGBTI+ movement in Türkiye.

Finally, the Istanbul Convention represents a feminist legal milestone that transcends national boundaries. It embodies the epistemological principles of feminist standpoint theory by elevating women's lived experiences into codified legal norms. As an

international human rights instrument, it challenges both cultural relativism and patriarchal interpretations of law. While Türkiye's withdrawal limits its immediate enforceability, the Convention continues to serve as a normative framework for feminist resistance and as a symbol of transnational solidarity. The Istanbul Convention extends its protections not only to women but also to other marginalized groups within society. Although Türkiye has officially withdrawn from the Convention, ongoing debates, particularly among feminist actors, continue to question whether it remains legally binding and enforceable.

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APPENDICES

A. APPROVAL OF THE METU HUMAN SUBJECTS ETHICS COMMITTEE

UYGULAMALI ETİK ARAŞTIRMA MERKEZİ
APPLIED ETHICS RESEARCH CENTER

DUMLUPINAR BULVARI 06800
ÇANKAYA ANKARA/TURKEY
T +90 312 210 22 91
F +90 312 210 79 59
ueam@metu.edu.tr
www.ueam.metu.edu.tr

ORTA DOĞU TEKNİK ÜNİVERSİTESİ
MIDDLE EAST TECHNICAL UNIVERSITY

Konu: Değerlendirme Sonucu

13 EYLÜL 2024

Gönderen: ODTÜ İnsan Araştırmaları Etik Kurulu (İAEK)

İlgi: İnsan Araştırmaları Etik Kurulu Başvurusu

Sayın Prof. Dr. Mehmet C. Ecevit

Danışmanlığını yürüttüğünüz Fatma Kübra Gökdemir'in ***"Türkiye'deki Feminist Hareketin İstanbul Sözleşmesinin kabulündeki etkisi ve Bu sözleşmenin kaldırılması aşamasındaki rolü ve İstanbul Sözleşmesinin Feminist Hareketin gelişimindeki etkisinin incelenmesi."*** başlıklı araştırmanız İnsan Araştırmaları Etik Kurulu tarafından uygun görülerek **0478-ODTUİAEK-2024** protokol numarası ile onaylanmıştır

Bilgilerinize saygılarımla sunarım.

[redacted]
Prof. Dr. Ş. Halil TURAN
Başkan

[redacted]
Prof.Dr. İ. Semih AKÇOMAK
Üye

[redacted]
Doç. Dr. Ali Emre Turgut
Üye

[redacted]
Doç. Dr. Şerife SEVİNÇ
Üye

[redacted]
Doç.Dr. Murat Perit ÇAKIR
Üye

[redacted]
Dr. Öğretim Üyesi Süreyya ÖZCAN KABASAKAL
Üye

[redacted]
Dr. Öğretim Üyesi Müge GÜNDÜZ
Üye

B. PARTICIPANT PROFILE

Participant	Age	Gender	Educational Level	Residence	Place of Work
1.	45	Female	PhD	İstanbul	İstanbul Okan University, Law Faculty
2.	39	Female	PhD	Ankara	Atılım University, Law Faculty
3.	52	Female	PhD	Ankara	Başkent University, Law Faculty
4.	41	Female	Master's Degree	İstanbul	Sabancı University, Su Gender
5.	44	Female	PhD (Student)	İstanbul	Bilgi University, Human Rights Centre
6.	67	Female	PhD	Ankara	Ankara University, Law Faculty
7.	45	Female	Master's Degree	Ankara	Ankara Bar Attorney
8.	47	Female	Bachelor Degree	Adana	Adana Bar Attorney
9.	45	Female	Bachelor Degree	İstanbul	İstanbul Bar Attorney
10.	45	Female	Bachelor Degree	Ankara	Ankara Bar Attorney
11.	40	Female	PhD	Ankara	Bilkent University, Law Faculty
12.	65	Female	Bachelor Degree	İstanbul	İstanbul Bar Attorney
13.	51	Female	Master's Degree	İstanbul	Independent Writing/Editing Professional, Activist
14.	53	Female	PhD	Ankara	Çankaya University, Political Science
15.	58	Female	PhD	Ankara	Ankara University Political Science

16.	44	Female	PhD	Ankara	Middle East Technical University Sociology
17.	55	Female	PhD	Ankara	Hacettepe University Demography Studies
18.	40	Female	PhD	London	Purple Roof Women's Shelter Foundation Activist/ Academics in Sociology
19.	43	Female	Master's Degree	London	Genderscope Activist
20.	25	Female	Bachelor's Degree	Ankara	We Will Stop Femicide Platform Activist
21.	43	Female	PhD	Ankara	Ankara University Political Science
22.	77	Female	PhD	Ankara	Middle East Technical University Political Science

C. RESEARCH QUESTIONS AND INTERVIEW QUESTIONS

A: Research questions:

- The feminist movement in Türkiye played a significant role in positively influencing the adoption of the Istanbul Convention.
- The legal reforms enacted during the adoption of the Istanbul Convention contributed to strengthening the feminist movement in Türkiye
- The feminist movement played a foundational role in the adoption of the Istanbul Convention and the drafting of Law 6284.
- The agenda of the feminist movement in Türkiye evolved significantly between the 1980s and the 2000s.
- The relationship between the feminist movement in Türkiye and legal issues has been shaped by historical, political, and social influences.
- Türkiye's withdrawal from the Istanbul Convention broadened the scope of the feminist movement's struggle, prompting new forms of activism and resistance.
- The state has been unable to implement the necessary changes to fully comply with the Istanbul Convention due to political, institutional, or ideological barriers.
- A shift in the state's gender policies occurred after 2010, influenced by changing political dynamics, conservative backlash, or international pressures.
- The underlying sources of gender backlash in society stem from deep-seated patriarchal norms, political rhetoric, and resistance to gender equality reforms in Türkiye.

B: Interview Questions for Attorneys and Academics in Faculty of Law

- How to assess the Istanbul Convention as a legal text?
- What is the significance of this convention to Türkiye's current constitution?
- What do you think is the significance of the Istanbul Convention being an international document?
- What influence did the feminist movement in Türkiye have during the adoption of the Istanbul Convention?

- What are your thoughts on the political applicability of the Istanbul Convention?
- What forms of social resistance were encountered in the implementation process of the Convention?
- What happened during the period between the adoption and the withdrawal of the Convention that led to its withdrawal? Considering women's social position and politics, what developments occurred in Türkiye?
- Which segments of society do you think can be considered opponents of the Istanbul Convention?
- Considering the social status of women in Türkiye from the adoption to the withdrawal of the Convention, what did women gain during this period?
- What did the withdrawal of the Convention cost the women's movement in Türkiye?

C: Interview Questions for Academics in Social Sciences and Activists

- What is the feminist character of this Convention? When evaluated from the perspective of different feminisms, which feminism does the Istanbul Convention belong to?
- If we consider the Convention as a legal text, what is its feminist character?
- In your opinion, which political ideologies does this text draw from? Which political ideologies have it excluded?
- How is the queer approach incorporated within this convention? Could you evaluate it in terms of the overlapping and diverging perspectives between queer and feminist approaches?
- How do you view the role of masculinity discussions when evaluating this convention? How would you assess masculinity discussions in the context of this convention?
- How does gender opposition create grounds for discussion in the context of this convention?
- Is it possible to discuss the non-feminist aspects of this convention?
- What is the position of this convention in the feminist struggle? What kind of contribution does it make? How do you assess the relationship between the feminist struggle and the convention?
- How did feminists evaluate this convention? How did non-feminists evaluate this convention?

- How do you evaluate the relationship between academic feminism and activist feminism? How can the distinction between theory and practice be assessed in this context?
- How do you evaluate the relationship between feminism and law? How do you assess the role of law as an obstacle to the existence of feminism?
- What does the absence or presence of a legal framework mean in this context? What are your thoughts on the disregard or non-implementation of legal rules?

D. CURRICULUM VITAE

Surname/Name: Gökdemir, Fatma Kübra

EDUCATION

Degree	Institution	Year of Graduation
Ph.D.	METU Sociology	2025
LLB	Atılım University Law Faculty	2018
M.S.	METU Sociology	2009
B.A.	METU Sociology	2005

EXPERIENCE

Year	Place	Enrollment
2006 - …	TÜBİTAK ULAKBİM	Senior Researcher - TR Index

PUBLICATIONS

1. Büke, A. Gökdemir, F. K. (2009). Günümüz kapitalist tarımında küçük meta üretimi toprak mülkiyeti ilişkisi, Toprak Mülkiyeti Sempozyum Bildirileri, (pp. 188-203). Memleket Yayınları.

2. Furat, M., Gökdemir, F. K., Tecik, Z. (2009). Postmodern feminist kuram kapsamında Postyapısal feminist Post-Marxist feminist yaklaşımlara eleştirel bir bakış. Multi-disipliner kadın konferansı (13-16 Ekim 2009) Bildiri Kitabı 2 (Tam Metin Bildiri/ Sözlü Sunum) Yayın No: 215232

LANGUAGES

Turkish: Native

English: Advanced

German: Basic

E. TURKISH SUMMARY / TÜRKÇE ÖZET

Türkiye'deki feminist hareket, toplumsal cinsiyet eşitliğinin ilerletilmesinde ve kadın haklarının savunulmasında belirleyici bir rol oynamıştır. Özellikle yerleşik ataerkil yapılara ve geleneksel toplumsal cinsiyet normlarına sürekli bir meydan okuyarak kadın mücadelesinin güçlenmesi işlevi görmüştür. Bir dizi kampanya, hukuki mücadele ve farkındalık çalışması yoluyla feminist hareket, toplumsal cinsiyete dayalı şiddet ve ayrımcılığı sürdüren hem toplumsal tutumları hem de hukuki çerçeveleri dönüştürmeyi hedeflemiştir.

Bu mücadelenin önemli dönüm noktalarından biri, resmî adıyla Kadınlara Yönelik Şiddet ve Aile İçi Şiddetin Önlenmesi ve Bunlarla Mücadeleye Dair Avrupa Konseyi Sözleşmesi olan İstanbul Sözleşmesi'dir. 2011'de kabul edilen bu sözleşme, kadınlara yönelik şiddetin önlenmesi, mağdurlara koruma ve destek sağlanması ve faillerin hesap vermesini temin etmeye yönelik kapsamlı bir hukuki ve politik çerçeve sunmaktadır. Sözleşme, üye devletlerde önleme, koruma, kovuşturma ve koordineli politikaları bütüncül bir yaklaşımla entegre etmeye vurgu yapmaktadır. Sözleşmenin kabulü, Türkiye'de kadına yönelik şiddetle mücadele konusunda hükümetin tarihi bir taahhüdüne işaret etmiştir. Ancak bunu izleyen siyasi değişimler ve Türkiye'nin sözleşmeden çekilmesi, bu taahhütlerin sürdürülebilirliği ile ülkede toplumsal cinsiyet haklarını korumak ve ilerletmek için feminist hareketten beklenen kesintisiz savunuculuğa dair kritik tartışmaları ortaya çıkarmıştır.

Bu tez, son 40 yılda Türkiye'deki hukuk sistemi ile feminist hareket arasındaki gelişen ilişkiyi derinlemesine incelemeyi amaçlamaktadır. Bu zaman zarfında hukuk sisteminin, cinsel istismar, şiddet ve kadın cinayetleri gibi meselelerin ele alınmasında kritik bir araç olarak nasıl öne çıktığını; yasaların ise koruyucu önlemlerin kurumsallaştırılmasında anahtar işlev gördüğünü iddia etmektedir. Ancak bu ilişkiyi 1980'lerden günümüze izleyerek, çalışma hem hukuk alanında kaydedilen ilerlemeleri hem de ısrarla devam eden toplumsal cinsiyet eşitliğine erişmekteki zorlukları

vurgular; mevzuat değişikliğinin, kadın haklarının geliştirilmesi ve toplumsal cinsiyete dayalı şiddetin önlenmesinde belirleyici bir etken olduğu ama tek başına yeterli olmadığının altını çizer. Çalışma ayrıca, İstanbul Sözleşmesi'ni hem Türkiye'deki feminist savunuculuğun bir sonucu hem de feminist savunuculuğun büyümesinde itici bir güç olduğunun altını çizer.

Özellikle son 20 yılda feministlerin öncelikleri toplumun ihtiyaçları doğrultusunda değişim göstermiştir. Hukuk sisteminin, toplumsal cinsiyete dayalı şiddet ve diğer kritik meselelerin ele alınmasında başlıca bir mücadele alanına dönüştüğü düşünülmektedir. Bu çalışma, kadınların hukuki mücadelelerine yönelik artan medya ilgisi, cinsel şiddet ve taciz vakalarına ilişkin toplumsal farkındalığı artırmış ve böylece feminist hareketin görünürlüğünü ve etkisini güçlendirdiğini iddia etmektedir. Günümüz Türkiye'sinde feminist hareket, toplumsal cinsiyet meselelerini ele alan hukuki dönüşümlerle eşzamanlı olarak toplumsal dönüşümü sağlamayı hedeflemiştir. Ne var ki, yalnızca yasal metinleri değiştirmenin yeterli olmadığı; toplumun kendisinin toplumsal cinsiyet eşitliği temelinde bir dönüşümden geçmesinin önemli olduğudur. Çoğunlukla, toplumun yaşanan gerçeklikleri ile yazılı hukuk arasında bir boşluk bulunur. "Kitaptaki hukuk" ile "eylemdeki hukuk" arasındaki fark olarak tarif edilen bu uyumsuzluk, yasaların uygulamada amaçlanan sonuçlardan nasıl sapabildiğini gösterir. Bu ayrışma; yargıçlar, avukatlar ve icracı yetkililer arasındaki yorum farklılıklarından, ayrıca toplumsal önyargılar ve güç dinamikleri gibi sosyal faktörlerden kaynaklanır. Nihayetinde, hukuki teori ile pratik arasındaki uyumsuzluk, salt hukuki kaygılardan ziyade siyasal güç ve toplumsal ilişkiler tarafından daha fazla şekillenir (Ertürk, 2022, s. 91).

Bu tezin araştırma soruları şu şekildedir;

1. Türkiye'deki feminist hareketin İstanbul Sözleşmesi'nin kabulünde olumlu bir etkisi olmuştur.

- İstanbul Sözleşmesi'nin kabul edilmesi sürecinde yapılan hukuki değişiklikler feminist hareketi güçlendirmeye katkıda bulunmuştur.
- Feminist hareketin İstanbul Sözleşmesinin kabulünde ve 6284 kanunun hazırlanmasında kurucu bir rol oynamıştır.

- Feminist hareketin gündemi 80'li yıllardan 2000'li yıllara gelindiğinde önemli ölçüde değişmiştir.
- Türkiye'de feminist hareket ile hukuki değişiklikler arasındaki ilişki tarihsel, politik ve toplumsal etkilerle şekillenmiştir.

2. Türkiye'de İstanbul Sözleşmesi'nin kaldırılması aşamasında bu durum feminist hareketin mücadele alanını genişletmiştir.

- Türkiye'nin İstanbul Sözleşmesi'nden çekilmesi, feminist hareketin mücadelesinin kapsamını genişleterek yeni aktivizm ve direniş biçimlerini ortaya çıkarmıştır.
- Devlet, siyasi, kurumsal veya ideolojik engeller nedeniyle İstanbul Sözleşmesi'ne tam olarak uyum sağlamak için gerekli değişiklikleri hayata geçirememiştir.
- 2010 sonrasında devletin toplumsal cinsiyet politikalarında, değişen siyasi dinamikler, muhafazakâr geri tepmeler nedeniyle bir değişim yaşanmıştır.
- Toplumdaki toplumsal cinsiyet karşıtı tepkilerin temel kaynakları, köklü ataerkil normlardan, siyasi tutumdan kaynaklanmaktadır.

Araştırma Yöntemi

Bu tez, nitel araştırma yöntemini temel almakta ve feminist metodoloji ile uyumlu bir çerçevede konumlanmaktadır. Feminist yöntem, iktidar ilişkileriyle iç içe geçmiş geleneksel disipliner uygulamalara meydan okuyan, onları sorgulayan özgün yaklaşımlar geliştirmektedir (DeVault, 1990, s. 96). Feminist duruş kuramı, toplumsal yaşamı şekillendiren cinsiyetçi ve androcentrik ideolojilerin altında yatan yapıları açığa çıkarmayı amaçlamakta; kadınların gündelik deneyimleri ile güçlü toplumsal kurumların özellikle araştırma disiplinlerinin kavramsal pratikleri arasındaki ilişkiye dikkat çekmektedir. (Harding, 2004, s. 6).

Feminist metodoloji, feministlerin çeşitli araştırma yöntemlerini kullandığını ve uyarladığını kabul ederek çoğulcu bir yaklaşımı benimser. Bu çeşitlilik, feminist araştırmalar içindeki gereksiz bölünmeleri ortadan kaldırmaya yardımcı olur ve gelecekteki çalışmalar için çeşitli stratejileri keşfetme fırsatları sunar. Feminist metodoloji, sabit bir ilkeler dizisi değil, sürekli bir diyalog ile karakterizedir. Değişen sosyal bağlamlara ve feminist araştırmanın gelişen ihtiyaçlarına uyum sağlar ve cinsiyet ve iktidar ilişkilerine dinamik bir anlayış sunar (De Vault, 1996, s. 31-34).

Bu amaçla tez, nitel bir çalışma olarak tasarlanmıştır. Bu çerçevede, hukuk fakültesi ve sosyal bilimlerde çalışan akademisyen kadınlar, kadın avukatlar ve kadın örgütlerinde çalışanlardan oluşan 22 kadınla derinlemesine mülakatlar yapılmıştır. Katılımcılarla yapılan görüşmeler, tematik analiz teknikleri kullanılarak çözümlenmiştir.

Bu çalışmada İstanbul Sözleşmesi hukuki, toplumsal ve politik yönleri ile bütünsel şekilde incelemek amaçlanmaktadır. Öncelikle, sözleşme hem bir hukuk metni hem de toplumsal bir metin olması sebebiyle, yarı yapılandırılmış mülakatların bir kısmı avukatlarla, bir kısmı da hukuk alanında çalışan akademisyenler, bir kısmı da sosyal bilimler alanlarında uzmanlaşmış ve kadına yönelik şiddet konusu ile ilgilenen akademisyenlerle gerçekleştirilmiştir. Daha önce de belirtildiği üzere kadın sorunlarına odaklanan sivil toplum kuruluşlarında çalışan feminist kadınlarla da mülakatlar yapılmıştır. Bu kişiler de iki alt gruba ayrılmıştır. Bir grubu bu kuruluşlarda profesyonel olarak çalışanlardan, diğer grup ise gönüllü olarak faaliyet yürütenlerden oluşmaktadır. Sosyal bilimler alanında uzman olan akademisyenlerden dördü siyaset bilimi, ikisi sosyoloji ve biri demografi bölümlerindendir.

Görüşme yapılan avukatlar, Türkiye'deki baroların kadın merkezlerinde aktif olarak çalışmaktadırlar. Ayrıca Türkiye'nin İstanbul Sözleşmesi'nden çekilme sürecinde Danıştay'da açılan davada müdafi olarak avukat olarak görev almışlardır.

Bu çalışmada üç farklı mülakat formatı kullanılmıştır. İlki hukuk fakültesindeki akademisyenlere ve avukatlar için tasarlanmıştır; ikincisi sosyal bilimlerdeki akademisyenler için farklı sorular hazırlanmıştır. Üçüncüsü ise bu iki formatın soruları birleştirilerek, sivil toplum örgütlerindeki aktivistlere de yöneltilmiştir. Bu çalışma boyunca feminist hareket ile İstanbul Sözleşmesi arasındaki ilişkinin karşılıklı olarak güçlendirici bir ilişki olup olmadığı sorgulanmıştır. Sözleşme, feminist harekete toplumsal cinsiyet eşitliği savunuculuğu için resmî bir hukuki çerçeve sağlamıştır. Hareketin ısrarlı çabaları da sözleşme ilkelerine yönelik farkındalığı, desteğin toplumda artırmasını sağlamaya yöneliktir. Bu dinamik etkileşim, hem kadın hareketinin hem de sözleşmenin oluşturulduğu toplumsal koşulların gelişimine katkı sağladığı düşünülmektedir.

2000'lerin başından bu yana, Türkiye'de kadınlar, cinsel istismar ve tecavüz davalarını yargıya taşıyarak hem yargı içinde hem de toplum genelinde kadına yönelik şiddetin bir ayrımcılık biçimi olarak görülmesini sağlamaya ve buna yönelik yapısal sorunları görünür kılmaya çalışmışlardır. Bu hukuki girişimler; kadınların nasıl öldürüldüğünü veya saldırıya uğradığını ayrıntılı biçimde aktaran sarsıcı medya haberleriyle kamuoyunun dikkatini çekmiştir. Bunu kadınların maruz kaldığı şiddeti bir tür "şiddet pornografisi" olarak tanımlamak mümkündür. Kadına yönelik şiddete odaklanan bu yoğun ilgi, toplumsal farkındalığı artırmakla birlikte toplumdaki yaygın önyargıları da ortaya çıkarmaktadır.

Kadın mağdurlar çoğu kez bulundukları yer, giyimleri veya cinsel ilişkileri nasıl deneyimledikleri gibi tercihleri üzerinden sorgulanmıştır. Bu sorgulamalar, kadınların deneyimlerinin toplumda var olan basmakalıp düşüncelere işaret etmektedir. Ayrıca hukuk sisteminde kadınlar adalet arayan bireyler olarak görülmek yerine, çoğu zaman kadınlık ve dişilik üzerine kısıtlayıcı görüşleri pekiştiren eleştirilere maruz kalmaktadırlar.

Şiddete Genel Bakış

Kadına yönelik şiddet, ciddi bir insan hakları ihlali ve halk sağlığı sorunu olarak kabul edilmektedir. (Moreno ve diğerleri, 2006, s. 1260) Kadına yönelik şiddet, Kadına Yönelik Şiddetin Ortadan Kaldırılmasına Dair Bildirge'de (United Nations, 1993, s. 1) tanımlanmış ve kadınlara fiziksel, cinsel, psikolojik veya ekonomik zarar veren ya da verme potansiyeli taşıyan her türlü toplumsal cinsiyete dayalı eylemi kapsamaktadır.

Şiddetin nedenleri biyolojik, psikolojik ve sosyolojik teorilerle açıklanmaktadır. Biyolojik açıklamalar genetik yapı ve hormon düzeylerine; psikolojik açıklamalar ise ebeveynlik, kayıplar veya çocuklukta yaşanan istismarlara odaklanır. Sosyolojik teoriler ise şiddet uygulayanların sınıf, toplumsal cinsiyet veya kişilerarası ilişkilerine vurgu yapar (Stanko, 2003, s. 1). Flood & Pease (2009, s. 126), şiddete yönelik tutumları etkileyen başlıca etmenleri toplumsal cinsiyet rolleri, kültürel, sosyo-ekonomik ve bireysel faktörler ile toplumsal bağlamlar olarak sınıflandırmaktadır.

1990'lardan itibaren literatürde partner şiddetinin türleri —yakın terör, sıradan çift şiddeti, şiddetli direnç ve karşılıklı şiddet kontrolü— ayrıştırılmıştır. Bu türlerde kontrolün merkezi rolü özellikle vurgulanmış, ancak farklı ilişki bağlamlarının da dikkate alınması gerektiği belirtilmiştir (Johnson & Ferraro, 2000, s. 949). "Şiddet gören kadın savunması" kapsamında, uzun süreli istismara maruz kalan kadınların partnerlerini öldürmeleri halinde ceza indirimi gündeme gelebilmektedir (Martin, 2003, s. 46; Saunders & Browne, 2000, s. 420). Aile içi şiddet yalnızca heteroseksüel ilişkilerle sınırlı olmayıp eşcinsel ilişkilerde de görülebilmektedir. (Johnson, 2011, ss. 290-294).

İstanbul Sözleşmesi'nde yer alan şiddet türleri, yakın terör kavramıyla örtüşmekte olup fiziksel, cinsel, psikolojik ve ekonomik şiddeti ve baskıcı kontrol stratejilerini kapsamaktadır (İstanbul Sözleşmesi, m. 3). Sözleşmenin amacı şiddet döngüsünü kırmak ve kadınların şiddetten uzak yaşama hakkını güvence altına almaktır. Literatürde aile içi şiddetin topluma maliyetleri (Kaur & Garg, 2008, s. 73), şiddetin kuşaklar arası aktarımı (Markovitz, 2001, s. 216) ve demokratik temsiliyet üzerindeki olumsuz etkileri (Krook & Sanín, 2016, s. 465; Watts & Zimmerman, 2002, s. 1232) de vurgulanmaktadır.

Aile içi şiddetin toplumun çeşitli kesimlerini derinden ve sessizce zorladığını, bir ülkenin ilerleyişini olumsuz etkilediğini ileri sürmektedir. Fail davranışlarının, kolluk kuvvetleri, sağlık sistemi, üretkenlik kaybı ve genel kalkınmaya maliyeti çok yüksektir. (Kaur & Garg, 2008, s. 73) Bu etkiler yalnızca mevcut nesille sınırlı kalmaz; iki birey arasında başlayan şiddet, ailelere ve topluluklara yayılır ve geleceği de etkiler. Markovitz (2001, s. 216), şiddet döngüsünün çocuklar aracılığıyla sürdürüldüğünü vurgular. Şiddete daha sık maruz kalan çocukların, ileriki yaşamlarında eşlerine şiddet uygulama ihtimalleri daha yüksektir. Anne-babalarının birbirine fiziksel şiddet uyguladığını gözlemleyerek ve bizzat şiddeti deneyimleyerek, şiddeti geçerli bir çatışma çözme yöntemi olarak öğrenirler ve bunu kendi ilişkilerinde de tekrar ederler. Bu durum, şiddetin kuşaklar arası aktarımı olarak adlandırılır ve toplum içinde şiddet döngüsünün devamlılığını ifade eder. Siyaset bağlamında, kadına yönelik şiddet, gücü elinde tutmanın bir yöntemi ve toplumda erkek ayrıcalığı ile otoritesinin bir yansıması olarak görülebilir. Bu yaygın sorun, kadınların siyasi katılımını kısıtlamakta ve onların

katılımcı olarak meşruiyetini azaltmaktadır. Sonuç olarak, bu durum demokratik temsiliyet ve toplumsal cinsiyet eşitliği açısından olumsuz etkiler doğurmaktadır. (Krook & Sanín, 2016, s. 465) Kadına yönelik şiddet yalnızca toplumsal cinsiyet eşitsizliğinin bir sonucu değildir; aynı zamanda güç dağılımındaki eşitsizliği pekiştirmekte ve sürdürmektedir. (Watts & Zimmerman, 2002, s. 1232) Bu eşitsiz güç koşullarının tersine çevrilmesi çok yönlü bir yaklaşım gerektirir.

Kadına Yönelik Şiddet Üzerine: İstanbul Sözleşmesi

Bu tezin en merkezi yerinde İstanbul Sözleşmesi bağlamında kadına yönelik şiddet konusu yer almaktadır. Bu çalışma kapsamında sözleşme, küresel kadın hareketinin ve uzun süreli mücadelesinin bir ürünü olarak ele alınırken, aynı zamanda Kadınlara Karşı Her Türlü Ayrımcılığın Ortadan Kaldırılması Sözleşmesi'nin (CEDAW) ve özellikle toplumsal cinsiyete dayalı şiddeti bir ayrımcılık biçimi olarak tanımlamanın yolunu açan 19 ve 35 No'lu genel tavsiye kararlarının öneminin altını çizmek gerekir.

Toplumsal cinsiyet perspektifi, hukuki normların oluşumunda ve türetilmesinde rol oynamaya başlamıştır. Bu dönüşümün temeli, toplumsal cinsiyet eşitliğine ilişkin hukuki normların türetilebilmesi açısından bir dayanak olarak kabul edilmesi gereken CEDAW'da bulunabilir. Aynı zamanda bu temel, hem CEDAW Komitesi'nin kararları hem de İstanbul Sözleşmesi gibi sözleşmeler aracılığıyla gelişmiştir (Uygur & Özdemir, 2020, s. 69).

İstanbul Sözleşmesi, kadına yönelik şiddetin ortadan kaldırılması için beş temel aktöre sorumluluk yüklemektedir: Taraf devletler, yerel yönetimler ve kamu kurumları, sivil toplum kuruluşları, bireyler ve özel sektördür.

Taraf devletlerin önleme tedbirleri kapsamında politika geliştirme ve eğitim gibi özel yükümlülükleri vardır. Politika geliştirme, kadına yönelik şiddeti önlemeye yönelik stratejiler oluşturmayı ve uygulamayı, farkındalık kampanyaları düzenlemeyi içermektedir. Eğitim ise kamu görevlileri, sağlık çalışanları ve eğitimcilerin şiddeti önleme girişimlerini destekleyecek biçimde eğitilmesine odaklanır. (İstanbul Sözleşmesi, md. 7, 14, 18).

İstanbul Sözleşmesi, devlete kapsamlı sorumluluklar yüklemekte; hükümetlerin kadına yönelik şiddeti önlemek ve ona müdahale etmek, mağdurları korumak ve failleri cezalandırmak için kapsamlı tedbirler almasını zorunlu kılmaktadır. Bu yükümlülükler; yasa çıkarma, mağdurlara destek hizmetleri sağlama, kolluk kuvvetleri ve yargı organlarının yeterli yanıt vermesini temin etme ve toplumsal cinsiyete dayalı şiddeti önlemeye yönelik farkındalık çalışmaları yürütme gibi alanları kapsamaktadır. Ayrıca, şiddetin toplum tarafından kabul edilmediği bir düzenin inşası için farklı sektörler arasında koordineli çaba ve işbirliği ihtiyacının altı çizilmektedir.

Özellikle devlet kapasitesindeki sınırlılıklar ve yargı sisteminin işlevselliğindeki sınırlılıklar, hem siyasal şiddeti hem de toplumsal cinsiyete dayalı şiddeti doğrudan etkileyen kritik faktörlerdir. Cezasızlığın sürdüğü ve kolluk kuvvetlerinin etkisiz kaldığı durumlarda mevcut yasalar işlevselliğini yitirmekte, yeterli koruma ve adalet sağlayamamaktadır (Krook & Sanín, 2016, s. 464).

Toplumsal cinsiyet eşitliğinin sağlanması, toplumsal değişime işaret eder. Bu toplumsal değişim, yalnızca hukuk sistemindeki değişimle değil, pratik yaşamdaki değişimle de açıklanabilir. Bu bağlamda, toplumsal değişim ile hukuk arasındaki ilişkiye dair bazı sorular akla gelir: Toplumsal mutabakat toplumsal değişimi hızlandırır mı? Hukuk, toplumsal mutabakat inşa etmenin bir aracı mıdır? Hukuk kuralları değiştiğinde toplum da bununla birlikte değişir mi? Hukuk kuralları toplumsal değişimlere hızla uyum sağlar mı yoksa geriden mi gelir? Hukuk sistemi toplumsal değişimlere hızla uyumlanabilir mi?

Bu soruların yanıtlarını vermek oldukça zordur. Ancak şu var ki; hukuk sistemi toplumdan azade değildir; aynı şekilde toplumsal yaşam da hukuk sisteminden bağımsız değildir. Mandelker (1970, ss. 355–357), hukuk ile toplumsal değişimin rolüne dair bir değerlendirme sunar. Toplumsal reformların hedefleri konusunda mutabakat eksikliği olduğunda mahkemelerin anlamlı değişim yaratmakta zorlandığını; bu uzlaşmazlığın yargısal etkiyi zayıflatarak sürdürülebilir reformları engelleyebileceğini belirtir. Ayrıca Mandelker (1970, ss. 355–357), hukuk reformlarının sıklıkla mevcut sistemler içinde temsiliyet ve erişimi artırma gibi "tahsis edici (allocative)" meselelere öncelik verdiğini; buna karşın yapısal eşitsizliğin

temelinde yatan dağıtım adaleti (distributive justice) sorunlarını ihmal ettiğini vurgular. Yalnızca hukuki mekanizmalara aşırı bel bağlamamaya dikkat çeker; zira mevcut sistem içinde sadece marjinal grupları güçlendirmek, toplumsal sorunların nedenlerini gözden kaçırmasına neden olabilir. (1970, ss. 355–357).

Bunun yanı sıra, hukuk sisteminde maskelerin rolü vardır. Hukuk, önemli toplumsal gerçeklikleri gizlemenin ve mevcut güç ilişkilerini sürdürmenin bir aracı olabilir. Bu, maskelerin hukuki sürecin ayrılmaz bir parçası olduğu; alttaki esas kuralları perdeleyen ve sıklıkla iktidar sahiplerini kayıran bilinçdışı önyargıları yansıttığı anlamına gelebilir. Bu, hukukta maskelerin kaçınılmazlığı ilkesi olarak değerlendirilebilir. Bir diğer nokta, hukuk sistemine dahil olan katılımcıların insaniliğine gönderme yapan deneyimin küçümsenmesidir; bu, hukuki muhakemenin gerçek duygulardan ve deneyimlerden kopmasına yol açmaktadır.

Bir başka nokta, kültürel at gözlüklerinin bireylerin kullandıkları maskeleri fark etmelerini engellemesidir; bu da adalet üzerindeki etkilerine dair farkındalığın artırılmasını zorunlu kılar. Dahası, hukuki maskeler özellikle marjinal davacılar ile daha ayrıcalıklı davalılar arasındaki toplumsal çatışmaları da pekiştirebilir; böylece hukuki çerçeve içinde mevcut güç dinamiklerini sürdürülmesine neden olur (Weyrauch, 1978, s. 706). Bu hukuk maskesi kavrayışı, hukukun egemen sınıfın çıkarlarını yansıttığını ve sürdürdüğünü söyleyen Marx'ın tespitiyle de örtüşmektedir. Bu durum, toplumsal sınıflar arasındaki çatışmaların sürekliliğine katkıda bulunmaktadır. Marx'ın hukukun statükoyu koruduğu ve burjuvazinin ayrıcalıklarını muhafaza ettiği yönündeki argümanı gibi, hukuk maskeleri fikri de hukukun adaletsizlikleri nasıl örtebildiğini ve mevcut güç ilişkilerini nasıl güçlendirebildiğine dikkati çeker. (Mandel, 1986, s. 11) Her iki bakış açısı da hukukun tarafsız bir adalet anlayışı sahip olmasından ziyade, toplumsal hiyerarşileri sürdüren ve bu eşitsizliği pekiştiren bir mekanizma işlevi görebildiğini; nihayetinde farklı toplumsal gruplar arasındaki gerilim ve çatışmalara yol açtığını ortaya koymaktadır.

Buna karşılık bazı akademisyenler, hukuk sisteminin bağımsız bir değişken gibi göründüğünü savunur. Bu düşünce, siyasal ve hukuki alanları birbirinden ayıran liberal hukuk teorisine dayanır.

Liberal hukuk teorisi, hukuk önünde eşitlik, bireysel hak ve özgürlüklerin korunması ve kuvvetler ayrılığı gibi ilkelere vurgu yapar. Liberal hukuk teorisinde hukukun üstünlüğünün merkezi önemi, bireysel özerkliğin korunması için hayati olan öngörülebilirlik vurgu da yer alır (Waldron, 1989, s. 79).

Feminist düşünürler ise hukukun doğası ve özgüllüğünü sorgulamış; hukukun toplumsal ve siyasal yaşamın diğer alanlarından koparılmasına yönelik eleştirel bir bakış geliştirmişlerdir. Feministler, hukukun adil, tarafsız ve ilerlemeci olduğu yönündeki geleneksel görüşe itiraz ederek; hukukun eşitsizlik, dışlama ve baskıyı sürdürme ve ağırlaştırmadaki rolünü öne çıkarmışlardır.

Hukukun üstünlüğü ve liberal hukuk anlayışları, baskı sorunlarını ele almakta yetersiz kaldığı gerekçesiyle eleştirilir. Bu eleştirinin sıkça vurgulanan boyutu, liberal hukuk sistemlerindeki kamusal/özel ayrımıdır. Feminist eleştiri özellikle, bu ayrımın özel alanı hukuki incelemeden ve eşitlik ile insan hakları gibi evrensel ilkelerden muaf kıldığını ileri sürmektedir (Hunter, 2013, s. 19).

Hukuka Feminist Bakış

Hukuki feminizmin erken yaklaşımı, erkekler ve kadınlar arasında hukuki bir ayrım olmadığını belirten eşitlik kavramına dayanmaktadır. Bu perspektif, hukukun kadınların kamusal alandan dışlanmasını desteklediği tarihsel koşulları yansıtır. Dışlanmanın meşrulaştırılması, kadınların benzersiz üreme rollerinin onları kamusal yaşamın zorluklarından koruduğu inancına dayanıyordu. Fark kavramı, kadınların kamusal alandan dışlanmasının gerekçelendirilmesinin önünü açtı. Zamanla kadınlar, eşitliği önceleyip onları kamusal alanın dışına iten bu asimilasyoncu ideolojiyi aşmaya çalıştılar (Hunter, 2013, s. 23).

Kamusal alan, antik dönemde özel sayılanın kamusal olarak yeniden tanımlandığı; devlet ile toplum arasında aracılık eden ve devlet dışı düşüncelerin şekillendiği bir alan olarak betimlenir (Habermas, 1964, s. 49). Kamusal alan çoğu kez demokratik ilkelere, ifade özgürlüğüne ve ortak amaçlar doğrultusunda fikir alışverişi ile ilişkilendirilir. Olsen (1993, ss. 319–327), özel olanı doğuştan veya nesnel bir özellik değil, politik

olarak inşa edilmiş ve tartışmaya açık bir alan olarak görür. Kamusal/özel ayrımına meydan okumak, devletin bireylerin yaşamlarının her yönünü düzenlediği bir sisteme yol açabilir ve hiçbir şeyin kişisel/özel kalmaması riskini doğurabilir. Olsen, kamusal/özel ayrımına yönelik feminist eleştirilerin çeşitli ve önemli olduğunu belirtir. Bu ayrım olmasa da cinsiyet hiyerarşisi varlığını sürdürebilir; ancak toplumun kamusalla özel arasındaki çizgiyi bugün çizme biçimi, kadınların ezilmesini pekiştirir. Hangi faaliyetlerin hangi kategoriye girdiğini ayarlamak tek başına kadınların konumunu anlamlı ölçüde iyileştirmeyecektir. En etkili feminist eleştiriler, "kamusal" ve "özel"i nasıl tanımladığımızı temelden yeniden düşünmeyi, mevcut sistemin statükoyu nasıl sürdüğünü daha derinlemesine incelemeyi ve toplumsal dönüşümü hayal etmek için yeni yaklaşımlar geliştirmeyi hedefler.

Carole Pateman, feministlerin, daha önce ayrı ve çatışmalı görülen ev içi (özel) alan ile sivil toplum (kamusal) alanın aslında özünde iç içe olduğuna işaret ettiklerini kabul eder (Marmor, 2012, s. 591).

Kadınların hanelerinde sosyal izolasyon ve mahrem ilişkilerinde itibarsızlaştırma yaşamaları, kamusal/özel ayrımına yönelik bir eleştiridir. Bu durum, kadınların özel alana kapanmasının politik sonuçları olduğunu; eşitsizliğin ortak zemini olarak bu alanın işlev gördüğünü gösterir. Feminizm, özel alanı siyasetten ayrı görmez; tersine onu doğası gereği siyasal kabul eder. Özel alanda, zora dayalı eylemler rıza varsa (ki çoğu kez varsayılır) hukuki hâle gelir.

Kamusal ve özel alanlar arasındaki ilişkiyi kavramak, toplumsal iktidar dinamiklerini anlamak için kritiktir. Tarihsel olarak özel alan kadınlarla sıkı biçimde ilişkilendirilirken, kamusal alan çoğunlukla erkekler tarafından işgal edilmiştir. Devlet gibi kurumları da içeren bu erkek egemen kamusal alan, sivil özgürlükleri etkileyebilecek yapılara ve normlara sahiptir; kamusal alanın yapıları, kadınların ikincilleştirilmesini sıkça pekiştirir ve kadınların özerkliğini sınırlar. Bu alanların nasıl etkileştiğini incelemek, toplumsal cinsiyet eşitsizliğini ayakta tutan mekanizmaları ve kadın hak ve özgürlükleri üzerindeki etkilerini daha iyi anlamayı sağlar. Copelon (2008, s. 237), kadınlara yönelik mahrem şiddetin, erkek egemenliğini ve kontrolünü yücelten ataerkil değerler ile kadınların tabiiyeti ve uyumuna ilişkin kabullere

derinden kök salmış yaygın bir "kültürel pratik" olarak tarif edildiğini savunur. Bu davranış, aileler içinde sosyal ve ekonomik düzeylerde eşitsizlikleri sürdüren toplumsal yapılar tarafından pekiştirilir; kadınlar için korku ve yıldırma ortamı oluşturur. Nihayetinde geleneksel toplumsal cinsiyet rollerini yeniden üretir ve baskı sistemlerini ayakta tutar. Kamusal alanına müdahale etmeyen siyaset tercihi, sözde mahremiyet perdesi altında bu şiddetli güç dinamiklerinin denetimsiz sürmesine izin verir.

Özel alanın kamusal denetime kapalı olduğu fikrinin pekiştirilmesi, baskıcı davranışların devamını mümkün kılar; bu da devletin müdahalesinin—ya da yokluğunun—mahrem ortamlardaki şiddeti nasıl ya zayıflatabileceğini ya da pekiştirebileceğini eleştirel biçimde irdelemeyi gerektirir (Copelon, 2003, s. 827). Bu, patriyarkanın evlilik gibi özel alan sınırlarını aşıp istihdam ve kapitalist piyasa dâhil kamusal alana yayıldığını da gösterir.

Pateman (1988, ss. 117–135), karı-koca ilişkisini istihdam sözleşmelerine benzeyen bir sözleşme düzeni olarak ele alır; buna cinsel sözleşme denir. Bu düzenlemenin, aile birimi ve kapitalist sistemler içindeki daha geniş tabiiyet kalıplarını yansıttığını öne sürer. Resmî iş sözleşmelerinde bireyler emeklerini ücret karşılığı değiş tokuş ederken, eşler arasında böyle bir sözleşme bulunmaz; kadınların emeği ücretsizdir ve evlilik statüsünün denetimine tabidir; bu da erkeklerin kadın emeği üzerinde otorite kurduğu ataerkil yapıları güçlendirir. Ayrıca Pateman, kapitalizmin ataerkillik ile iç içe olduğunu savunur; ekonomik sistemin toplumsal cinsiyet temelli hiyerarşileri sürekli kıldığına işaret eder. Bu bakış, aile içindeki kadın emeği üzerindeki ataerkil denetimin daha geniş toplumsal yapılara uzandığını ve erkek egemenliğinin her iki alanda birden kurulduğunu gösterir (1988, s. 139).

Ataerkil toplumlarda kadınlara yönelik şiddet genellikle özel bir mesele olarak etiketlenmiş; bu da failleri hukuki denetim ve cezalandırmadan koruyan bir mesafe yaratmıştır. Böyle bir sınıflandırma, eylemi işleyenleri korurken mağdurları hesap verebilirlik ve adalet imkânlarından yoksun bırakır (Youngs, 2003, s. 1209). Bu kapsamda İstanbul Sözleşmesi, ev içi şiddetin durdurulmasına yönelik bir dizi öneride bulunur. Bu öneriler, kadınları şiddetten korumak için özel alana devlet müdahalesini

mümkün kılar. Sözleşme'nin 3. maddesi, sözleşmenin amacını açıklar. Madde 3(a), "kadınlara yönelik şiddet"i kadınların insan haklarının ihlali ve bir ayrımcılık türü olarak tanımlar. Bu kavram, kadınlara fiziksel, cinsel, psikolojik veya ekonomik zarar veya ıstırap veren ya da verme ihtimali olan her türlü eylemi kapsar. Buna tehditler, zorlama veya özgürlükten keyfî yoksun bırakma da dâhildir.

Kadına yönelik şiddet ister kamusal, ister özel alanda gerçekleşsin devletin yükümlülüğü doğurur. Kamusal/özel alana dair vurgu yapan diğer madde de Madde 4(1)'dir. Buna göre tarafların herkesin—özellikle de kadınların—hem kamusal hem özel alanlarda şiddetten azade olmasını sağlamak için hukuki ve diğer tedbirleri uygulamaya koymalarını zorunlu kılar. Kamusal/özel alan tartışması, İstanbul Sözleşmesi bağlamında böylece somutlaşır. Madde 3 ve 4 uyarınca, özel alana devlet müdahalesi, aile içi şiddetin önlenmesinde kaçınılmaz bir yoldur. Devletin şiddeti önlemedeki rolü ise karmaşıktır.

Feministler, devletin kadınları görmezden gelmesini ve yurttaşlar ile çalışanları cinsiyetsiz (ya da erkek varsayılan) kabul etmesini eleştirir. Oysa devlet politikaları, vatandaşlık, işgücü piyasası ve devlet şiddeti gibi alanlarda kadınları erkeklerden farklı etkiler. Kadınların karşılıksız ev içi ve yeniden üretim emeği, tüm devletler için kritik öneme sahip olmasına rağmen sıkça görmezden gelinir. Pek çok devlet, kadınları özel ya da bağımlı bireyler olarak kabul ederek marjinalleştirir (Pettman, 1996, ss. 9–10). Devletin sözde cinsiyetsiz eylemlerinin aksine, Sözleşme mağdurlar için kamusal ve özel alanların şiddetten arındırılmasını güvence altına almaya çalışır. İstanbul Sözleşmesi'nin kabulü, kadınlara yönelik şiddetin durdurulması ve feminizmin yükselişi üzerinde olumlu etki yapmıştır. Türkiye'de kültür veya gelenek vurgularının yoğunlaşması ise sözleşmeden çekilmeyi meşrulaştıran bir kamuflaj işlevi görmüştür. Bu kültür/gelenek referanslarını yeni bir siyasi aktivizmle nasıl aşabiliriz? Ayrıca şiddete karşı mücadelenin kritik noktası, bu kamuflaj yollarına dair farkındalığın artırılmasıdır.

MacKinnon (1983, s. 50), bu kamuflajın, bilgiyi kontrol etme ve tanımlama gücüne ilişkin temel bir fikirler bütününe dayandığını; dolayısıyla nesnellik, güvenilirlik ve gerçekliğe dair hâkim inançlarla erkek egemenliği arasındaki ilişkiyi kurduğunu

savunur. Tarihsel olarak erkekler, kendi bakış açılarını nesnel hakikat olarak konumlandırmış; kadınların farklı deneyimlere dair anlatılarını inanılmaz saymış veya tümden göz ardı etmiştir. Bu "tanımlama yetkisi", cinselliğin erkek arzularına göre resmedilmesinde kullanılmış; pek çok kadının zararlı ya da zorlayıcı olarak algıladığı deneyimler, normal ve rızaya dayalı olarak etiketlenmiştir (Finley, 1988, s. 355).

İstanbul Sözleşmesi bu kamuflajı aşmada kritik olmakla birlikte yeterli değildir. Zira sözleşme, aile içi şiddetin önlenmesinde pratik engellerin nasıl aşılacağına dair doğrudan bir yol haritası sunmak yerine, toplumsal cinsiyete duyarlı bir yaklaşımı savunur. İstanbul Sözleşmesi, kadınlara yönelik ve aile içi şiddetle mücadeleye odaklanır; bu tür şiddetin eşitsiz güç dinamikleri ve eşitsizlik üreten toplumsal cinsiyet normlarından kaynaklandığını kabul eder. Sözleşme, bir kadının ev içi emekle meşgul olmayı seçmesi gibi bireysel tercihlere saygı duyar; bununla birlikte herkesin toplumsal cinsiyetten bağımsız olarak adil ve onurlu muamele gördüğü bir toplumdan yanadır. İstanbul Sözleşmesi, aile adetlerini değiştirmeyi ya da eşcinsel evlilik ve trans haklarını desteklemeyi amaçlamaz; birincil hedefi, tüm kadın ve kız çocuklarını şiddetten korumaktır. Ancak sözleşme karşıtları, sözleşmenin bireylerin toplumsal cinsiyet rollerini "değiştirmesine" imkân tanıyabileceğini iddia eder. Bu iddialar, toplumsal cinsiyet (gender) ile cinsiyet kimliği (gender identity) kavramlarının karıştırılmasından beslenir (Bosak & Vajda, 2019, s. 80).

İstanbul Sözleşmesi, kadınlara yönelik şiddeti toplumsal cinsiyet temelli bir kavrayışla ele alır; bu, toplumsal cinsiyet rollerine, eşitsizliğe, kalıp yargılara ve ayrımcılığa işaret eder. Toplumsal cinsiyete dayalı her türlü şiddet, kadınlara fiziksel, cinsel, psikolojik veya ekonomik zarar veren ya da verme potansiyeli taşıyan eylemleri kapsamaktadır. (İstanbul Sözleşmesi, 2011).

İstanbul Sözleşmesi karşıtları arasında cinsiyet kimliği, ya da daha genel olarak toplumsal cinsiyet, en tartışmalı kavramdır. Bu kişiler biyolojik cinsiyet (sex) kavramını ayrıcalıklı kılarak, tartışmayı toplumsal cinsiyete karşı cinsiyeti öne çıkaran bir eksende sürdürürler. MacKinnon, cinsiyet ile toplumsal cinsiyet arasında ayrım yapar. Kadınların baskı altında tutulmasının, biyolojik olmaktan ziyade toplumsal ve siyasal bir kurgu olan toplumsal cinsiyet kavramı üzerinden sürdürülmesi gerektiğini

savunur. Biyolojik cinsiyet fiziksel farklılıklara işaret ederken; toplumsal cinsiyet, bu farklılıklara atfedilen toplumsal anlamı ifade etmektedir. Özü itibarıyla, biyolojik cinsiyet eşit olabilse de toplumsal cinsiyet doğası gereği eşitsizdir. Kadınlar erkeklerden biyolojik olarak doğuştan daha aşağı bir pozisyonda değillerdir. Bunun aksine toplumsal olarak aşağı konumları işgal etmeye koşullandırılır. Bu iktidar dinamiği, biyolojik farklılıklardan ziyade kadınları siyasal bir grup olarak birleştirir ve kadın hareketini bu eşitsizlikleri gidermeyi amaçlayan siyasal bir güç hâline getirir (MacKinnon, 2023, s. 90).

Hukuki özne resmen kadın ve erkek olarak görülür. Hukuki öznenin eleştirel bir incelemesi, diğer toplumsal cinsiyet kategorilerini anlamak açısından elzemdir. Soru şudur: Özellikle hukuki çerçeveler içinde, bireyleri "erkek" ya da "kadın" olarak ikili biçimde kategorize etmeyi nasıl aşabiliriz? Kadın/erkek ikiliği tartışması, kategorilerin normalleştirilmesinden doğar. Bu normalleştirme süreci eleştirilmeli ve buna direnilmelidir.

Knouse (2005, s. 144), bireylerin hukuk bağlamında katı biçimde "erkek" ya da "kadın" olarak sınıflandırılmasına karşı çıkar; böylesi ikili tanımların kimlik ifadesini sınırladığını ve toplumsal normları normalleştirdiğini savunur. Cinsiyete ilişkin hukuki tanımın yeniden ele alınmasını, cinsiyetin ikili bir kavram olduğuna dair yerleşik inancın sarsılmasını ve bireysel öznelliğin güçlendirilmesini önerir. Geleneksel toplumsal cinsiyet rollerine uymayanları, trans bireyleri ve LGBTQ+ topluluğu üyelerini de içeren biyolojik çeşitliliğe vurgu yaparak, toplumun dayattığı aşırı basitleştirici ikili cinsiyet anlayışını sorgular (Knouse, 2005, s. 152). Ayrıca cinsiyet atamasının tamamen kaldırılmasını savunur; böylece bireylerin toplumsal cinsiyet kalıplarının dar kalıplarından kurtulması ve çeşitliliğin serbestçe ifadesi mümkün olabilir. Erkek/kadın ve net/muğlak ikiliklerini çözerek yazar, normalleştirmenin karşısına çıkmayı ve biyolojik eğilimler yerine toplumsal kurgulara dayalı kısıtları azaltmayı hedefler.

İstanbul Sözleşmesi karşıtları, sözleşmenin evli olmayan ya da aynı cinsiyetten birliktelikler dâhil olmak üzere evli kişilerin ilişkilerini koruyarak bu tür ilişkileri meşrulaştırdığını iddia eder. Anti-cinsiyet (anti-gender) ideoloji, toplumsal cinsiyet

eşitliğindeki ilerlemelerin kültürel ve dini normları bozmayı, aile haklarına tecavüz etmeyi ve nihayetinde LGBTIQA+ topluluğu içinde evlilikleri normalleştirerek insanlığın yok oluşuna katkıda bulunmayı amaçladığı varsayımına dayanır (Kancı vd., 2023, s. 882). Bu çalışmada, kültürel ve dini normların hegemoniyi nasıl normalleştirdiğini tartışmak, İstanbul Sözleşmesi'ne yönelik direnci analiz etmek için eleştirel bir mercek sunabilir. Bu perspektif, kökleşmiş inanç ve uygulamaların toplumsal cinsiyet eşitsizliklerini nasıl sürdürdüğünü ve kadınlara yönelik şiddete nasıl katkıda bulunduğunu görünür kılabilir.

Tartışma ve Sonuç

1980'lerden 2021'e kadar kadına yönelik şiddet Türkiye'de süreklilik gösteren bir toplumsal sorun olarak varlığını sürdürmüştür. Ancak bu süreçte şiddetin biçimi ve kapsamı değişmiştir. 1980'lerde daha çok ev içi şiddet, yani ev içinde gerçekleşen fiziksel şiddet tartışılırken, günümüzde kadın cinayetleri (femicit) öne çıkmıştır. Kadınlar artık yalnızca ev içinde değil, kamusal alanlarda da öldürülme tehlikesiyle karşı karşıya kalmaktadır. Bu değişim, "Dayağa Hayır" kampanyasından günümüzde femicit tartışmalarına kadar uzanan kuşaklar arası dönüşümü gözler önüne sermektedir. 2000'li yıllardan itibaren feminist hareketin yoğun mücadelesi sonucunda Türkiye'de kadın hakları açısından önemli yasal reformlar hayata geçirilmiştir. Bu dönemde öne çıkan gelişmeler arasında 2006 tarihli Başbakanlık Genelgesi, Medeni Kanun ve Ceza Kanunu'ndaki kapsamlı değişiklikler, İstanbul Sözleşmesi'nin imzalanması ve 6284 sayılı Kanun'un kabulü yer almaktadır. Feminist aktörler, 6284 sayılı Kanun'u doğrudan İstanbul Sözleşmesi'nin taslak metni üzerinden şekillendirmiş ve sözleşmenin çekincesiz imzalanmasını sağlayarak büyük bir siyasi kazanım elde etmiştir.

Katılımcılar, İstanbul Sözleşmesi'ni feminist hukuk mücadelesinin "kuzey yıldızı" olarak tanımlamakta; onu hem bir doruk noktası hem de geleceğe yön veren bir yol haritası olarak görmektedir. Bu değerlendirme, Sözleşme'nin yalnızca ulusal değil, aynı zamanda uluslararası kadın hareketinin de bir kazanımı olduğuna işaret etmektedir. CEDAW'ın kabulünden sonra hazırlanan İstanbul Sözleşmesi, kadınların insan haklarını önceleyen belgelerin bir devamı ve mirası niteliğindedir. Dolayısıyla,

İstanbul Sözleşmesi hem önceki kazanımları içinde barındıran bir sonuç hem de feminist mücadelenin sonraki adımlarına yön veren bir başlangıç noktası olarak değerlendirilmektedir.

İstanbul Sözleşmesi, diğer uluslararası insan hakları belgelerinden farklı olarak, şiddeti yalnızca fiziksel değil; psikolojik, ekonomik ve cinsel boyutlarıyla da ele alması bakımından öne çıkar. Ayrıca CEDAW'dan farklı olarak din, kültür, gelenek veya "namus" gibi gerekçelerin şiddeti meşrulaştırmasına izin vermemektedir (m.42). Bunun yanında, sözleşme "soft law" belgelerinden farklı olarak devletlere bağlayıcı yükümlülükler yüklemekte ve kadınların korunması, şiddetin önlenmesi, faillerin cezalandırılması ile bütüncül politikaların hayata geçirilmesini zorunlu kılmaktadır.
Çalışma, İstanbul Sözleşmesi'nin feminist standpoint epistemolojisi çerçevesinde kadınların yaşadıkları şiddet deneyimlerini, soyut hukuki normların ötesinde, bilgi üretiminde "epistemik ayrıcalık" sağlamaktadır. Bu bağlamda sözleşme, kadınların kolektif deneyimlerini hukuka taşıyarak onların sesini normatif bir düzleme yükseltmiştir. Feminist görüşmelerde, sözleşmenin kadınların yaşanmışlıklarını görünür kıldığı ve hukuki metinlere yansıttığı özellikle vurgulanmıştır.

İstanbul Sözleşmesi, normlar ile toplumsal olgular arasındaki diyalektiğin kritik bir anını temsil etmektedir. Bu bağlamda toplumsal cinsiyete dayalı gerçeklikler, özellikle kadınların şiddet deneyimleri, bağlayıcı bir hukuki çerçeve içinde ifade edilmiştir. Bu süreç, feminist epistemolojide "güçlü nesnellik" (strong objectivity) olarak adlandırılan yaklaşımla örtüşmektedir. Buna göre, marjinalleştirilmiş grupların perspektifleri toplumsal adaletsizliklerin ortaya konmasında epistemik bir ayrıcalık sunmaktadır. Sözleşmenin toplumsal cinsiyete özgü hükümleri, kadınların yaşanmış deneyimlerini hukuki norm üretiminin meşru bir kaynağı olarak kabul ederek bu dönüşümün yapılabileceğini yansıtmaktadır.

Bulgular ayrıca, hukuki değişim ile feminist hareket arasındaki karşılıklı ilişkiye de işaret etmektedir. Feminist çabalar yasaların şekillenmesinde etkili olurken, İstanbul Sözleşmesi'nin kabulü feminist harekete yeni söylemsel ve hukuki araçlar sağlamış, hareketin kapsamını ve meşruiyetini genişletmiştir. Bu karşılıklı beslenme süreci, feministlere toplumsal cinsiyete dayalı şiddeti yalnızca bireysel bir talihsizlik olarak

değil, devletin hesap vermesi gereken yapısal ve sistematik bir sorun olarak çerçeveleme imkânı sunmuştur.

Katılımcıların ifadelerine göre, İstanbul Sözleşmesi tek bir feminist dalgaya ait değil, liberal, radikal ve farklı feminizmlerden unsurlar taşımaktadır.
Bununla birlikte, sözleşmenin uygulanmasında ciddi sorunlar yaşanmıştır. 6284 sayılı Kanun kapsamında kurulan Şiddet Önleme ve İzleme Merkezleri (ŞÖNİM) çoğu zaman hızlı ve etkin şekilde hareket edememekte, koruma kararları kısaltılmakta, kadınların kimlik ve adres bilgileri gerektiği gibi gizli tutulmamaktadır. Bu eksiklikler, devlet kurumlarının kadınların güvenliğini sağlama konusundaki yetersizliğini göstermektedir.

Ayrıca, İstanbul Sözleşmesi'nin en önemli yeniliklerinden biri, ev içi şiddetin artık "özel alan" sorunu olarak görülmeyip bir insan hakları ihlali olarak tanımlanmasıdır. Sözleşme, mağdur şikâyetinden vazgeçse bile davaların kamu adına devam etmesini zorunlu kılarak devletin kadınları koruma sorumluluğunu pekiştirmiştir. Bu, liberal hukuk kuramının özel alan–kamusal alan ayrımına feminist bir eleştiri getirmekte ve hukuku toplumsal cinsiyet eşitsizliğiyle doğrudan ilişkilendirmektedir.
Sonuç olarak, İstanbul Sözleşmesi feminist mücadelenin en önemli kazanımlarından biri olmuş, kadınların deneyimlerini hukuki normlara dönüştürmüş ve ulusal sınırları aşan bağlayıcı bir insan hakları metni olarak ortaya çıkmıştır. Türkiye'nin 2021'de sözleşmeden çekilmesi feminist hareket için yeni bir mücadele alanı açmış; hukukun hem bir baskı hem de bir direniş zemini olduğunu bir kez daha göstermiştir. Feministler bu süreçte yalnızca sözleşmeyi savunmakla kalmamış, aynı zamanda daha geniş bir dayanışma ağı örerek hem ulusal hem de uluslararası düzeyde yeni stratejiler geliştirmeye çalışmışlardır.

İstanbul Sözleşmesi'ne yönelik direniş, Türkiye'deki otoriterleşme eğilimleriyle doğrudan bağlantılıdır. Zira sözleşmeye karşı yürütülen kampanyalar, anti-cinsiyetçi ve popülist sağcı güçlerin demokratik kurumları zayıflatmaya ve toplumsal cinsiyet eşitliği normlarını aşındırmaya yönelik daha geniş bir stratejisinin parçası olduğu düşünülmektedir. Bu kampanyalar, feminist hareketi ve sivil toplum örgütlerini hedef alarak onların faaliyetlerini kısıtlamakta, toplumsal cinsiyet haklarına yönelik

savunuculuğu itibarsızlaştırmaktadır. Böylelikle hem demokratik alan daraltılmakta hem de otoriter eğilimler güçlendirilmektedir.

Ayrıca, bu karşıt kampanyalara eşlik eden toplumsal cinsiyete dayalı şiddet ve politik şiddet biçimleri, kadınların ve hedef alınan diğer grupların daha da marjinalleşmesine yol açmaktadır. Bu durum, onların toplumsal ve siyasal süreçlere katılımını engelleyerek otoriter yönetim biçimlerinin pekişmesini kolaylaştırmaktadır. Dolayısıyla, sözleşmeye karşı geliştirilen bu saldırılar, demokratik direnç mekanizmalarını zayıflatmakta ve otoriterleşmenin kurumsallaşmasına hizmet etmektedir. İstanbul Sözleşmesinin çekincesiz imzalanmasında Türkiye'deki feminist hareketin olumlu etkisine değinilmiştir. Ancak İstanbul Sözleşmesinin kaldırılması aşamasında feminist hareketin mücadele alanın çok da genişlediği yorumunun yapılmasının pek mümkün olmadığı düşünülmektedir. Türkiye'de feminist hareket devlet ile toplumsal cinsiyet eşitliğine yönelik yasal düzenlemelerin yapılması konusunda 2000'li yıllardan itibaren yoğun bir işbirliği dönemi geçirdiğine değinilmelidir. Bu deneyim, feminist hareketin mücadelesinin güçlenmesini sağlamıştır. Ancak 2010'lu yıllardan sözleşmenin kaldırıldığı döneme gelinceye kadar feminist hareketin devlet ile işbirliği yerine karşıtlık ilişkisi içinde olduğu daha görünür bir hal almıştır. Bunda devletin toplumsal cinsiyet karşıtı hareketlere olan desteği ve söyleminin yaygınlaşmasının etkisi olmuştur.

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Soyadı / Surname : Gökdemir
Adı / Name : Fatma Kübra
Bölümü / Department : Sosyoloji / Sociology

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ISTANBUL CONVENTION AND FEMINIST STRUGGLE: A REVIEW ON THE FEMINIST MOVEMENT AND LEGAL CONTEXT IN TÜRKİYE

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