

**EVALUATION OF ISTANBUL CONVENTION:
ITS CONTRIBUTIONS AND CONSTRAINTS FOR
ELIMINATION OF
VIOLENCE AGAINST WOMEN IN TURKEY**

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ABSTRACT

EVALUATION OF ISTANBUL CONVENTION: ITS CONTRIBUTIONS AND CONSTRAINTS FOR ELIMINATION OF VIOLENCE AGAINST WOMEN IN TURKEY

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Feminist approach to violence tells us that the violence experienced by women (violence against women), whether it is in the public or the private domain, is of a gendered nature and a tool for subordination of women, reproducing the patriarchal social order.

In Turkey, one in every three women says that she experienced this kind of gendered violence at least once in her life. The issue became a uniting topic for the revitalizing women's movement after the 1980 *coup d'etat* and the movement utilized different methods in their combat against violence against women since then.

Since 2011, the women's movement in Turkey has a new, powerful tool in their hands: Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, a.k.a. the Istanbul Convention. The Convention acknowledges presence of gendered violence, emphasizes use of violence against women as a tool to subordinate women within the society, offers binding measures for party states to follow and monitors them with its committee, GREVIO. While having few weaknesses, Convention still holds a great potential in aiding the movement in several areas of struggle for eliminating violence against women in Turkey.

This study draws on the tools utilized by the women's movement in Turkey since 1980's and tries to evaluate and highlight the important aspects of the Istanbul Convention and the tools it can provide that can be utilized by the movement for combating violence against women in Turkey.

Keywords: Violence against women, Council of Europe Convention, women's human rights, Istanbul Convention, international treaties

ÖZ

İSTANBUL SÖZLEŞMESİ'NİN DEĞERLENDİRİLMESİ: TÜRKİYE'DE KADINA YÖNELİK ŞİDDETİN ORTADAN KALDIRILMASI İÇİN SAĞLAYACAGI OLANAKLAR VE KISITLAMALAR

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Feminist teori, bizlere, kadınların ister kamu ister özel hayatta maruz kaldıkları şiddetin doğası gereği bir toplumsal cinsiyet unsuru ve ataerkil düzeni tekrar üreten kadınları tahakküm altında tutmanın bir aracı olduğunu söyler.

Türkiye’de, her üç kadından biri, hayatında en az bir defa bu tür toplumsal cinsiyet temelli şiddete maruz kaldığını belirtmektedir. 1980 askeri darbesi sonrasında, kadına karşı şiddet, kadın hareketini tekrar canlandıran ve birleştiren bir konu olmuştur ve hareket o günden beri kadına yönelik şiddetle mücadele için farklı metotlar kullanmıştır.

2011 yılından sonra Türkiye’deki kadın hareketinin kullanabileceği yeni, güçlü bir araç daha ortaya çıkmıştır: Kadına Karşı Şiddetin ve Aile içi Şiddetin Önlenmesi Avrupa Konseyi Sözleşmesi: İstanbul Sözleşmesi. Sözleşme, toplumsal cinsiyet temelli şiddetin varlığını kabul ediyor, kadına karşı şiddetin kadının toplum içerisinde tahakküm altında tutulmasının aracı olarak kullanıldığını belirtiyor, üye devletleri bağlayıcı hükümler sunuyor ve onları komitesi, GREVIO, ile gözlemliyor. Az sayıda zayıflıkları olmasına rağmen, Sözleşme harekete kadına yönelik şiddetin ortadan kaldırılması için mücadelesinde farklı alanlarda destek olacaktır.

Bu çalışma, kadın hareketi tarafından Türkiye’de 1980’lerden beri kullanılan araçlardan hareketle İstanbul Sözleşmesi’nin Türkiye’de kadına karşı şiddet ile mücadele için kadın hareketi tarafından kullanılacak araçlarını değerlendirmeye ve öne çıkarmaya çalışıyor.

Anahtar kelimeler: Kadına yönelik şiddet, Avrupa Konseyi, Sözleşmesi, kadının insan hakları, İstanbul Sözleşmesi, uluslararası sözleşmeler

To my wonderful family,

To my mother and father who are very supportive, always

To my brother, just because I love him dearly,

*To my husband, who encouraged me to write this thesis by all his
means!*

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LIST OF ABBREVIATIONS

CAHVIO	Ad hoc Committee on Preventing and Combating Violence against Women and Domestic Violence
CAT	Committee on Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Social, Cultural, Economic Rights
CETS	Council of Europe Treaty Series
CoE	Council of Europe
CSW	Commission on the Status of Women
DEDAW	Declaration on Elimination of Discrimination against Women
DEVAW	Declaration of Elimination of Violence against Women
EU	European Union
Gen. Rec.	General Recommendation
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
IGLHRC	International Gay and Lesbian Human Rights Commission
İKD	İlerici Kadınlar Derneği (Progressive Women's Association)
KSGM	Kadının Statüsü Genel Müdürlüğü (General Directorate on Women's Status)
LGBT	Lesbian, Gay, Bisexual, Transsexual
NGO	NonGovernmental Organizations
SPoD	Social Policies, Gender Identity and Sexual Orientation Studies Association
TBMM	Türkiye Büyük Millet Meclisi (Turkish Grand National Assembly)
UN	United Nations
UNFPA	United Nations Population Fund
VAW	Violence against Women
WWHR – New Ways Women for Women's Human Rights – New Ways Association	
UNHCR	United Nations High Commissioner for Refugees

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CHAPTER I

INTRODUCTION

In Turkey, every day five women are murdered by men and one in every three women experiences physical violence at least once in her life.¹ “*For women’s organizations in Turkey, combating violence against women is not a choice anymore, but a necessity*”²

Violence against women has been a topic that accelerated and united the women’s movement in Turkey. With the “Campaign against Beating” (Dayağa Karşı Kampanya) in the 1980’s women’s movement in Turkey started to voice their opposition to systematic, male violence towards women, what was then considered a private matter and not voiced outside of the home.

The movement utilized several tools of activism in their struggle to prevent violence against women. These efforts include civil society campaigns and initiatives; awareness raising workshops, books, pamphlets; law reform campaigns; lobbying efforts; international cooperation with other NGOs and use of international mechanisms such as U.N... etc. While the movement has been very creative and resourceful in their struggles, the fact remains that as of 2009, 39% of women said that they have experienced physical violence at least once in their lives.³

The women’s movement in Turkey (and the women’s movements in the member states of the Council of Europe) now has a new and a powerful tool in their hands to help with their struggle to eliminate violence against women: Council of

¹ KSGM. 2009. Domestic Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Aile İçi Şiddet*. Ankara: KSGM. Pg 23.

² Batik, Ebru and Ayman, Zelal. WWHR – New Ways. Personal Interview. 8 May 2012.

³ KSGM. 2009. Domestic Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Aile İçi Şiddet*. Ankara: KSGM. Pg 23.

Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, i.e. the Istanbul Convention; a.k.a. the first binding convention for Turkey, specifically addressing the issue of violence against women and domestic violence.

Significance of the Study

“The most empowering tool for the women’s NGOs against violence against women would be internal laws that can be applied with reference to the international conventions.”⁴

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence is the first internationally binding convention, with a monitoring body, that is specifically focused on methods the party states and the international community should employ to prevent violence against women. The emphasis the Convention makes on violence against women as a form of discrimination against women and a violation of women’s human rights is quite significant in the interpretation of the Convention as a tool to empower women and enhance gender equality within the European Community.

The Convention was signed in 11 May 2011 in Istanbul (thus, the Convention is also, shortly, called the Istanbul Convention). As of 31 August 2012, 21 member states of Council of Europe signed the Convention and only one, Turkey, has ratified it.⁵ The Convention is open to signatures from both member states and nonmember states, and will come into force three months after 10 ratifications, eight of which is from a member state.

The Convention holds a great potential for urging states to take action on combating and preventing violence against women and domestic violence in four

⁴ Batik, Ebru and Ayman, Zelal. WWHR – New Ways. Personal Interview. 8 May 2012.

⁵ Convention on Preventing and Combating Violence against Women and Domestic Violence Website. 2012. http://www.coe.int/t/dghl/standardsetting/convention-violence/default_EN.asp? [accessed 09 February 2012]

main areas: prevention of violence against women, protection of the victims, prosecution of the perpetrators and policy making to prevent violence against women.⁶ However, as has been the case with many other international agreements and documents, this Convention will also need the monitoring of and the utilization by the women's movement in Turkey to ensure the State's full application of the Convention to the national laws and services against violence against women.

The women's movement in Turkey, on the other hand, has utilized several different tools and approaches in their struggle to end violence against women in Turkey since the 1980s. While there have been many successes the movement has achieved, nonetheless there is still room for further work in the field considering the prevalence of violence against women within the society. How the movement can utilize the Istanbul Convention in this struggle, taking into consideration the experiences and methods the movement has collected during this time, is a question in need for a urgent answer for the movement to start utilizing the Convention as quickly as possible.

Objectives of the Study

This aims of this study is two folds:

- 1) This thesis will analyze and discuss the tools utilized by the women's movement in Turkey since 1980's to fight against violence against women, while laying out the status of violence against women in Turkey, and
- 2) In the light of the above mentioned tools, this study will further evaluate the very new and strong tool that is the Istanbul Convention, outline its history of making, and try to reveal the details of the Convention and the methods which it supplies to the combat against and how it addresses certain issues regarding violence against women. The missing points of the Convention will also be evaluated, and strengths and

⁶ These four aspects are referred to as the 4P's in the violence against women discourse.

new tools the Convention can bring to the women's movement's combat against violence against women will be deduced by the thesis writer, with the help of the previous tools utilized by the women's movement, the sources on the Convention, the interviews. In the light of the strengths and tools of the Convention, and in spite of the missing points, the thesis will argue that the Istanbul Convention will provide standard setting for the combat on violence against women and open an important international arena for the women's movement to get their voice heard, both the state of Turkey and the international community.

The study will then examine the new law No. 6284, "Protection of the Family and Violence against Women," as an example of the utilization of the Istanbul Convention on creating pressure over the State to ensure greater measures are listed in the law to combat violence against women and will argue that the problems occurred during the preparation of the Law No.6284 and the missing points it has stands as a question mark into the sincerity with which the government of Turkey is planning to apply the philosophy and the norms of the Istanbul Convention.

In short, it is hoped that the study can be useful for the women's movement in Turkey in their struggle to end violence against women, by lobbying, awareness raising, campaigning ...etc. and also for the law/decision makers when they are trying to legislate on issues that can help end violence against women, by shedding light on the opportunities for utilization and the effectiveness of this very new and powerful Convention.

Methodology of the Study

As the Convention is quite a recent one, the materials on the Convention are also quite new and very limited. In depth articles and/or academic studies are unfortunately not yet present, except a few.⁷

Thus, the thesis writer had to utilize other means to access the valuable information on the Istanbul Convention. The explanatory report and the preamble of the Convention itself, gave detailed information regarding the history and the philosophy behind the Convention. Reports of the European Women's Lobby on different versions of the Convention have also proved useful in the evaluation of the Convention.

Other sources mostly came from internet sites that give information on the Convention and also from emails that has circulated in the e-listservs of some groups of the women's movement in Turkey that responded to the Convention and shared information with the other groups.

However, the most "inside" information on the Convention came from the thesis writer's interview with Prof. Feride Acar, who has been Turkey's expert on the preparation of the Istanbul Convention and also on the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence which has preceded and also initiated the efforts to create such a convention for the community of the Council of Europe. Prof. Acar has provided valuable information on and about the Convention in all its stages.

Other than the interview with Prof. Acar, the thesis writer also conducted 13 other interviews with various important figures on violence against women and the Istanbul Convention. The list of the names of interviewees and their relevance to

⁷ The few academic articles on the Convention that the thesis writer was able to access will be cited in the next sections.

the topic at hand will be detailed in Appendix II of this thesis. The interviewees were tried to be selected from different structures which came into contact with the Convention: the CAHVIO (Prof. Feride Acar), the State (General Directorate on Women's Status and the Foreign Ministry), legal officials and civil society representatives; hoping to reflect the stories and the perspectives of these different sides.

All the interviews were semi-structured, with certain basic questions and some spontaneous ones that sprang from the answers of the interviewees.⁸ The questions tried to delve into the tools utilized by the interviewee to combat violence against women in their professional and/or activist capacity, and further into their knowledge and utilization of the Istanbul Convention, if any. While the thesis writer preferred to make face to face interviews, the time constraints on the part of the interviewees and sometimes the geographical distribution allowed only for written interviews through email to be conducted in some cases. In one case, Ali Onaner, from the Ministry of Foreign Affairs, the interview had to be made through phone conversations.

While a long and detailed interview wanted to be made with the General Directorate of Women's Status (KSGM) by the thesis writer, the Directorate insisted that they would want to give written answers (they have also asked for the questions in writing for approval from the Ministry of Family and Social Policy) and sent a general information note, not on the questions provided, but on the Directorate, the Istanbul Convention and the new Law on violence against women. The Ministry of Family and Social Policy refused to appoint a person to interview and said that the contact in the General Directorate of Women's Status was the only responsible party regarding the Convention.

⁸ Please see Appendix A for a skeletal list of the interview questions. They have been adapted slightly individual interviewees.

Aside from the internet sources and the interviews, the main methodological tool used was the evaluation of the Istanbul Convention into the tools it can provide for the women's movements struggle to end violence against women. The thesis writer, with reference to the previous tools utilized by the women's movement and the interviewees conducted, tried to analyze the strong and weak points of the Convention and from there identify the tools it can provide to aid the women's movement.

In the next chapter, the theoretical background of violence against women will try to be discussed. The theoretical background which the Istanbul Convention uses will be highlighted. In further chapters, the thesis will discuss the current figures and conditions on violence against women and women victims of violence in Turkey to show the conditions into which the Istanbul Convention is hoped to provide tools into. The thesis will look into the tools that have been utilized by the women's movement in Turkey to draw the attention of the government to the issue of violence against women, lobby for legislation making and amending, and lobby for effective implementation of the present legislations as a background into the potential the women's movement in Turkey holds for combatting violence against woman. The thesis will also try to outline a chronological history of the Convention, how the idea of making such a convention came up and how it developed into the Convention that we have seen today. In the section, Turkey's role on the process will also be highlighted. Later, with an evaluation of the text of the Istanbul Convention and the feedback and opinions gathered from the interviews, the specific points within the Convention that can further the violence against women struggle in Turkey will be discussed. As a following note, the points that is missing and/or weak in the Convention will also be highlighted to allow activists to utilize other means when in need to use these points. The thesis will look into the preparation and the end result of the new Law No.6284, Protection of Family and Violence against Women Law, as an example of a first attempt to utilize this very young Istanbul Convention to lobby for their demands from the Government for this new national law. The thesis will conclude with points of looking forward in the struggle against violence against women.

CHAPTER II

CONCEPTUALIZATION OF VIOLENCE AGAINST WOMEN

Violence against women (VAW) has been a phenomenon worldwide, deeply embedded in many cultures and affecting the lives of millions of women.⁹ Therefore, the explanation for the cause of this problem should be crosscutting across many cultures and societies.

Many sources have grouped the approaches on violence against women in different groupings. Some of the approaches take on an individualistic vs. societal perspective, some make a normal vs. abnormal psychology dichotomy, while others look to see whether the violence is symmetrical vs. asymmetrical. However, this thesis will use a grouping that follows an historical timeline; i.e. approaches changed or prioritized as the violence against women arguments was progressing in the national and international women's human rights agenda.

Mental Illness Approaches

Dobash & Dobash (2001) argue that domestic violence became an issue in the UK and the United States three times on 1870s, 1910s and 1970s by women who were engaged in other, more general campaigns such as owning property, suffrage and equal pay for equal work respectively.¹⁰ They argue that during these times an interest in violence against women came up regarding violence against women, by husbands and in the context of marriage, but in the first two time periods “the issue was soon forgotten and ... a return to an older, established status quo in which men maintained ... authority over women ... and particularly within the

⁹ UNFPA Website. UNFPA 2000 State of World Population: Chapter 3 Ending Violence against Women and Girls. <http://www.unfpa.org/swp/2000/english/ch03.html> [accessed 29 December 2011]

¹⁰ Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3830 – 3834.

institution of family and marriage where this right could be exercised legally and morally through violence against women”¹¹ However, when the issue was rediscovered in 1970’s in the US and the UK it was there to stay.¹² When “battered women’s movement” first started in the United States in this rediscovery in 1970’s the first explanation offered for the situation was the “Psychopathology”.¹³ This approach argues that individuals that “batter” “their” women have some sort of personality disorder or mental illness, and could be cured with treatment.¹⁴ Another side of this approach is that the women who let themselves to be abused and who stay in violent relationships are mentally ill and have psychological problems. They argue that these women are provoking the men in their lives to abuse them.¹⁵ The two sides of this approach offer a gender neutral explanation to violence, arguing that the violence applied or experienced is a result of the individual psychology that have similar effects on men and women, a like.¹⁶

However, several points are problematic regarding this approach: the perpetrators are only targeting the women in their lives, unlike other pathologically ill patients who target people from both genders and it is also practically problematic in that it decreases the responsibility of the abuser and gives a “free pass” for the use of violence against women. The other side, on women being the reason for abuse, as

¹¹ *Ibid*, pg 3832.

¹² Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3830 – 3834.

¹³ Stop Violence against Women Website. 2006. “Evolution of Theories of Violence.” http://www.stopvaw.org/evolution_of_theories_of_violence.html [accessed 29 December 2011]

¹⁴ Jasinski, J.L. (2001). Theoretical Explanations for Violence against Women. In C.M. Renzetti, J.L. Edleson & R.K. Bergen (Eds.), *Sourcebook on Violence against Women* (pp. 5-21). Thousand Oaks, CA: Sage.

¹⁵ Stop Violence against Women Website. 2006. “Evolution of Theories of Violence.” http://www.stopvaw.org/evolution_of_theories_of_violence.html [accessed 29 December 2011]

¹⁶ Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3830 – 3834.

they stay in these abusive relationships finds its reflection in the Stockholm Syndrome, nonetheless it cannot be overseen that the reason women cannot leave the violent situations are much more deeply rooted and complex. Such an explanation of women's inability to leave abusive relationships very much undermines the psychological effects of violence against women on the victims.¹⁷

Biological / Evolutionary Approaches

A sprouting approach from this one was the Biological Explanation Approach. This perspective has three sides: one is that head injuries and some forms of hormone problems can cause men to be more violent. This is similar to that of the problematic psychology of the male as it signifies a form of anomaly on the part of the male as the reason for the abusive behavior. The violence, in these approaches is separated from the influences of the society and only due the male's anomaly. This form of an explanation yields the physical treatment of the man, either for the head injury or the hormones depending on the diagnoses, as the combatting option for violence against women. However, this individualistic / anomaly approach is bound by all the arguments against the psychopathy approaches outlined above.

The second side uses the explanation that violence against women may be related to the process of natural selection and explains rape as an extreme reaction to the pressure on men to reproduce.¹⁸ This idea stems from the philosophy of the Darwinian evolution which states that male reproductive success depends on the number of genes they can spread (i.e. the children they can father) and assume that this evolutionary trait is putting pressure on the men to use violent means to

¹⁷ Joan Zorza, *Batterer Manipulation and Retaliation in the Courts: A Largely Unrecognized Phenomenon Sometimes Encouraged by Court Practices*, *Violence against Women* 47-48 (Joan Zorza ed., 2002).

¹⁸ Jasinski, J.L. (2001). *Theoretical Explanations for Violence against Women*. In C.M. Renzetti, J.L. Edleson & R.K. Bergen (Eds.), *Sourcebook on Violence against Women* (pp. 5-21). Thousand Oaks, CA: Sage.

achieve this spread of genes.¹⁹ However, this explanation disregards all of the social evolutions, social norms and ethics the human society has developed over the centuries.

Another side of the evolutionary model argues that the male psyche is trying to exert sexual proprietariness towards women and this leads men to try to control women through different means, including violence.²⁰ In this approach, a woman's sexual conduct needs to be with only one man to ensure the lineage of the offspring. However, this explanation only fits a small profile of violence cases, and has not been proven that it is the actual explanation in those cases either.

All these explanations still miss the question of why these men are not violent on the public arena, but solely target the women in their lives and further shed abuser off of the responsibility of the violence they perpetuate. The second explanation is against all of the societal norms that have been established through centuries of social living and culture. It is a reductionist approach that nullifies the effects of the society on the perpetrators and the victims.²¹

Social Learning Approaches

Over the next years, the Social Learning Model, started to be used to explain violence against women. According to this approach, both men and women “learn” a culture of violence from their environment, men as perpetrators and women as victims. Men and women, therefore, carry on this learned behavior to their lives, men use violence against the women in their lives and women sought

¹⁹ Futuyma, D. J. 2009. *The Evolution*. Chapter 15. Sinaur Associates: MA. Pp. 387 – 411

²⁰ Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3830 – 3834.

²¹ Cunningham, A. *et al.* 1998. Theory Derived Explanations of Male Violence against Female Partners Literature Updated and Related Implications for Treatment and Evaluation. <http://www.lfcc.on.ca/maleviolence.pdf> [accessed 25 December 2011]

out men who will use violence against them. It can also be combined with the Exchange Approach where the rewards or the punishments given to a certain behavior cause the individual to repeat those behaviors, in this case violence against women.

The Learned Helplessness Approach, where women believe that they do not have the power to stop or eliminate the violence in their lives and continue to live with it, can also be discussed in this context as well.²² The two approaches converge in cases where men's violence includes "continuous forms of intimidation and isolation" which causes women to feel weak and helpless. Dobash and Dobash (2001) cite some of the reasons for which "women find it difficult to leave" as "men's threats of further violence, women's lack of economic and social support, a moral order emphasizing women's obligations to maintain family unity, and, until recently, the inadequate responses of the agencies of the state."²³

While taking into account the dynamic structure of society we live in, both of the approaches fail to explain why in some families or societies violence is not intergenerationally transmitted, and cannot adequately explain the cases of perpetrators and victims without a history of violence in their backgrounds.²⁴

²² Jasinski, J.L. (2001). Theoretical Explanations for Violence against Women. In C.M. Renzetti, J.L. Edleson & R.K. Bergen (Eds.), *Sourcebook on Violence against Women* (pp. 5-21). Thousand Oaks, CA: Sage.
And Stop Violence against Women Website. 2006. "Evolution of Theories of Violence." http://www.stopvaw.org/evolution_of_theories_of_violence.html [accessed 29 December 2011]

²³ Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in *International Encyclopedia of the Social and Behavioral Sciences*. UK: University of Manchester. pp. 3833.

²⁴ Cunningham, A. *et al.* 1998. Theory Derived Explanations of Male Violence against Female Partners Literature Updated and Related Implications for Treatment and Evaluation. <http://www.lfcc.on.ca/maleviolence.pdf> [accessed 25 December 2011]

Feminist understanding of Violence Approach

As violence against women was brought to the international human rights discourse more and more by the women's groups, the Feminist Model of explanation for the causes of violence against women gained precedence.²⁵ Ackerly and True (2010) defines feminism as "the search to render visible and to explain patterns of injustice in organizations, behavior, and normative values that systematically manifest themselves in *gender*-differentiated ways."²⁶ Following from this understanding of feminism the main understanding of the Feminist approach to violence against women is that violence occurs as a result of patriarchal societal structures which further maintain this patriarchal structure through positioning women in a secondary place in the society, for which violence against women is a tool for. "Violence is seen as functional, a resource used in men's attempts to enforce and maintain their domination and control."²⁷ Violence is a means of constructing masculinity, and therefore power, and thus the use of violence is both a result of this power hierarchy and a sustenance tool for this patriarchal system, putting masculinity in a controlling position within the society.

The feminist approach also takes into account the aspect of multiple discrimination faced by women, such as discrimination based on race, sexual orientation, income level, etc..., and recognize that these women are in greater

²⁵ Although Jasinski, J.L. (2001) provides two different approaches; one as the Feminist Theory and the other as the Gender Theory, as it is the author will prefer to explain both of these approaches under the heading of Feminist Approach as feminism itself deals with the gender roles and the inequality it creates in the lives of women and men.

²⁶ Emphasis added by the article writer. Ackerly, B. And True, J. 2010. "Back to the Future: Feminist theory, activism, and doing feminist research in an age of globalization" in *Women's Studies International Forum*. V. 33. pg 464.

²⁷ Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3830 – 3834.

risk of being victims of violence against women.²⁸ This recognition of “multiple forms of discrimination, such as on race, colour, religion, immigration or refugee status, age or disability are factors that can shape women’s experiences of violence and they need special interventions targeted at these particular group of women”.²⁹

As mentioned before, the approach one uses to define and explain violence determines the methods that should be employed to eliminate it. In order to break from this loop between violence against women and patriarchal structures, there are several tools within the feminist approach to violence. One is to empower the women through awareness raising groups on women’s rights, providing them an economic income and work outside of home and providing the necessary side support, such as child and elderly care, for women to be able to work outside of the home and earn this income, etc. When women are able to self-sustain and provide for their children, if they have any, they use all their power to stay out of violent relationships and reject the subordination that comes with the violence. The other possible method is to rehabilitate the men who are abusers and make them realize that what they are doing is actually only serving the patriarchal system. However, unlike the other approaches mentioned above, the rehabilitation of men will not involve medicinal or psychiatric approaches, but rather utilize psychological and social methods to make them understand the gendered nature of the society we live in and the possibility of having much healthier relations based on equality of the men and women in their lives, without violence, trying to break them loose from the patriarchal cycle of hierarchy.

This thesis will continue based on the Feminist Approach to violence against women, recognizing that violence against women is in fact a result and a tool of

²⁸ Garske, D. 1996. *Transforming the Culture*. in Hampton, R.L. *et al. Preventing Violence in America*. NY: Sage Publications.

²⁹ Ortiz-Barreda, G, Vives-Cases, C. And Gil-Gonzalez. 2011. “Worldwide Violence against Women Legislation: An Equity Approach” in *Health Policy*. V.100. pg 126.

sustenance for the patriarchal society. As the studies show us, the violence in the society is never symmetrical, i.e. the violence perpetuated by men and women are not equal in amount, extent, severity and repetitions.³⁰ The violence applied by women is rarely systematic and to the point of frightening the men in their lives to change a pattern of behavior. The violence of women is generally more of a defense response either to protect themselves or their children whereas the violence applied by men to women is always systematic, well planned and controlled.³¹ The systematic nature of the violence applied by men will also highlight itself in the following sections in the campaigns and initiatives women undertook on their struggle against violence against women, further supporting the Feminist Approach to Violence against Women.

DIFFERENCE IN TERMINOLOGY

The terminologies that are used to define violence against women have been changing and shaping historically like the approaches to violence. Dobash & Dobash (2001) cites that in 1795, Sir William Blackstone's Commentaries on the Laws of England, as well as many other laws in all parts of the world, endorsed a men's right to use "a moderate chastisement against his wife" which consisted of using violence against the women.³² The wording was not even violence, but "chastisement" signifying a punishment approach to a wrongdoing on the part of the wife.

While in the 20th century, with women's activism, the notion lost its romantic, disciplinary tone, the issue started to be called wife beating, battered wives, wife

³⁰ Miller, S.L. and Meloy, M.L. 2006. Women's Use of Violence: Voices of Women Arrested for Domestic Violence. in *Violence Against Women*. V.12. Is. 1. pp 89 – 115.

³¹ *Ibid.* pg 114.

³² Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3831.

abuse, spouse abuse,... and family violence signifying the violence experienced in the family, within a legally sanctioned form of marriage.³³ However, these terminologies only reflect part of the systematic violence against women, which is not only applied by husbands to wives, but also other male members of the society and even the State itself as a patriarchal institution to the women, and not always applied within a legally sanctioned marriage.

Over the course of the progress of women's movements agenda, the wording has evolved mainly into two: domestic violence and violence against women. While this thesis writer will prefer to use the "violence against women" terminology, the reasons for this choice will try to be highlighted in the following sections by giving a definition and understanding of how the two wordings are used because "words and language do not *reflect* but are instrumental in *constructing* reality".³⁴

Domestic Violence

United Nations, on their website on Violence against Women describe "domestic violence" as a subsection of violence against women that takes place in the family.³⁵ However, if you do not limit the examination of violence to violence against women, then domestic violence becomes any form of violence that takes place in the domestic unit or between family members. This definition assumes a symmetrical use of violence by and towards men and women alike. Even Dobash and Dobash who use the wording "domestic violence" in their 2001 article where they use the terminology of domestic violence to describe the problem accept that "Most researchers and policy makers now agree that the problem of domestic

³³ *Ibid*, pg 3831.

³⁴ Scottish Women's Aid. "Theories to Explain Male Violence Against Women Partners and Ex-Partners" www.scotland.gov.uk/Resource/Doc/925/0063072.pdf [accessed 11 September 2012]

³⁵ U.N. Violence Against Women Website. www.un.org/rights/dpi1772e.htm [accessed 12 September 2012]

violence is primarily one of men's violence against women in state as well as nonstate sanctioned relationships.”³⁶

Another aspect of this definition is its emphasis on violence within the domestic unit or within the family structure. However, as the Feminist Approach to Violence explains the historical patriarchal power structures are embedded in all aspects of the society, thus women are subordinated by violence not just in the family or in the domestic unit but in all units of the society, in the workplace, in public places by strangers and by the State, through either direct discrimination or through negligence to act upon to prevent or punish the violence experienced by women.

Therefore, the writer of this thesis will prefer to use the terminology “violence against women,” which will be defined in the following section, rather than the limited and un-gendered understanding of domestic violence. The only exceptions will be when referring to the actual un-gendered violence within the family unit, as also covered by the Istanbul Convention, or when the author of the citations used prefers to use the terminology “domestic violence.”

Violence Against Women

UN Declaration on Elimination of All Forms of Violence against Women defines “violence against women” in Art 1. as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”³⁷ It can be seen that the definition

³⁶ Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3832.

³⁷ United Nations. 1993. Declaration on the Elimination of Violence Against Women. [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.48.104.En](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.48.104.En) [accessed 12 September 2012]

United Nations adopt on the issue also follows the feminist approach to violence, emphasizing the gendered nature of the violence. The Declaration continues to place violence in “the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women...” It is quite promising to see such an important global organization on human rights adopting the feminist approach to violence against women and look for the solutions for this violence within the solutions of the feminist arguments. This definition has been used by many international documents including the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence which will be the main topic of this thesis.

This wide definition provided by the United Nations is very much important to define the prevention and elimination methods of the violence against women as well. Thus, as mentioned above, this wider and more to the point definition of “violence against women” will be used throughout this thesis, besides the above mentioned exceptions.

CHAPTER III

VIOLENCE AGAINST WOMEN IN TURKEY

A. Altınay and Y. Arat place gender based violence as “one of the most important obstacles against the fulfillment of the already present potential of Turkish Republic’s citizens”.³⁸ It is a grave human rights violation, reproducing and reinforcing the secondary position of women in the society. The subject found itself in the agenda of the women’s movement in Turkey considerably late, though with a parallel progression with the introduction of the topic throughout the world.

Women’s movement in Turkey was revitalized after the *coup d’état* which took place in 1980 which has in fact erased nearly all of the social movements that was present in Turkey prior to the coup. The women’s movement in Turkey has been greatly interlinked to the socialist movement until 1980’s, including women’s rights organizations such as İKD (İlerici Kadınlar Derneği – Progressive Women’s Association). Within İKD, many of the leading, prominent women in the women’ movement now, had their first experiences into the issues of women’s human rights.³⁹ As the socialist movement was subjugated by the powers of the coup, and also as a reaction to the seemingly genderless, yet quite male dominant attitude in those socialist movements, the women started to gather around the issues of women’s rights. Tekeli, in her short paper on women’s movement in Turkey, states that the women’s movement after the 1980’s military coup developed on the basis of a ‘*completely revised analysis*’ as ‘new’ and ‘feminist.’⁴⁰

³⁸ Arat, Y and Altınay, A. 2007. Altınay, Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Şiddet*. İstanbul: Punto Baskı Çözümleri., pg 7

³⁹ Işık, Nazik. Personal Interview. 26 June 2012.

⁴⁰ Tekeli, Ş. (2006) “The Turkish Women’s Movement: A Brief History of Success”, *Notebooks of the Mediterranean*, No.6

It was through various protests, coming together, meetings, women's groups and organizations that the women who have been involved in the socialist movements before 80s found a new and pretty much uncharted area of feminism in the beginning of the 80s, where they were able to transform this dynamism into action. It was during this time that consciousness raising groups, the establishment of the feminist publishing company, *Kadın Çevresi* (Women's Circle) in 1984, the celebrations of 8th of March, World Women's Day, the petition campaign for Turkey's ratification of CEDAW in 1986, the Campaign against Domestic Violence in 1987, "Women's Discussion Group," the following Purple Needle Campaign, and the protests against the Article 438 of the Turkish Penal Code were all organized. Following this rigorous dynamism and activism, some of the woman activists have laid the ground for the establishment of more permanent structures such as Purple Roof Women's Shelter Foundation, Women's Solidarity Foundation, the journal *Pazartesi*, Library of Women's Works and others.⁴¹ Those organizations have been important carriers of the movement to our present day.

As can be seen, the women's movement in Turkey after 1980's, very much resembles the second wave feminism of 1960's and 1970's in the West, that focused on consciousness raising groups for women's liberation. Fonow and Cook (2005) indicate that the consciousness raising groups were seen as a method for "gaining access to the hidden, taken for granted, commonsense understanding of everyday lives."⁴² Many of the prominent activists of our day are initiated into the feminist ideology in these consciousness raising groups. An important example is The Women's Solidarity Foundation which was directly formed from one of those

⁴¹Işık, Nazik. Personal Interview. 26 June 2012 and Ülker, Gülsen. Personal Interview. 4 September 2012.

⁴²Fonow, M. M. and Cook, J.A. 2005. Feminist Methodology: New applications in the Academy and public policy. In *Signs*. V. 30 Is. 04. pp 2211 – 2236.

awareness raising groups, i.e. Ankara Bağımsız Kadın Tartışma Grubu (Ankara Independent Women Discussion Group) which also aimed to open the first independent women's shelter Project in Ankara and had to establish the foundation as a institutionalization process, and the Foundation flourished as an important center for violence victims to apply and heal. In these groups the women “came to redefine their individual problems as social problems that required political solutions” as Lather (1986) wrote for the second wave feminists of the West.⁴³ The women in Turkey, after 1980, organized within this understanding of personal as political and private as public.

The first organization during this time against violence against women is “the Campaign against Beating” in 1987. Canan Arın, in our interview, stated that the topic of “violence against women” was found as a uniting topic for the women's movement of that time.⁴⁴ More than a 1000 women gathered in a protest in Kadıköy, Istanbul, in response to a decision given by a judge from Çankırı, referred to a proverb saying: “You should never leave a woman's back without a stick and her womb without a colt”. This protest led to several activities around bringing women's daily lives into the public sphere including an exhibition gathering the tools women use daily in their lives. The book that came out of this period “Shout, so Everyone can Hear” (*Bağır, Herkes Duysun*) is very reflective of the idea behind the whole period, namely bringing what was once considered a private and family affair, into the public sphere, which can be considered the first outcome of the period.⁴⁵ The second outcome of this campaign was stated by Tekeli, as providing an experience of realizing a series of events under one concrete issue, without a ruling central structure, by bringing together different women and different women groups. Tekeli says that “This experience is a

⁴³ Lather, P. 1986. Research as Praxis. in Harvard Educational Review. V. 56 Is. 3. Pp 257 – 276.

⁴⁴ Arın, Canan. Personal Interview. 5 August 2012

⁴⁵ The campaign and period will be elaborated further in the next section under the heading of Civil Society and University Initiatives – Campaigns.

constructive and informative experience that has provided importance in bringing us together in other women issues in later times”⁴⁶

The point that should be considered here is that, although very new and important, this campaign is significant in showing us how novice the women’s movement was in specifying the trouble in violence against women. The wording for the struggle was “beating” instead of the more specific and correct wording of “physical violence” and the struggle was only against “the beating of the husband” rather than the wide array of other forms of physical violence. This is very much reflective of the early terminologies used in the first phases of the struggle against violence against women throughout the world, as was mentioned in the previous sections.⁴⁷ Although the terminology used was not in place yet, the women’s movement in Turkey was conscious that violence is used to place women in a secondary position and that violence is not consequential but systematic in nature, adhering to the feminist approach to violence. Of course the understanding of violence against women, and thus the tools utilized to struggle for its elimination widened and became more concise as years passed by.

Chronologically, the second campaign was the “Our Bodies are Ours – No to Sexual Harassment” campaign. Here, we see that the understanding of violence is widened. The activities in Istanbul, under the title of, “the Purple Needle Campaign” has raised a lot of attention and put the term of “sexual assault” in the vocabulary of everyone, as it was not a familiar notion before.⁴⁸ The campaign was going to be furthered by “sexual harassment in the workplace” and “sexual

⁴⁶ Tekeli, Ş eds. 1990. Women from the Perspective of Women in the Turkey of 1980’s. *1980’ler Türkiye’sinde Kadın Bakış Açısından Kadınlar*. İstanbul: İletişim Yayınları. pg 349

⁴⁷ Dobash, R.E. and Dobash R. P. 2001. Domestic Violence: Sociological Perspectives. in International Encyclopedia of the Social and Behavioral Sciences. UK: University of Manchester. pp. 3832.

⁴⁸ Karakus, F. 2007. The Mark of Purple Needle Cannot be Erased. *Mor İğne’nin İzi Silinmez*. in *Amargi Dergi*. No. 4. İstanbul: Amargi

harassment at home”, but the group was disintegrated before being able get into these areas.⁴⁹

The next public action of the women’s movement was influenced by the Constitutional Court decision at which the Court decided that giving sentence reductions to rapists of prostitutes was not against the equality principle of the Constitution. Taking up this issue, women’s groups organized protests against this decision and rejected the division of “proper women” and “loose women,” in their campaign through 1989 and 1990.

The activist spirit of 1980’s led to a strong organizing and institutionalization period in 1990’s. In 1989, the First Women’s Congress took place in Istanbul, bringing together 2500 women. The Congress could have been a very uniting arena of cooperation for the women’s movement in Turkey, however, this process had to end due to the division between women who identify as leftist and those who identify as feminists.⁵⁰

During the process of institutionalization many women’s rights organizations were founded. Mor Çatı (1990) and Ankara Kadın Dayanışma Vakfı (1991) were the first ones to be established with the clear goal of protecting women from VAW, raising awareness and providing them with shelter services, showing the signs of second wave feminist activism which paved the way into the feminist approach to violence. However, financial difficulties and due to very few resources coming from the State, Ankara Kadın Dayanışma Vakfı had to close its shelter on 1999. Mor Çatı is still trying to continue their shelter with the help of volunteers and donations.⁵¹ However, both these institutions took prominent roles

⁴⁹ The Purple Needle Campaign will be taken up as a leading campaign and a tool to fight against VAW by civil society in the following sections.

⁵⁰ Arat, Y and Altınay, A. 2007. Altınay, Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Şiddet*. İstanbul: Punto Baskı Çözümleri.

⁵¹ Mor Çatı Website. Sığınak (Shelter). <http://www.morcati.org.tr/tr/sayfa/13/Siginak.html>

in raising awareness on violence against women and setting good practices for supporting victims of violence to this day. Many other organizations, local, regional and national continue to strive for elimination of violence against women, working on different levels of awareness raising, support services for victims, providing policy recommendations etc...

The women's movement, after these important campaigns and the institutionalization process moved onto the 3rd wave feminism in 1990's. They gathered around platforms for common goals and started cooperating with international structures and organizations for their goal. The thesis writer argues that this groundwork laid in the 1990's and 2000's will make it easier for the women's movement in Turkey to utilize the tools provided by the Istanbul Convention.

CURRENT FIGURES ON VAW IN TURKEY

Turkey has been criticized by many international organizations and women's groups for not gathering gender segregated data on many aspects of women's lives, including data on the incidence and the victims of violence against women taking place in its territory. The absence of women from the data collected by the State also causes women's problems to be invisible to the eyes of the State, making it harder to identify and resolve such problems, for example violence against women. One of the most important tools to combat violence against women is to know the reality on the ground through detailed, comprehensive research on the reasons and consequences on violence against women as it will also reveal the necessary steps to end it. Since 1990's initiatives have been undertaken by the State to combat VAW on different levels, such as legislations, projects, in-service trainings etc., yet without periodic data collecting the effectiveness of such projects could not be measured.

The first State research on this topic is the research of Prime Ministry Family Research Institution in 1994, titled “Reasons and Consequences of Family Violence”. The research found that 34% of the men said they have hit their wives and 56% of the women are victims of verbal violence.⁵² In this research, we still see the remnants of “battered women and wives” perspective on violence against women and that the agenda has not yet moved onto the more comprehensive understanding of violence against women. However, from 1994 to 2007, when the research of the General Directorate of Women’s Status started the most recent research on the issue, meaning for 13 years, the State did not undertake any comprehensive research on the issue.

The most wide covering research during those 13 years was the 18 month long research undertaken by two academicians, Prof. Yeşim Arat and Dr. Ayşegül Altınay, “Violence against Women in Turkey.”⁵³ The research covered 200 interviews and 1800 surveys selected from 56 cities throughout Turkey. One of the most important findings of the research was that the nine out of ten women said that “There is no beating that can be justified”.⁵⁴ Furthermore, 80% of women think that house chores should be equally divided between women and men, and 87% said that women can work outside at home. These questions signify that the researchers were working from a feminist approach to violence, as a form of putting women in a secondary position and ask their questions on the possibilities that would empower women, such as legal employment. Research found the percentage of women who experienced violence from their husbands at least once in their lives as %35 percent, close to the percentage revealed in the 1994 State research. Another significant result they have found was that the women who brought in more income to the family than their husbands are twice as likely to

⁵² KSGM Website. 1994. Reasons and Consequences of Family Violence. *Aile İçi Şiddetin Sebepleri ve Sonuçları Araştırması* <http://www.ksgm.gov.tr/uep.pdf> [accessed 29 December 2011]

⁵³ Arat, Y and Altınay, A. 2007. Altınay, Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Şiddet*. İstanbul: Punto Baskı Çözümleri.

⁵⁴ Arat, Y and Altınay, A. 2007. Altınay, Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Şiddet*. İstanbul: Punto Baskı Çözümleri., pg. 103

experience physical violence, which is very telling in terms of showing that violence is in fact a tool for men to maintain the power hierarchy which the patriarchal society employs on them, in support of the feminist approach to violence..

The most recent and comprehensive research on VAW was conducted by the General Directorate on the Status of Women with a big and prominent group of academics and researches, encompassing all the regions of Turkey. In 2006, the Prime Ministry issued a circular “Measures to be Taken to Prevent Custom and Honor Killings and Violence against Children and Women” and gave the responsibility of preparing a National Action Plan on Combating Violence against Women to the General Directorate of Women’s Status which the General Directorate published on 2008. As part of the Action Plan, the Directorate undertook a wide ranging research on domestic violence against women in Turkey.

In the report published after, the aim of the research was stated as: “providing data on the national level on violence against women, to allow for policies and programs for combating violence against women to be developed more effectively and for current policies and programs to be upgraded.”⁵⁵ The research has provided statistically similar results to Arat & Altınay (2007) research, they have founded that 39% of women who have been in relationships have experienced physical violence once in their lives and 46% of these women said that they have experienced extreme forms of physical violence such as strangling, using a knife or another weapon etc... On the other hand sexual violence was found to be experienced by 15% of women, and emotional violence was experienced by 44%.⁵⁶ The research, accepting the control of husbands over the wives’ lives as a

⁵⁵ KSGM. 2009. Domestic Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Aile İçi Şiddet*. Ankara: KSGM. Pg 23.

⁵⁶ Here, we see that the other forms of violence have been undertood and researched into by this time.

method of domination asked the women if their husbands wanted to know where they were all the time, and found strikingly that seven out of ten women said that this was the case.

Another important point the report signifies was that violence is present in the lives of women in all aspects of life. Whether in different age groups, or from different socioeconomic status, urban or rural women, women from different educational backgrounds, etc. all face violence in different forms in their lives, echoing the findings of Miller and Meloy (2006). The report argues that due to this reason, “the strategies for combating violence should include alongside efforts to empower women through their participation in educational and work life, efforts should be given to put the whole society into a process of mentality change.”⁵⁷ This multifaceted solutions and treatment approach to violence against women employed by the researchers also signals their adherence to the feminist approach to violence.

The report also agreed with the research of Arat & Altınay and found that 86% of women do not approve of male violence against women. However, women thought that the reason behind the violence they experience is due to problems men have in their lives, such as financial problems and problems with children. The understanding that violence comes due to the unequal power relationship and that these are only excuses will need to come through a further awareness raising process.

The research revealed that 92% of women who have been exposed to violence do not apply to official institutions or NGOs. Although this brings in mind the Learned Helplessness Theory, the work of Miller and Meloy (2006) helped us to understand the more complex nature of this decision making and its relation to the

⁵⁷ KSGM. 2009. Domestic Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Aile İçi Şiddet*. Ankara: KSGM. pg 186. (translation by the thesis writer)

unequal power relations in the feminist approach to violence.⁵⁸ This signifies that although women know that violence is unacceptable, they confine themselves into this cycle of violence and do not believe that they can break this cycle with the help of official institutions or NGOs as they hear from others who applied that these institutions were not reachable or could not help the victims, when that is not always the case. These numbers can be very helpful for the State to update their action plans for combating violence against women in an effective and urgent manner.

At the end of its report, the research also included suggestions for further research and analysis from the experts who has contributed to the work. To this day both the State and the women's movement have argued that the programs and projects applied to eliminate violence against women were not as effective as they should be due to this lack of data on the subject. Now, if this kind of research can be repeated periodically by the State, the issue of violence against women can be more visible to the State's and the public's eye, its severity and urgency for action will become more evident. Moreover, the effects of the policies and programs undertaken to combat violence against women can be evaluated more efficiently.

⁵⁸ Miller, S.L. and Meloy, M.L. 2006. Women's Use of Violence: Voices of Women Arrested for Domestic Violence. in *Violence Against Women*. V.12. Is. 1. pp 89 – 115.

CHAPTER IV

HISTORICAL BACKGROUND TO WOMEN'S MOVEMENT'S TOOLS AGAINST VAW IN TURKEY

The women's movement in Turkey has been quite live since 1980's as outlined in the previous sections. As violence against women was a uniting and vitalizing struggle for the movement, women used many different tools to aid them in their struggle to end violence against women. The thesis writer groups these tools into three groups: international documents, national legislations, and national campaigns undertaken by the women's movement.

In the next section, the positive aspects that these tools have brought into the agenda of elimination of violence against women, and the weak points remaining from them will be discussed. These will provide the basis for the evaluation of the Istanbul Convention into the tools it can provide for the women's movement, both in connection with and further beyond the tools, discussed below, which have been utilized until now.

TOOLS UTILIZED AGAINST VAW – International Documents

CEDAW

Turkey has ratified the Convention on 1985, with the last UN Conference of the UN Decade for Women, in Nairobi. In 1986, the Turkish Parliament has approved the Convention and it got into effect. Since then, Turkey has been through 5 reviews, in 1989, 1997, 2005 and latest in 2010. Over the years, it can easily be said that both the government and the nongovernmental organizations put in extensive efforts to utilize this process to further enhance women's human rights in Turkey, sometimes even collaborating in the preparation of the State Report, while the women's organizations would also prepare shadow reports to provide

more information to the CEDAW Committee for their General Observations.⁵⁹

Now, we will look into how the Convention came to effect.

The first international instrument on human rights is the 1948 Universal Declaration of Human Rights. “The Declaration proclaims that everyone is entitled to the rights and freedoms it sets forth without distinction of any kind, including that of sex”⁶⁰

However, through the years, it became more and more clear that the Universal Declaration of Human Rights was based on the experiences and the rights of the white male, the dominant group with access to power, instead of providing a wholesome declaration that would cover the rights of women and all other minority groups.

Although the Universal Declaration and the Covenants of the UN that followed was written on the idea of equality between the sexes, they were not sufficient enough to provide *de jure* and *de facto* equality for men and women in real life. With this recognition, in 1967, UN decided to adopt the Declaration on the Elimination of Discrimination against Women (DEDAW), a non-binding document, detailing the provisions necessary to eliminate the already existing discrimination in the lives of women and the girl child around the World, to make it easier to achieve the equality between the sexes, mentioned in the Universal Declaration.

⁵⁹ İlkaracan, İ. 2008. United Nations CEDAW Process and Advocacy and Lobbying with Non-Governmental Organizations – Shadow Reports from Turkey: 1997 & 2005 Experiences. *Birleşmiş Milletler CEDAW Sürecinde Sivil Toplum Örgütleri ile Savunuculuk ve Lobicilik – Türkiye Gölge Raporları : 1997 & 2005 Deneyimleri*. Istanbul: Women for Women’s Human Rights – New Ways Association

⁶⁰ Inter-Parliamentary Union. 2003 “The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol: A Handbook for Parliamentarians” IPU, pg 7

Between the Universal Declaration and the DEDAW, the Commission on the Status of Women (CSW), a body organized within the UN to further women's rights, has issued three treaties, Convention on the Political Rights of Women (1952), the Convention on the Nationality of Married Women (1957) and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962). While important binding documents, these treaties were only touching the tip of the iceberg and there was need for a wholesome document. Between 1965 and 1967, the Commission worked on the DEDAW, which would provide the basis for the work it started on 1972 for drafting the Convention of Elimination of All Forms of Discrimination Against Women (CEDAW).

United Nations issued 1975 as the Women's Year, and the first UN Women's Conference was held the same year in Mexico. The World Plan of Action prepared at the Conference was also calling for a "convention on the elimination of discrimination against women, with effective procedure for its implementation".⁶¹ UN's proclamation of 1976 – 1985 as the UN Decade for Women, only encouraged the preparation of such a binding treaty, a "Women's Bill of Rights" as it will be called later, during this decade.

In 1979, CEDAW was adopted by the UN General Assembly and went into force on 3 September 1981, thirty day after the twentieth member state has ratified it. As of 31 August 2012, the Convention is ratified by 187 member states, making the CEDAW the second most ratified Convention of the UN system, after the Convention on the Rights of the Child.

An important aspect of CEDAW is that through General Recommendations, it can update itself to the new developments and missing pieces in the Convention regarding women's rights. As of 31 August 2012, the Committee has adopted 28

⁶¹ Declaration of Mexico and World Plan of Action. 1975. <http://www.scribd.com/doc/50480848/Declaration-of-Mexico-and-World-Plan-of-Action-July-1975> [accessed 29 January 2012]

General Recommendations. During the first 10 years of the Convention, the General Recommendations were “short and modest” and more regarding the technical details of the Conventions. In 1991, the Committee decided to issue more detailed and comprehensive General Recommendations, regarding “specific provisions of the Convention and on the relationship between the Convention articles and what the Committee described as ‘crosscutting’ themes.”⁶² These General Recommendations are also important in that the Committee can hold the member states responsible for the implementation of the General Recommendations as a part of the Convention and addressing these issues in their reports to the Committee.

CEDAW’s implementation is ensured by a group of experts called the Committee on the Elimination of Discrimination against Women, consisting of 23 experts on the field, who are responsible for monitoring the member states’ progress on the implementation of the Convention. Member States, in accordance with the Article 18 of the Convention, are responsible for reporting on their progress of implementation of CEDAW to the Committee, one year after their ratification of the Convention and every four years afterwards. In scheduled sessions, the Committee discusses these reports with the representatives of the member states and issues recommendations for further areas of action to ensure full and effective implementation of the Convention by the member state.

Also, article 29 of the Convention allows for the dispute between two state parties of the Convention to be settled in arbitration, called Inter-State Procedure. Although, never been used, if the dispute is not settled in arbitration, it can be carried to the International Court of Justice.⁶³

⁶² Inter-Parliamentary Union. 2003 “The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol: A Handbook for Parliamentarians” IPU, pg 67

⁶³ To this date, Turkey’s only remaining reservation to CEDAW is on Article 29, regarding the Inter-State Procedure. [accessed 29 January 2012]

CEDAW's implementation procedures were further enriched by the adaptation of the Optional Protocol to CEDAW on 1999. The Protocol allows for an individual communications procedure, through which an individual person is able to carry on a discrimination they have faced (and could not resolve through the internal mechanisms of their country) to the CEDAW Committee. The Protocol also allows for the CEDAW Committee to utilize an inquiry procedure to the member states, where they see necessary, on "grave and systematic violations resulting from acts or omission by the States party concerned".⁶⁴

Violence against women, is not an issue explicitly taken up in the original text of the CEDAW Convention. While violence against women was becoming a part of the agenda of the global women's movement in the 1960's, it still did not move onto the agenda of the international human rights mechanisms during the 1970's when the CEDAW text was drafted. Violence against women was considered a private matter, of home and family, not a political matter because it is more prevalent in the "private" realm of the home and therefore, was not considered a serious human rights violation. Although severe cases of violence against women presented itself to the attention of the international community, these acts were not considered as enslavement or a threat to one's life and linked to human rights agenda in this aspect.⁶⁵ It is hard to argue that CEDAW is not a feminist document, as it fits the definition of feminism provided by Ackerly and True (2010) cited in the previous sections of this thesis and looks at the issues from a gendered perspective, nonetheless in the issue of violence it adheres to an understanding that does not recognizes the gendered aspect of violence, and also does not recognize it as an women's human rights violation, thus excluding it from the responsibilities of the member states.

⁶⁴ IWRAP Asia Pacific Website. "CEDAW Knowledge Resource: The Inquiry Procedure" <http://www.iwraw-ap.org/protocol/inquiry.htm>

⁶⁵ Charlotte Bunch. 1991. Women's Rights as Human Rights: Toward a Re-Vision of Human Rights" in *Gender Violence: A Development and Human Rights Issue*, eds Charlotte Bunch and Roxana Carrillo. New Brunswick, NJ: Center for Women's Global Leadership, 7 - 22

In spite of this negligence in its drafting, in the latter 1980's, "the CEDAW Committee (experts) began to take a leading role in defining violence against women as a human rights violation."⁶⁶ This process led to three General Recommendations on violence against women: Gen. Rec 12, Gen Rec 14 (on female circumcision), and Gen. Rec. 19. It is interesting to note that while under pressure from the states to draft a Convention with compromises (which we will see in the Istanbul Convention as well) the issue of violence against women had to be skipped, but when the experts in the CEDAW Committee started to work independently from their states and as elected experts on gender issues, they were able to make up for this negligence in the power given to them by the Convention.

Gen. Rec. 12, accepted in 1989, was the result of this leading role on VAW, and obliged the states to report on their periodic reports legislation on VAW, other measures taken during the time of the review to eliminate VAW, the support services for victims of VAW, and statistical data on VAW and its victims. It also urged states to report on "violence of any kind occurring within the family, at the work place or in any other area of social life"⁶⁷ It is important to recognize here that the Committee helped to expand the scope of violence against women beyond the violence experienced at home, thus leaving the domestic violence terminology to violence against women terminology, as discussed in Chapter II.

Gen. Rec. 19, accepted in 1992, is the most inclusive and wholesome among the three general recommendations in terms of defining violence against women and detailing the steps necessary for the member states to take for eliminating VAW. In Gen. Rec 19, violence against women is defined as "violence directed against a

⁶⁶ Heisoo Shin. 2007. CEDAW and Violence against Women: Providing the "Missing Link" in The Circle of Empowerment: Twenty Five Years of the UN Committee on the Elimination of Discrimination against Women, eds Hanna Beate Schöpp-Schilling, Cees Flinterman. New York: NY: The Feminist Press, pg 228.

⁶⁷ UN. 1989. Convention on the Elimination of All Forms of Discrimination Against Women: General Recommendation No.12. <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom12> [accessed 31 January 2012]

woman because she is a woman or that affects women disproportionately... It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”⁶⁸ Since today, this is the definition of violence against women that has been carried onto (and also elaborated by) all the international documents on violence against women, including the Declaration on the Elimination of Violence against Women and also the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

Gen. Rec. 19 details all related articles, namely articles 2, 3, 5, 6, 10, 12, 14 and 16, in its relation to Violence against Women. Also in Gen. Rec. 19, referring to the Article 2 of the Convention, outlining the responsibilities of the States on eliminating discrimination against women, is the notion that states are not only responsible to eliminate state violence against women, but they “may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”.⁶⁹ The General Recommendation, thus, acknowledges the human rights aspect of violence against women. The general recommendation also explains how traditional attitudes have been and can be used to “help to maintain women in their subordinate roles” and thus contributes to exacerbating violence against women.⁷⁰

While reiterating the need for the state parties to report on their attempts to eliminate VAW, as outlined in Gen Rec. 12, Gen Rec. 19 also details in great extend the suggested actions the states should take to eliminate violence against women and tells them to include the media in these efforts.

⁶⁸ UN. 1989. Convention on the Elimination of All Forms of Discrimination Against Women: General Recommendation No.19. Paragraph 6. <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom12> [accessed 31 January 2012]

⁶⁹ *Ibid*, paragraph 9.

⁷⁰ *Ibid*, paragraph 11.

Although missing from the original text of the Convention, violence against women issue is now a very strong part of CEDAW and the Committee's work on CEDAW. The member states are obligated to report on the statistics of violence against women in their countries, and the measures they have taken to eliminate violence against women. The issue is emphasized so strongly that in the last periodical report submitted by the Government of Turkey to the CEDAW Committee it was merited its own section in the report.

The Convention has been used by the women's organizations in several ways in Turkey. The periodical review process has been efficient in urging the government to change/establish certain laws (such as Law No.4320 as will be elaborated in the further chapters). Canan Arın, a prominent lawyer in the women's movement, and Çiğdem Hacisoftaoğlu, a lawyer who is also a Mor Çatı volunteer, both emphasized that they have used the Convention while arguing for their cases on violence against women in court.⁷¹ Article 90 of the Constitution of Turkey states that "In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail."⁷² Thus, the provisions of the CEDAW Convention can easily be used to argue cases in the court, and can be used as justifications by judges in their court decisions.

⁷¹ Arın, Canan. Personal Interview. 5 August 2012. And Hacisoftaoğlu, Çiğdem. Personal Interview. 17 July 2012.

⁷² Constitution of Turkey. Anayasa.Org Website.
http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf [accessed 30 August 2012]

DEVAW and The Special Rapporteur on Violence Against Women, Its Causes and Consequences

After the Nairobi Conference on Women (1985), efforts on bringing out a binding, detailed international document on violence against women was intensified. In 1989, the CEDAW Committee, as written above, issued its General Recommendation No.12, on the responsibility of the member states to report on VAW in their periodic reports.

In 1991, CSW recommended that the UN develop an international document addressing VAW. The Economic and Social Council has also convened an experts meeting in Vienna to look into that issue. The participants of the meeting endorsed and drafted a declaration, which would turn into DEVAW, adopted in 1993.

During the following years, nongovernmental organizations and women's groups lobbied intensely for VAW to be included in the human rights agenda, and to be accepted as a human rights violation. These efforts ensured that women's human rights, and especially VAW, was prioritized in the 1993 World Conference on Human Rights in Vienna. While the General Recommendation No.19 gave a detailed bottom-line for an international document, the Conference endorsed a draft of DEVAW. The Conference, in their Declaration and Plan of Action, also "confirmed that women's rights are human rights" as an important step forward in the women's movements struggle to be recognized and heard in the international community.⁷³

The General Assembly of United Nations adopted the Declaration on Elimination of Violence Against Women (Res. 48/104) on 20 December 1993, without a vote. The Declaration, although a nonbinding document, provides a basis for all types

⁷³ UNFPA Website. "The Human Rights of Women" <http://www.unfpa.org/rights/women.htm> [accessed 1 February 2012]

of work towards elimination of VAW, and is binding for all members of the United Nations, without the need for ratification of the document. It also provides a very broad definition of violence against women, and in its Article 2 still leaves space for even broadening the definition as the understanding of VAW and gender inequality changes throughout time.

The Declaration starts with the important statement of “recognizing the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings,” and aims to state that VAW, whether or not occurring within the family, is a public matter and requires state intervention.⁷⁴

Another aspect of the DEVAW is that it urges member states NOT to invoke any custom, religion or tradition consideration to avoid their obligations, and thus also eliminates any “cultural relativity” excuses that can be made by states when interfering with the violence against women in migrant populations. It recognizes “the historically unequal power relationships between women and men” and urges states to take all necessary action to eliminate VAW resulting from this unequal power relationship and also “affirms the importance of women’s movements and non-governmental organizations in raising awareness and alleviating the problem of violence against women.”⁷⁵

Clearly outlining the obligations of the states to eliminate VAW, the Declaration also notes, for the first time in an international instrument, that governments should include adequate funds in their budgets to fight against VAW. It can easily be said that DEVAW solidified the necessary steps to be taken for eliminating VAW to be applied to women’s lives more easily. Although, not a binding

⁷⁴ UN. 1993. Declaration on the Elimination of Violence Against Women. http://untj.org/files/gender/International_obligations/Declaration-Elimination-Violence-Women.pdf [accessed 31 January 2012]

⁷⁵ International Women’s Tribune Center. “DEVAW: Declaration on the Elimination of Violence against Women, 1993” <http://www.iwtc.org/DEVAW.html> [accessed 1 February 2012]

document that would be able to hold states accountable for failing to follow the principles in the Declaration, never the less it certainly provided the States and the civil society a ground to work up from.

It should be noted, however, that nearly half of the interviewees for this thesis did not recognize “DEVAW” in the questions asked, and replied that they do not have information on this document. While DEVAW is the document that provided the basics of the definitions for, arguments against, and the responsibilities of the states to end violence against women, it is interesting that the information on the actual document is quite limited. It is the opinion of the thesis writer that the nonbinding nature of this document and the fact that it does not have a monitoring mechanism to remind itself in a periodical manner is the reason why the document is much less known than CEDAW or the Istanbul Convention.

Sprouting from DEVAW, is the special mandate of the United Nations on VAW; Special Rapporteur on Violence against Women, Its Causes and Consequences. The mandate was established with the Resolution 1994/45 of the Commission on Human Rights. The mandate is entitled with the responsibility of collecting and analyzing data on specific countries, from the governments, NGOs and all actors in the field, and establishing a report as a response to these data. Rapporteur also issues an annual thematic report each year, on the intersections between a specific topic and VAW, and also transmits urgent appeals to states regarding alleged cases of VAW. The mandate also holds a role as making recommendations on international, regional and national levels, as well as working with the other Special Rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights.⁷⁶ The current Special Rapporteur on VAW is Rashida Manjoo, who has taken the mandate from her predecessor, Prof. Yakın Ertürk on 2009.

⁷⁶ Office of High Commissioner on Human Rights. “Special Rapporteur on violence against women, its causes and consequences: Introduction. <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx> [accessed 2 February 2012]

Prof. Ertürk defined the importance of this mandate in a writing as: “Violence Against Women Special Rapporteur’s complaints procedure is the most effective in the international human rights mechanisms... the country, which is the subject of the complaint does not need to be party to any convention or there is no need to exhaust the internal mechanisms of the country regarding the complaint”⁷⁷ These characteristics makes the mandate the fastest acting mechanism with the UN system to investigate and interfere with cases.

In 2006, then the Special Rapporteur Prof. Ertürk, paid one of her fact finding missions to Turkey to investigate the so-called “suicides” in the Eastern and South Eastern Turkey.⁷⁸ She has met with government representatives and civil society to access whether these suicides were, in fact, authentic, or whether, with the increase of the sentences in murders in the name of honor, in the new Penal Code of Turkey, murders were “covered” as suicides or these women were forced to commit suicide. The Rapporteur has concluded that some of the suicides she analyzed was authentic, some of the suicides did look like forced, or were actually murders, tried to be reported to the legal authorities as suicides. Yet, the Rapporteur, in her report, urged the Government of Turkey “to ensure women’s advancement; strengthen the legal and institutional framework; implement a zero-tolerance policy towards all forms of violence against women; identify and adjudicate cases of forced suicide and disguised murders; protect women at risk of violence; improve the database on violence against women; and take additional suicide-prevention measures.” She has also called onto the media and the civil society to help eliminate gender stereotypes and asked the international

⁷⁷ Ertürk, Y. (Spring 2008). “International Legal Framework of Women’s Rights” *Kadın Haklarının Uluslararası Hukuki Çerçevesi*. *Sosyoloji Dergisi*, 11(1), pg 49. (translated by the thesis writer)

⁷⁸ UN Human Rights Council, *UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey*, 5 January 2007, A/HRC/4/34/Add.2, available at: <http://www.unhcr.org/refworld/docid/45fea1812.html> [accessed 2 February 2012]

community to support the work of the local civil society.⁷⁹ It can be seen from this example that the Special Rapporteur mandate can be used quickly, by complaints from the public of a state, and in the recommendations encompasses the wide range of reasons and prevention methods of violence, and also recognizes the multiple forms of discrimination women face ver much in line with the feminist approach to violence.

TOOLS UTILIZED AGAINST VAW – National Legislation

The Constitution:

Laying down the basic principles on which a country's laws will be based, Constitutions are generally not places where detailed issues such as violence against women are taken up. However, as violence against women is a violation of women's human rights and is an act of torture, the Constitution of Turkey can be linked to the issue of violence against women as it has articles obligating the State to ensure the enjoyment of one's rights and freedoms.

Ekin Bozkurt Sener, in her dissertation, argues that “when it is considered that in the basis of violence (against women) is the asymmetric power relations between women and men, constitutional amendments on equality is of critical importance as touching the very basis of violence”.⁸⁰ The Constitution is based on the equality principle and on Article 10 it reads after stating that everyone is equal in front of the law “Women and men have the same rights and the State is responsible of ensuring the realization of this equality in life”. In 2010, with the new changes to the Constitution the phrase “the measures taken to ensure this purpose cannot be

⁷⁹ *Ibid*, pg 2 and pg 24.

⁸⁰ Bozkurt Sener, Ekin. 2011. “The Law on Protection of the Family, 4320, and Its Evaluation, on preventing Violence Against Women” Kadına Yönelik Şiddeti Önlemede 4320 sayılı Ailenin Korunması'na dair Kanun ve Değerlendirilmesi. KSGM: Ankara, pg 46 http://www.kadininstatusu.gov.tr/upload/mce/eski_site/Pdf/uzmanlik_tezleri/ekin_bozkurt_tez.pdf [accessed 4 January 2012]

considered as discrimination” was added to the article, thus paving the way for the use of special measures to eliminate gender inequality.

Further, in Article 5, it is said that preparing the necessary grounds for people to enjoy their rights and freedoms is among State’s aims and missions, and as violation against women is a violation of women’s human rights, it is an obstacle in front of this responsibility and should be eliminated. On Article 17, it is stated that no one can be tortured or be subject to ill treatment. Article 19, states that everyone has the right to personal freedom and safety and when we look at the above articles we see that these articles secures a life for women free of violence.

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The most powerful article on the constitution for use towards the elimination of VAW is Article 90, yet the article is very much underutilized when decisions are given by the judges on VAW cases. The article states that “In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.”⁸² In reference to this article, all the regulations of CEDAW and the Istanbul Convention should be considered in priority when conflicting with a national law, for eliminating VAW, and protecting and rehabilitating the victims. However, as will be detailed in the later sections, this article is of no use if the judges and prosecutors in the judiciary do not utilize it in their arguments.

The government has undertaken an initiative, with the involvement of all the political parties in the parliament, to write a new civil Constitution instead of the

⁸¹ Karınca, E. (2008b). “National and International Legislation on Domestic Violence against Women” *Kadına Yönelik Aile İçi Şiddetle İlgili Ulusal ve Uluslararası Düzenlemeler*. KSGM. Ankara

⁸² Republic of Turkey, Prime Ministry General Directorate of Media and Information Website. Updated in 2010. Constitution of Republic of Turkey. <http://www.byeqm.gov.tr/Content.aspx?s=tcotrot> [accessed 2 January 2012]

current Constitution, which was ordered to be written by the *coup d'état* in 1980s. The writing process was continuing at the Turkish Grand National Assembly during the writing of this thesis. The women's movement is struggling to get their voice heard regarding what should be in the Constitution through different means, and is already using the Istanbul Convention's equality and nondiscrimination clauses in their lobbying efforts.

Turkish Civil Law:

Turkish Civil Code was reformed in 2001, giving the law a much more equality based structure. The Civil Code is a group of laws that regulates the life of an individual from birth to death, thus very much important for the lives of women. After the reform in 2001, which women's organizations were also very much involved in, the civil code turned into a much more equalitarian civil code, especially with regards to regulations on family life.

Article 185 of the civil code states that marriage is a partnership formed by the equal participation, decision making, rights and responsibilities on the part of the spouses. Article 186 states that the spouses will decide on the family residence together, and this law was further strengthened by Article 194, which regulates that the decisions on the family residence can only be made with the consent of the both spouses, trying to eliminate the hard situations women face when their husbands sell the family residence without their consent, because in an overwhelming percentage of the marriages the family residence is registered under the name of the husband.⁸³ In the last section of Article 186, it is accepted that the spouses contribute to the family expenditures through both in cash or in kind, through their means, thus acknowledging the in-house labor that women put

⁸³ Bozkurt Sener, Ekin. 2011. "The Law on Protection of the Family, 4320, and Its Evaluation, on preventing Violence Against Women" Kadına Yönelik Şiddeti Önlemede 4320 sayılı Ailenin Korunması'na dair Kanun ve Değerlendirilmesi. KSGM: Ankara, pg 46 http://www.kadininstatusu.gov.tr/upload/mce/eski_site/Pdf/uzmanlik_tezleri/ekin_bozkurt_tez.pdf [accessed 4 January 2012]

into sustaining the family and the family residence. These regulations will also protect women (and their children if they are together) in a situation of divorce or separation for the distribution of acquired assets during marriage. As Akerly and True (2006) stated economic dependence on the male offender of violence is a very big consideration/obstacle in front of women victims of violence in front for giving the decision to leave the arena where the violence takes place, and these regulations are very much supportive of the economic protection of women victims of violence after they are able to leave their family residence.

At this point, it is important to note one of the major (yet incomplete) changes that were made to the Turkish Civil Code on Article 202: Legal Property Regime. Prior to the reform, “separation of acquired property regime” was in place, which would give the property acquired during marriage to whom it is registered onto, after the divorce. Leaving the abusive home and divorcing an abusive husband leaves women without financial means to sustain their lives, which would sometimes even deter women from considering a divorce, and force them to stay in abusive/unhappy marriages.⁸⁴ However, with the new “equal distribution of acquired property regime” established in the new civil code, women’s in kind or in cash contribution to the family income is recognized and distributed equally among spouses and women’s financial means is mostly secured after a divorce.

However, during the last acceptance session of the civil code, a proposal was made by the parliamentarians, very much to the opposition of the women’s groups that regulated Article 202 to apply to property acquired after 2002, when the Civil Code got into effect.⁸⁵ In this case, the contribution of women, who were married before 2002, to the family income would not be considered for the property acquired before 2002, and she would not get any of that property if it was not registered in her name. Considering the number of marriages that took place

⁸⁴ Miller, S.L. and Meloy, M.L. 2006. Women’s Use of Violence: Voices of Women Arrested for Domestic Violence. in *Violence Against Women*. V.12. Is. 1. pp 89 – 115.

⁸⁵ WWHR-New Ways. 2002. *The New Legal Status of Women in Turkey*. WWHR: Istanbul.

before 2002, this regulation discriminates against millions of women who are in those marriages.⁸⁶

Turkish Penal Code:

After the reform of the Turkish Civil Code in 2002, the efforts to reform the Turkish Penal Code were fastened. This was also very much due to the struggles of the women's movement in Turkey, as the Penal Code was one of the least amended laws in Turkey since its establishment, and contained articles that were hindering the struggles to enhance women's rights in Turkey and was causing the continuum of systematic violence against women.⁸⁷

The new Turkish Penal Code came into effect on 1 June 2005. Both the content of the articles and the discourse used to form this penal code has been, to a large extend, amended to ensure women's human rights. The most important discourse change, signaling also a change in the understanding of this kind of crime, to lead the change in the malpractices in the society, is the carrying of the sexual crimes to the heading of "Crimes against Persons" instead of "Crimes against Society" which it was listed under before. "Thus sexual freedom is accepted as a right owned by the individual, the value to be protected is no longer understood to be social morality, traditions, but as the women herself, as an individual."⁸⁸

⁸⁶ Şıpka, Ş. The Problems of the Process and the Effect of the Equal Division of Acquired Property Regime. *Edinilmiş Mallara Katılma Rejiminin Yasalaşma Süreci İle Yürürlüğüne İlişkin Sorunlar*. 21 Haziran 2009. http://www.turkhukusitesi.com/makale_608.htm. [accessed 5 January 2012]

⁸⁷ The Women's Platform on the Reform process of the Turkish Penal Code will be discussed further below, under the campaigns section.

⁸⁸ Bozkurt Sener, Ekin. 2011. "The Law on Protection of the Family, 4320, and Its Evaluation, on preventing Violence Against Women" *Kadına Yönelik Şiddeti Önlemede 4320 sayılı Ailenin Korunması'na dair Kanun ve Değerlendirilmesi*. KSGM: Ankara, pg 54 http://www.kadininstatusu.gov.tr/upload/mce/eski_site/Pdf/uzmanlik_tezleri/ekin_bozkurt_tez.pdf [accessed 4 January 2012] (translation by the thesis writer)

Sexual attack is defined, very broadly, in the new Penal Code Article 102 as the introduction of any materials, whether bodily or not, into any of the orifices of a person. If this crime is committed against a spouse, it is punishable if there is complaint from the spouse. This is a very progressive step, ahead of many other countries, to acknowledge and punish “marital rape.” Considering that VAW, very frequently, happens within the family, the paragraph of the article stating that the sentences will be increased half as much if the attack is committed up to a 3rd degree relative is very meaningful.⁸⁹ This article also protects men and children against violence faced within the family, thus nullifying the arguments that men and children are not protected and only violence against women is prioritized.

Before the amendment of the penal code, if an abuser would marry the woman he has raped or kidnapped, his sentence would be forgiven or reduced, considering that he has saved the honor of the woman and made up for the damage he caused. However, this degrading article has been changed to prohibit reduction or nullifying of sentence given in these cases.

Further, many of the maltreatment sentences, such as maltreatment of people living in the same house (Art. 232), willful murder (Art.82/2-d), willful injury (86/3-a), divestment of freedom (Art. 109/3-e) and prompting prostitution (Art. 227/5), if committed against the spouse is increased.

Another significant change in the penal code was on the issue of honor killings. The subject entered the penal code as “custom killings,” which the women’s organizations oppose to as it does not encompass all the killings in the name of honor. Nevertheless, this very amendment “killing in the name of custom” is considered as aggravated homicide, and the sentence is heavy life sentence. If there is a decision given by the family court, then the people in the family court

⁸⁹ Turkish Grand National Assembly Website. Updated 26 September 2004. Turkish Penal Code. *Türk Ceza Kanunu*. <http://www.tbmm.gov.tr/kanunlar/k5237.html> [accessed 4 January 2012]

are also prone to be sentenced.⁹⁰ Another positive step was the amendment of the 29th article of the Unjust Provocation Law to exclude the reasons “in the name of custom” for sentence reduction, thus fulfilling the obligation of Turkey under DEVAW on not invoking any excuses of customs or traditions for trying to justify violence against women.

Virginity testings are a form of VAW that was both physical and psychological. These are more strictly regulated in the new Turkish Penal Code, yet it can still be applied by the request of a public prosecutor or a judge, regardless of the presence of consent of the woman. While the women’s movement wanted to amend this article to only allow for a testing if the victim gives consent, it was among the few articles the movement could not convince the law makers to amend as the movement wanted.

Both the Civil Code and the Penal Code (and the Prime Ministerial Circular which will be taken up in the next section) are in effect now and far from a major reform process. Thus, the above mentioned articles show us the legal conditions onto which the Istanbul Convention is accepted and onto which the Istanbul Convention can be used by the women’s movement and the law-makers to build better laws to eliminate violence against women.

4320 – Law on the Protection of the Family

As mentioned, 90’s was a fast track for VAW entering the international agenda. Turkey, being signatory to CEDAW and also a signatory to Beijing Platform of Action, in which elimination of VAW was a priority area, was influenced by the VAW agenda, with the efforts of the women’s groups nonetheless.

⁹⁰ This notion of “family court” has sometimes been interpreted as a prerequisite to consider a homicide as “killing in the name of custom”, thus creating a loophole in the law for murderers to get reduced sentences if the presence of a family court decision for the murder cannot be proven. (Bozkurt Sener, Ekin, 2011)

In 1997, Turkey presented its 2nd and 3rd combined periodic report to CEDAW. The government representatives of the time, were confronted with questions and comments from the CEDAW Committee regarding a need for a domestic law on violence against women. Upon returning to Turkey, the government delegation, with the initiation of Minister of Women and Family Affairs of the time, İmren Aykut, started to work on a protection order law against VAW.⁹¹

On 14 January 1998, 4320 No Law on Protection of the Family was accepted. Although the law was passed, not with the name of a “protection order law” or “refraining order” as is the case in most of the countries with this type of the law, but taking a perspective that violence in the family is detrimental to the wellbeing of the family, and thus naming the law as “protection of the family”.⁹² In the general preamble of the law it is stated: “The damages of violence in the family is not only detrimental to the society, but also creates dangerous results for the individual. Domestic Violence, when coming from someone who needs to show love, clemency and compassion, leaves indelible marks in the soul of the family member who has been exposed to violence”

The philosophy of this law lies within the above quoted preamble; violence is seen as a matter of family and among all family members, without an emphasis on the asymmetrical violence women face within the family or the domestic unit. The idea is very much consistent with the domestic violence terminology used in the 80s and 90s and by more conservative circles still. This explanation carries with it all the limitations of the term “domestic violence” which was discussed in the

⁹¹ Kardam, 2005 cited in Rodriguez, 2009. Justice Through Domestic Violence Legislation: Improving the Implementation of Turkey’s Law 4320 on the Protection of the Family. *Journal of Public and International Affairs*. 27 – 44. NJ: Princeton Press

⁹² Türk Hukuk Sitesi. 2008. Doğan, İ. An Observation on Violence Against Women, International Documents, 4320 No. Law on Protection of the Family and Amendments on the Law. *Kadına Yönelik Şiddet, Uluslar arası Belgeler, 4320 Sayılı Ailenin Korunmasına İlişkin Yasa ve Bu Yasada Yapılan Değişiklikler Üzerine bir İnceleme*. http://www.turkhukuksitesi.com/makale_930.htm [accessed 8 February 2012]

Chapter II of this thesis. The quote also tells us that the family unit exists for “love, clemency and compassion” and its dissolution due to violence is detrimental to the society.

This law, consisting of four articles only, was a very simple, undetailed law, yet a big step as it was a first in bluntly putting violence against women into the domestic legislation. However, as the law was quite short and undetailed, it resulted in many differences in interpretation, generally inclining to protect the abusive husbands. As such problems were observed, with the pressure from women’s organizations, an amendment was made to the law on 2007. The amendment included below changes:

- While the old version of the law only allowed for family members living under the same roof to be protected with the law, with the new law included those people who are separated and live in different houses.
- The victim/victims can be protected not only in the family residence, but also in other places, like shelters, relatives, work spaces to which the victim may look for shelter from violence.
- The official forces responsible for immediate protection is broadened by saying police force can take measures as well
- The perpetrator of violence is directed to go to a health clinic for check-up, to allow if there is a psychological problem to be treated.
- Priorly, the judge would grant a temporary alimony, if it was asked by the victim. However, with the new amendment, regardless of a petition from the victim, the judge can grant a temporary alimony, taking into consideration the financial situation of the family.
- In the previous article, it was stated there would be no fees for petitions under Article 1, yet in the amendment it is stated that there will be no fees for petitions under the whole law and also for the enforcements from the decisions given.⁹³

⁹³ Türk Hukuk Sitesi. 2008. Doğan, İ. An Observation on Violence Against Women, International Documents, 4320 No. Law on Protection of the Family and Amendments on the Law. *Kadına Yönelik Şiddet, Uluslar arası Belgeler, 4320 Sayılı Ailenin Korunmasına İlişkin Yasa ve Bu Yasada Yapılan Değişiklikler Üzerine bir İnceleme.* http://www.turkhukuksitesi.com/makale_930.htm

Interestingly, the Bylaw on the Law on Protection of the Family was put into force 11 years after the Law, itself, in 2008, thus leaving those 11 years in a more vague state for legal decisions and actions to be taken against VAW.

In spite of its shortcomings, the Law No.4320, has been the primary point of support for victims of VAW and women's organizations since 1997. WWHR-New Ways stated in our interview that they have tried to raise awareness and information on the law by giving it a whole section in their 16 week long training for empowerment of women, called Human Rights Education Program for Women.⁹⁴ Women's Solidarity Foundation has also undertaken several awareness raising programs on the law, gave information regarding Law No.4320 in their neighborhood visits, and organized with other women's organizations trainings for professionals on the issue.⁹⁵ The General Directorate on Women's Status has also undertaken many projects with the aim of promoting the use of the Law No.4320, in collaboration with other institutions. These are only a few examples of the vast number of projects undertaken to enhance the use of Law No.4320. Thus, there was a limited, but present public opinion on the law when we came to 2011.

Recently, in 2011, after the signing of the Istanbul Convention by Turkey, a new initiative for amending the 4320 No. Law was started to bring the legislation in line with the requirements of the Convention. A new platform, Women's Platform to End Violence, has been established by women's NGOs to lobby for the necessary amendments to strengthen the effect of the law towards ending VAW. The Platform lobbied that the law 4320 should be amended to include the necessary adaptations in line with the Istanbul Convention, so that all the work

[accessed 8 February 2012]

⁹⁴ Batik, Ebru and Ayman, Zelal. WWHR – New Ways. Personal Interview. 8 May 2012.

⁹⁵ Ulker, Gulsen. Women's Solidarity Foundation. Personal Interview. 4 September 2012.

done for promoting 4320 No. Law, mentioned in the previous paragraph, was not lost. The Ministry of Family Affairs and Social Services saw it fit to make a new law, 6284 No. Law, which will be detailed in the upcoming sections. Thus, 4320 No. Law, important for being the first law against systemic violence against women, is no longer in force, yet the new law, 6284, allows for sentences passed with reference to 4320 No. Law to hold valid in this transmission process.

Prime Ministerial Circular

In 2005, a Parliamentary Commission of Inquiry was founded to investigate and report on the “Measures to be Taken to Prevent Custom and Honor Killings and Violence against Children and Women.”⁹⁶ The Commission has prepared a report on the issue, and the Prime Minister has issued the circular 2006/17 “Measures to be Taken to Prevent Custom and Honor Killings and Violence against Children and Women” to identify measures to be taken to eliminate the forms of violence addressed in the circular.⁹⁷

In this Circular, the Turkey’s national machinery on women, General Directorate on Women’s Status, recently connected to the Ministry of Family and Social Services, is deemed as the coordinating body for the measures outlined. Several institutions, including the Ministry of Internal Affairs, Ministry of Health, Ministry of Justice, Ministry of Education, Governorships, Municipalities, Social Services and Child Protection Agency, ... etc. are mandated with preparing and submitting reports to the General Directorate on Women’s Status every three months on the activities they have undertaken regarding the Circular.⁹⁸

⁹⁶ KSGM. 2009. Domestic Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Aile İçi Şiddet*. Ankara: KSGM. Pg 23.

⁹⁷ The Circular, in its introduction, argues that violence against women and children is something that will be eradicated through economic development and increase in the educational and cultural levels. The Circular does not mention the unequal power relationships and the patriarchal structures that cause violence against women.

⁹⁸ Prime Ministerial Circular. 2006. “Measures to be Taken to Prevent Custom and Honor Killings and Violence against Children and Women No. 2006/17” Ankara.

Arat and Altınay (2007) mention that this Circular is a first in taking up the issue of violence against women as a “state policy” and of requesting a detailed cooperation between different institutions of the State.⁹⁹ Several varied forms of activities, under the headings of “Protective and Preventive Measures,” “Institutional Services,” and “Health” are detailed in the Circular. Important measures outlined in the Circular, of which also women’s organizations are very satisfied with include, but not limited to: taking the necessary measures to eliminate the financial inequality between women and men, responsibility of the Ministry of Labor and Social Security; preparing spot films regarding violence against women and airing them on local, regional and national media, responsibility of the General Directorate on Status of Women; making women-friendly city planning, providing enough telephone booths for women, responsibility of the Local Administrations.

However, women’s organizations are also concerned about other aspects of realizing the Circular. In their shadow report to CESCR women’s organizations state: “since the state lacks an integrated, comprehensive policy on this issue, budgets of the institutions charged with combating VAW have not been allocated accordingly. The efforts spent on combating violence against women are based on time-specific activities in the form of projects, instead of long-lived and sustainable programs.”¹⁰⁰

⁹⁹ Arat, Y and Altınay, A. 2007. Altınay, Violence Against Women in Turkey. *Türkiye’de Kadına Yönelik Şiddet*. İstanbul: Punto Baskı Çözümleri.

¹⁰⁰ Executive Committee for NGO Forum on CEDAW and Women’s Platform on the Turkish Penal Code. 2011. Shadow NGO Report on Turkey’s Initial Periodic Report to the Committee on the Economic, Social and Cultural Rights. http://www.google.com.tr/url?sa=t&rct=j&q=wforwhr_turkey_cescrwg46&source=web&cd=1&ved=0CCEQFjAA&url=http%3A%2F%2Fwww2.ohchr.org%2Fenglish%2Fbodies%2Fcescr%2Fdocs%2Fngos%2FwforWHR_Turkey_CESCRWG46.doc&ei=ZOO0T4iOA8TesgbkqKyvDA&usq=AFQjCNFBTJ17kWoAlf3dMQcdwvMdcTAOGQ [accessed 10 February 2012]

TOOLS UTILIZED AGAINST VAW – Civil Society Initiatives

Campaign Against Beating¹⁰¹

In February 1987, when refusing the divorce application of a pregnant woman with three children who was regularly beaten by her husband, a judge from Çankırı referred to a proverb saying: “You should never leave a woman’s back without a stick and her womb without a colt”. This court decision was the last straw and laid the foundation for the campaign.¹⁰²

Before the campaign, eight female lawyers from Eskisehir protested the judge’s decision and women from Istanbul continued the protest and applied to Sultan Ahmet Judicial Court with petitions and came upon for a suit of damages. But their application was denied since the court decided that they were not a party to the suit. The court’s decision gave countdown to women to organize such a campaign.

Women wanted to gather on the Mother’s Day in 1987 but traces of September 12th military coup was not worn off and the authorities did not let women march on the planned day. Women protesting domestic violence gathered on 17th of May 1987 and realized Turkey’s first legal demonstration after September 12th. As stated in Tekeli’s article, 3000 women marched on 17th of May and this demonstration has alerted public opinion and ‘from then on the attitude of the press changed with regard to feminism.

¹⁰¹The word for beating in Turkish is “Dayak,” a much more commonly used word for physical violence against women, and the original name of the campaign is also “Dayağa Karşı Kampanya”

¹⁰² Tekeli, Ş. (2006) “The Turkish Women’s Movement: A Brief History of Success”, *Notebooks of the Mediterranean*, No.6

The campaign may be not the first campaign of women in Turkey, but has been the first campaign to bring together a diversity of women, women's interests and problems and gathered many feminists together.¹⁰³

The campaign aimed to pull out men's violence against women from the main domain of violence and considered men's violence against women within the domain of male hegemony and domination in accordance with the Feminist Approach to Violence. The roots of the legal gains of women until now should be looked for in the efforts and struggles of the women before, during and after these campaigns. This campaign constructed women as the active, collective agent of their emancipation. Through this campaign, it has also been established that feminism is a way of politics that is against the male domination.¹⁰⁴

Women gathered, on 17th of March 1987, in Kadıköy Yogurtçu Parkı for the "March against Beating." The march was organized by women from Kaktüs and Feminist magazines, from the meetings in Bilsak, those that will establish the Association of Women against Discrimination, and by independent feminists. In the aftermath of the march, a festival was organized in Edirnekapı Kariye Museum on 4th of September, 1987, with the participation of 2000 women. On 6th of November, 1987 "Stand for Solidarity against Beating" was opened. Next year, in 3rd of March 1988, the book "Shout so Everyone Can Hear" was published. Between 8th and 12th of March, 1988, an exhibition named "Temporary Modern Women's Museum" was inaugurated in Istanbul Reklamevi. From 6th of December, 1988 to 22nd of December, 1988, coffee shop meetings have been organized in the "Madamın Kahvesi" in Şişhane. In October 1988, the shelter project named "Now for Shelters" was prepared. In this fast and loaded period of the women's movement, the women involved in the campaign demanded an

¹⁰³ From the campaigns brochure published for the 20th anniversary of the campaign against beating.

¹⁰⁴ Savran, Gülnur .2007. Shout so Everyone Hears, to End Male Violence – Violence against Beating Campaign Brochure. *Bağır Herkes Duygun, Erkek Şiddeti Son Bulsun, Dayağa Karşı Kampanya El Broşürü*

independent women's shelter built upon feminist values. One of the most important and concrete outcomes of the campaign has been the Purple Roof Women's Shelter Foundation established in 1990 and still actively working on violence against women.

'Our Body belongs to Us. No to Sexual Harassment!' - PURPLE NEEDLE CAMPAIGN¹⁰⁵

Probably the most exciting campaign of the women's movement at the end of 1980's has been the "Our Body Belongs to Us. No to Sexual Harassment" campaign that is more widely known as the "Purple Needle Campaign". The idea to organize a campaign like that came from the feminists in Ankara and in the 1st Feminist Weekend on February 1989 it was decided that this campaign would be organized in other cities as well. The campaign was executed in Izmir, Ankara, and Istanbul. Women started the campaign in Istanbul by selling 'purple needles' in a ferry between Kadıköy and Karaköy, on the morning of November 2nd. In the convocations text of the campaign it was said: "We as women are exposed to sexual harassment within the society in every place we go to. In the bus, in the ferry, in the train, through hand, eye, and speech, we are subject to harassment. It is like part of our job to accept the touching, the suggestive speeches and the looks that our bosses and our male colleagues throw towards us. It is like our duty as women to remain silent in the face of our close male relatives' under covered or even open molestations and attacks, and to have sex with our husbands because they want so... Let's not remain silent anymore. Let's say 'No!' to carry this shame on our shoulders. Let's enunciate that the real culprits and the ones to be ashamed of are the men who molest us. Women, let's go on the streets! ..."

The needle with purple ribbons that is used in this campaign was one of the most successful campaign symbols of the women's movement in Turkey. As much as

¹⁰⁵'Mor İğne', resmi adı 'Cinsel Tacize Karşı Kampanya' ile ilgili bkz. Gülnür Savran, *Özgürlüğü Ararken*, Filiz Karakuş, *Amargi*.

the idea behind the campaign was creative, the slogans used throughout the campaign were much and more creative and radical. Alongside the sale of the purple needles, women also made inrushes to the coffee houses and drinking houses in the city.

The naming of the campaign that women derived from the slogan “Our Body Belongs to Us” also became an important discussion in the meetings they held.¹⁰⁶ When the idea first came out it was a campaign “against molestation” women preferred to use the name “campaign against sexual harassment,” also succeeding to change the use of the term towards the latter, as a proving process for the arguments for feminist activism influencing theory and discourse, and in turn being influenced by them.¹⁰⁷ Considering the atmosphere of the time of the campaign, that of the military coup of 1980 and the suspicion and the controlled, pressuring and limiting process, women got together not in institution-based structures but around more flexible and temporary coalitions and bring forth their actions not for legal changes, but carry them on the streets. An example to understand the atmosphere of those days is that women named their meeting the “Feminist Weekend” rather than a congress or an organization because those were considered dangerous and threatening concepts.

While the campaign has been very successful in terms of content, its lack of concrete goals and its organization around temporary and loose structures led the campaign to cease very soon. Although the campaign was prepared to draw attention to the sexual harassment at home, in the street and at the office, it was only able to get the attention onto the harassment on the streets, but there has not been any concrete gains regarding the harassment at the officer or at home. Although some considered this movement unsuccessful as it did not have any

¹⁰⁶ 27.07.2006 *Bianet* ve Feminist Dergi Mart 1990

¹⁰⁷ Lugone, M and Spelman, E. 1983. “Have we got a theory for you! Feminist theory, cultural imperialism, and the demand for the woman’s voice”. In *Women’s Studies International Forum*. V.1. pp 573 – 581.

concrete gains, as the campaign had aimed directly at the social stereotypes within the society that caused the continuation of the gender inequalities and as it has taken the first steps towards a change within the society, the success of the campaign should be measured not with the concrete gains but with the changes in the attitudes towards sexual harassment within the society in time. The truth that the phrase “sexual assault” is known throughout the society has its basis in this campaign and the women that were involved in it.¹⁰⁸ Now, with the Turkish Penal Code reform, ‘sexual assault’ is recognized as a “crime against the bodily integrity of persons’ and the women who lobbied for this change are the ones who were either involved with the ‘purple needle campaign’ or who have learned the concepts of ‘sexual assault’ and ‘bodily integrity’ through this campaign.

The actions against sexual assault at the workplace within the “No to Sexual Assault” campaign could not have been brought to attention, and in its place the arguments and protests over the Article 438 took over, regarding the reduction of sentence for rapists of sex workers.

TCK Reform Campaign

In 2002, the Turkish women’s movement had just been through a successful campaign for the amendment of the gender discriminatory articles in the Turkish Civil Code. Seeing the impact of the Turkish Civil Code reform process “The Women’s Working Group on the Turkish Penal Code” was founded with 12 members, all feminist and most of them trained in law.

The Turkish Penal Code amendment was especially important to be in line with women’s human rights, as it also regulates “Crimes against Persons” under which several violence against women forms, such as sexual assault, including rape, custom killings and physical violence are formulated.

¹⁰⁸ Karakus, F. 2007. The Mark of Purple Needle Cannot be Erased. *Mor İğne'nin İzi Silinmez*. in Amargi Dergi. No. 4. Istanbul: Amargi

The working group examined the old Turkish Penal Code, from a holistic perspective, including its philosophy, its articles, and its discourse, then picked out all the points and articles that are discriminatory to women. Later, the group prepared specific proposals for the amendment of these discriminatory articles. These specific proposals were in line (and sometimes even beyond) the international standards and procedures set out by United Nations and other human rights mechanisms of the time.

A window of opportunity opened for the Working Group in September, 2002. Prof. Aysel Çelikel, a member of the women's movement in Turkey, was selected to be the independent Justice Minister before the November 2002, national elections. The Women's Working Group on the Turkish Penal Code persuaded Prof. Aysel Çelikel to establish a commission to work on the gender discriminatory articles in the Turkish Penal Code. The commission met for only one day and most of the proposed amendments of the Working Group were accepted. However, in November 2002 the elections were held, and the new government did not take up the issue of the reform of the Turkish Penal Code until March 2003. Unfortunately, they threw out the draft law prepared by Aysel Çelikel that was influenced by the Women's Working Group, and prepared a new draft law. Meanwhile, the Working Group, as it has finished its purpose of analysis was terminated.

A bigger group of people was needed to effectively lobby the parliamentarians to include the proposals of the Working Group in the new draft law. "Women's Platform on the Reform Process of the Turkish Penal Code" was initiated for this purpose, and included about 30 nongovernmental organizations, many independent lawyers, academicians and media members. A booklet called The Proposed Amendments of the Women's Working Group on the Reform Process of the Turkish Penal Code from a Gender Perspective was published and sent to all the parliamentarians in the new parliament. With the press statement of the booklet in May 23rd, 2003 the campaign was launched. When the sub-commission

for the reform of the Turkish Penal Code was established, the Platform lobbied the head of the commission and got permission to come into the meetings of the sub-commission to give briefings on their proposals.

One of the strengths of the Platform was that it worked very closely with some parliamentarians from the opposition party. They would convey the discussions made within the sub-commission to the Platform, and went back and further lobbied the sub-commission on the decisions made with the Platform. Another important point for the campaign was the oppositional party's acceptance and promise for support for all the proposals given by the Platform. Thus, the Platform gained the support of nearly the one third of the parliament without any resignations.

The Platform used the media very strategically to gain public support and push the parliamentarians to accept their proposals, which turned out to be one of the strong aspects of this campaign. The journalists were writing in a variety of newspapers that stood on different positions in terms of their political affiliations, including very secular and very conservative ones. While feeding them with information, the Platform also paid great attention to the discourse these journalists were using to discuss the issues.

On 10 December 2003, the Platform organized a conference on the Turkish Penal Code Reform and Women's Issues, in Ankara, with the participation of the then EU Ambassador Kretchmer. After such a strong support from EU, the campaign was able to attract the attention of the members of the Ministry of Justice and their appointment requests were answered. In May 2004, the draft law moved from the Justice Sub-Commission to the Justice Commission where more political worries took over the discussions on the draft law, they were more stringent about making the progressive changes proposed by the Platform.

The Draft Law was going to be brought to the Grand National Assembly on September 14th, 2004. As a last move, the Platform agreed to organize a big march

on that day. The main slogan of the march was “Our Bodies and Our Sexualities belong to us / We are Walking to Protest against the Discrimination against Women in the Turkish Penal Code.”

The new Turkish Penal Code was published on October 11th, 2004 in the Official Gazette with the decision number 5237. It was decided that the new Penal Code would come to effect on April 1st, 2005.

Thirty of the thirty five proposals of the Platform were accepted. Yes, it was a big success, yet there were still four issues that were not settled in the way that the Platform proposed. The “Aggravated Homicide” article’s justification was amended to include “custom killings” only if the killing did not result from “Unjust provocation,” making it especially easy for honor killing perpetrators to get reduced sentences. The sexual relations of the youth (15 to 18 years) are considered as a crime upon complaint, but the law does not specify who can make the complaint (thus leaving it open for parents and even school teachers to make this complaint). The article against discrimination still does not include the phrase “sexual orientation.” And lastly virginity testing, although more strictly regulated, is still not prohibited.

The Platform was also an important establishment for the Turkish women’s movement. Both, Prof. Yakın Ertürk and Prof. Feride Acar, said that one of the strongest tools the Platform has left to the future women’s movements in Turkey is its usage of wide range of activities and nontraditional methods of lobbying without forgetting about the traditional means as well.¹⁰⁹

¹⁰⁹ Kİymaz, Ş. 2005. “The Role of the Women's Working Group and Women's Platform on the Reform Process of the Turkish Penal Code” Undergraduate Thesis. Swarthmore College. USA

Women's Platform to End Violence

In 19 September 2011, The Ministry of Family Affairs and Social Policy invited women's organizations to participate in a meeting to discuss a new draft of the 4320 No Law on Protection of the Family. A group of women's organizations which has worked together on the issue prior to and after this meeting came together to establish the End to Violence Platform. iğdem Hacisoftaođlu indicated that including as many organizations possible in the Platform was a way of saying a common word and showing an organized power towards the government to lobby for their demands.¹¹⁰

The group prepared a comprehensive alternative draft for the law and sent it to the Ministry on Family and Social Policy on 30 September 2011. On 22nd of October, 2012, representatives from the group met with the Minister to convey their critical points directly to the Minister Fatma řahin. The Platform's draft had almost 250 signatures from different women's organizations; they were acting in unison to be able to get their voices heard much more clearly.¹¹¹

On 25th of November, International Day for the Elimination of Violence against Women, the Turkish Grand National Assembly accepted the Istanbul Convention without any reservations. On this significant day, the group sent their proposals to the Ministry in writing, in fax and email, to force the government to accept their proposals for the new law on violence against women, which should have been in line with the Istanbul Convention, as the Convention clearly positioned the member states responsible for applying the provisions of the Convention into their national legislation.

¹¹⁰ Hacisoftaođlu, iğdem. Purple Roof Foundation. 17 July 2012.

¹¹¹ Women for Women's Human Rights – New Ways. 23 December 2011. Email to HREP group: ONEMLİ – řiddet Taslađı Geliřmeler.

The group used the name of Women’s Platform to End Violence first in a press release they have sent to media on 28 December 2011, in which they were stressing that the notion of “people living with close relations to each other” in the article explaining the extend of the people who will be protected through this law was removed from the draft law, thus leaving women without an official marriage unprotected.¹¹² The notion was placed into the new law, thanks to the efforts of the Platform.

The Platform, although disillusioned by the back and forth progress of the preparation and admission, they have still continued to strive for a better, more comprehensive law and attended the working group meetings with the Ministry, in Ankara, on 12-13 January and 15 January and actively participated in the process. The Platform continued their writings and discussions back and forth with the judges and lawyers the Ministry appointed to prepare the law. The members of the Equal Opportunities Commission for Man and Woman and Justice Commission were contacted by the members of the Platform on how the law should be to be able to fully eliminate violence against women. Press releases were organized in Istanbul and 14 other cities to inform the public of the process and the extent of the new draft law.¹¹³

The new law on violence against women, Law No.6284 : Protection of the Family and Violence Against Women was accepted by the TBMM on March 8th, 2012. The Law was very quickly published in the Official Gazette and came into force. What the Platform actually wanted in the new law, in light of the Istanbul Convention, and how extensive the law ended up being will be discussed in the further sections.

¹¹² Women’s Platform to End Violence. 28 December 2011. The Responsibility of the State is to Protect “All Women” not Some Married Women. *Devletin Görevi Bazı Nikahlı Kadınları Değil “Her Kadını” Şiddetten Korumaktır.* <http://www.engellikadindernegi.org/node/24> [accessed 11 January 2012]

¹¹³ Batik, Ebru and Ayman, Zelal. WWHR – New Ways. Personal Interview. 8 May 2012.

However, the Platform's work is not finished. Aside from its strong effect on the new law, the Platform was also significant in its process of information sharing in its internal mailings, according to Nazan Moroğlu.¹¹⁴ Furthermore, the Platform supports victims in cases of violence against women.¹¹⁵ And as Zelal Ayman, from WWHR – New Ways stated in our interview, the Platform's work will only be finished when violence against women is eliminated in Turkey.

These campaigns gave the women's movement effective experience to utilize the Istanbul Convention to its fullest through different methods. Use of both traditional and innovative means, use of media, strong international institutions and organizations, and the practice of gathering together as the movement with the involvement of different groups, the movement grew stronger and had a louder voice. These experiences will prove very useful for the women's movement when they utilize the tools the Istanbul Convention can provide for elimination of violence against women in Turkey.

¹¹⁴ Moroğlu, Nazan. Personal Interview. 27 August 2012.

¹¹⁵ Arın, Canan. Personal Interview. 5 August 2012.

CHAPTER V

A NEW TOOL AGAINST VAW: THE ISTANBUL CONVENTION

“Just as the second wave feminism aimed to expand the notion of the political into the realm of so-called ‘personal’ and ‘private’, so too a major impetus of feminist activism at the beginning of the 21st century is to globalize our consciousness not just to the global dimension of the problems, but also to the global dimensions of their solutions.”

Ackerly and True (2010)¹¹⁶

The thesis writer argues that the international documents on women’s issues are the result of such “impetus” by the globalized women’s movement and the decision makers they lobby to bring such global solutions to the universal issues faced by women, such as violence against women.

In the previous sections, this thesis examined two international documents on violence against women: CEDAW and DEVAW. While CEDAW has only taken up the issue of VAW in its General Recommendations, DEVAW on the other hand is only a “declaration,” meaning nothing more binding than a “good will document.” Although, these are important tools for women of Turkey to utilize against VAW, a specific document, focused on VAW, integrating the recent perspectives and best practices on violence against women and a more binding document was necessary to strengthen the hands of the women of Turkey against VAW.

Two such binding documents exist in the regional unions in the World. One is the Inter- American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belem Do Para” adopted in 1994, in Brazil, got into effect on 1995, with the ratification of all member states of the

¹¹⁶ Ackerly, B. And True, J. 2010. “Back to the Future: Feminist theory, activism, and doing feminist research in an age of globalization” in Women’s Studies International Forum. V. 33. pg 470.

Organization of American States, except USA and Canada.¹¹⁷ The second document is the Protocol to the African Charter on Human and People's Rights of Women in Africa, adopted in 2003 in Maputo, for the ratification of the African states.

While these binding documents are sources and points of reference for the struggle for elimination VAW in Turkey, nevertheless, they do not have any binding power over the State of Turkey and therefore cannot be used as powerful tools.

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, which will also be referred as the Istanbul Convention (as it was the city which the Convention was first opened for signatures) is on the other hand, a milestone document for the activists against VAW in Turkey, as it is a binding, well detailed, comprehensive, progressive and wholesome document on the reasons of VAW and necessary steps to eliminate it while offering rehabilitative services for the victims on the other hand.

HISTORY OF THE ISTANBUL CONVENTION

Prof. A. Feride Acar explained in a newspaper interview that “VAW was not a topic taken very seriously in Europe until then (2006, when a task force on VAW was established), it was considered the issue of others, different cultures, immigrants... The awareness on the issue increased in Europe in the last decade”¹¹⁸

¹¹⁷ OAS Website. Multilateral Treaties. <http://www.oas.org/juridico/english/sigs/a-61.html> [accessed 28 January 2012]

¹¹⁸ Radikal Newspaper. “Signature that protects Women” (12 May 2011) <http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetayV3&ArticleID=1049055&Date=11.12.2011&CategoryID=77> [accessed 12 December 2011]

The rising of the agenda against violence against women throughout the World in 1990's also echoed in the Council of Europe, especially in its Steering Committee for Equality between Women and Men. In 1993, the 3rd European Ministerial Conference on Equality between Women and Men was devoted to "Strategies for elimination of violence against women in the society: the media and other means". The process started in 1990's developed into the adoption of the Council of Europe Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, outlining the situation and steps the member states can take to eliminate violence against women, including domestic violence.¹¹⁹ CAHVIO, in its explanatory report for the Istanbul Convention (CETS No.210) recognizes this Recommendation as a "milestone" because "it proposes, for the first time in Europe, a comprehensive strategy for the prevention of violence against women and protection of victims in all Council of Europe member states."

Later, it was decided on the Third Summit of Heads of State and Government of the Council to undertake a large scale campaign on VAW, formulated and monitored by a task force appointed by the Secretary General of the Council of Europe, namely the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence. The campaign was devised and undertaken on years from 2006 to 2008. There were three levels to the campaign: intergovernmental, parliamentary and local. The implementation of Rec(2002)5 on VAW at these three levels was the focus of the activities undertaken in the campaign. The governments were asked to conduct the activities on four areas: legal and policy measures, support and protection for victims, data collection and awareness raising.¹²⁰

¹¹⁹ It is important to note that even in 2002, the Council of Europe started to use the terminology of violence against women, and used domestic violence as a subdivision of this.

¹²⁰ Council of Europe. 2011. Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: Explanatory Report. CETS No.210. <http://conventions.coe.int/Treaty/EN/Reports/Html/210.htm> [accessed 28 December 2011]

The Council of Europe, in its brochure about the Istanbul Convention states that “the campaign revealed the magnitude of the problem in Europe.”¹²¹ The Council of Europe Task Force to Combat Violence against Women, including Domestic Violence has emphasized the need for “harmonized legal standards to ensure that victims across Europe benefit from the same level of protection and support” and suggested that a binding human rights convention is necessary to prevent and combat VAW.¹²² Further in 2006, the European Ministers of Justice, during their meeting in Yerevan, have emphasized the need to assess the need for a Council of Europe instrument on VAW. While the Task Force established by the Council of Europe to work on a report on violence against women was working and preparing their report, another committee, European Committee on Crime Problems was undertaking a study on domestic violence.¹²³ While the committees did not have any prior contact, when the decision was given for a convention to be prepared the Council of Europe Committee of Ministers has asked the two groups to work together to prepare such a convention together, encompassing either the two topics together or just on one of them. For this effort CAHVIO was formed, in December 2008, by The Committee of Ministers of the Council of Europe and was instructed to prepare one or more legally binding instrument[s] “to prevent and combat domestic violence including specific forms of violence against women, other forms of violence against women, and to protect and support the victims of such violence as well as prosecute the perpetrators”.¹²⁴

CAHVIO started the negotiations for the Convention and after six meetings through 2009 – 2010 they have finalized the Convention, named as: The Council of Europe Convention on Preventing and Combating Violence against Women

¹²¹ Working towards a convention on preventing and combating violence against women and domestic violence Flyer. http://www.coe.int/t/dghl/standardsetting/violence/Flyer_CAHVIO_EN.pdf [accessed 28 January 2012]

¹²² *Ibid*

¹²³ Acar, Feride. Personal Interview. 5 July 2012.

¹²⁴ *Ibid*.

and Domestic Violence. The Parliamentary Assembly of the Council gave its opinion on the Convention on 11 March 2011 and the Convention was adopted by the Committee of Ministers on 7 April 2011.¹²⁵

With the strong efforts of the Government of Turkey, as the Term President of the Council of Europe during the first half of 2011, and also with the efforts of the representative of Turkey in CAHVIO, Prof. Feride Acar, the first signing of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence took place at Council of Europe the Council of Ministers Meeting of Council of Europe that took place in Istanbul, on 11 May 2011.¹²⁶ Turkey was the first signatory to the Convention, and 12 other countries have signed the Convention at that time. As is customary, the name of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence is also shortly called “The Istanbul Convention” in reference to its signing place.

The Istanbul Convention was approved by the Turkish Grand National Assembly on 25 November 2012, and TBMM was the first parliament to approve the Convention.¹²⁷ As of 31 August 2012, 21 member states of Council of Europe signed the Convention and only one, Turkey, has ratified it.¹²⁸ The Convention is open to signatures from both member states and nonmember states, and will come

¹²⁵ MsQuigg, Ronagh J. A. “What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence” *The International Journal of Human Rights*, Dec. 2012. Pg 1 – 16.

¹²⁶ Prof. Acar added, in our interview, that Turkey has also played a crucial role in lobbying for the Convention to open for signatures, as the decision was laying in front of the Committee of Ministers of Council of Europe when CAHVIO finished the document. Turkey was instrumental in convincing the member states in the Committee of Ministers to decide to open the Convention for ratification.

¹²⁷ Türk Üniversitesi Kadınlar Derneği Website. 2011. Council of Europe Istanbul Convention is Approved. *Avrupa Konseyi İstanbul Sözleşmesi Onaylandı*. <http://www.tukd.org.tr/haber73.asp> [accessed 09 February 2012]

¹²⁸ Convention on Preventing and Combating Violence against Women and Domestic Violence Website. 2012. http://www.coe.int/t/dghl/standardsetting/convention-violence/default_EN.asp? [accessed 09 February 2012]

into force three months after 10 approvals, eight of which is a member state, detailed in Art. 75 of the Convention.

In the following sections, the thesis writer will evaluate the Istanbul Convention regarding its anticipated effectiveness on the struggle to eliminate violence against women, by analyzing and depicting its significant definitions, procedures and accomplishments that will be important for the women's movement in Turkey and in other signatory states. The important points that are missing from the Convention and/or from its adaptation in Turkey, again analyzed and depicted by the thesis writer, will be highlighted. Lastly, the tools that the Istanbul Convention can provide for the struggle against violence against women, deduced by the thesis writer from her analysis of the previous tools used and the interviews made, will be outlined and analyzed for the use of the women's movement in Turkey.

CHAPTER VI

SIGNIFICANT ISSUES UNDER THE CONVENTION:

Definition and scope of VAW, including domestic violence

The Istanbul Convention follows and adds onto the definition of violence against women which started to be formulated in CEDAW Gen Rec. 19, and was elaborated on by DEVAW in its Article 3(a). The definition goes: “‘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”¹²⁹. The definition for gender-based violence follows in the same documents as “violence that is directed against a woman because she is a woman or that affects women disproportionately”.

Domestic violence on the other hand, is defined as violence occurring within “the family or domestic unit or between former and current spouses or partners whether or not the perpetrator shares or has shared the same residence with the victim” in Article 3(b). What is notable here for the case of Turkey is that this article clearly defines, but not limits, the range of people which the Law on protection of the Family No.6284 should be protecting in Turkey. The debates on whether divorced women, women living with a man without a legal marriage and whether same-sex partners can be protected under this law should be eliminated

¹²⁹ Convention on Preventing and Combating Violence against Women and Domestic Violence Website. 2012. http://www.coe.int/t/dghl/standardsetting/convention-violence/default_EN.asp? [accessed 09 February 2012]

and the article should be brought in line with Article 3 of the Istanbul Convention.¹³⁰

Another important point the Convention clearly draws attention to is its recognition that “violence against women is a manifestation of historically unequal power relations between women and men” and also that “violence against women is one of the crucial mechanisms by which women are forced into the subordinate position compared with men.”¹³¹ With these two paragraphs the Convention, and thus all the signatory states, acknowledge the vicious circle effect created by violence against women, how it is both a result and a source of gender inequality; and it should be eliminated to achieve meaningful equality between women and men.

It can be seen from the definitions on violence against women and domestic violence, provided by the Istanbul Convention that the Convention takes on primarily a feminist theory on violence against women approach to the issue. As mentioned in the previous sections of this thesis, the main understanding of the feminist approach to violence against women is that violence occurs as a result of patriarchal societal structures. Placing women in a secondary position within the society and using violence against women as a tool for is the mechanism through which this patriarchal structure is maintained. Placing the basis of the Convention into the arguments of the feminist approach to violence against women will allow the feminist women’s movement to further utilize the Convention with the appropriate feminist methodologies.

¹³⁰ Any group protected by the Istanbul Convention in in the Art. 3, but is not mentioned by the Law No. 6284, can be argued for protection in the courts of Turkey with reference to the Art. 90 of the Constitution of Turkey and Art. 3 of the Istanbul Convention.

¹³¹ Convention on Preventing and Combating Violence against Women and Domestic Violence Website. 2012. Preamble. http://www.coe.int/t/dghl/standardsetting/convention-violence/default_EN.asp? [accessed 09 February 2012]

The Convention, in line with CEDAW, asks for special measures to prevent and protect women from VAW and argues that this cannot be considered discrimination under the terms of the Convention. With the latest Constitutional Amendment in Turkey, in 2010, the Constitution also allows and encourages the State to undertake such special measures.

Throughout the years, women's rights have been sidelined in the face of problems deemed "more important" by power holders, mostly men. The Istanbul Convention signifies that violence against women is not an issue to be undermined in any circumstance and should be combated during both in times of peace and in times of armed conflict.

These definitions and measures outlined above set the tone for what is called "the soul of the Convention" by Nebahat Akkoç, in our interview.¹³² They are very important to help us understand the subtext the Convention is working from, and thus sheds light on the subtext that the respective national laws that drives from this Convention should also carry in them.

Secondary Victimization

Secondary victimization is a topic that has been widely discussed in sociology studies and the work of women's movements.¹³³ The subject has been detailed in many psychological and psychiatric studies as well.¹³⁴ Although many of the documents on VAW also mention the detrimental effects of violence against women on the victim and other members of the society and family, Istanbul Convention is the first binding document to significantly state the need for

¹³² Akkoç, Nebahat. Personal Interview. 12 September 2012.

¹³³ Acar, Feride. Personal Interview. 5 July 2012.

¹³⁴ Doerner, W. 2012. *Victimology*. Burlington, MA: Elseiver Inc. And Hattenford, J and Tollerud, T.R. 2009. "Domestic Violence: Counseling Strategies That Minimize the Impact of Secondary Victimization" in *Perspectives in Psychiatric Care*. V.33 Iss.1. pg 14-23

prevention of secondary victimization during the protection of victims and prosecution of offenders on cases of violence against women.

Secondary victimization is defined by Brown (1991) cited in Hattenford and Tollerud (1997) “as injustices that occur to victims after a trauma”. They argue that secondary victimization “commonly follow domestic violence and are frequently reported to be more painful and traumatic than the precipitating incidents” as the “secondary abusers are those sought out by victims as sources of trust, protection, or therapeutic intervention. Their response is one that not only refuses support but also designates blame, leaving the victim to feel betrayed once more.”¹³⁵ These can be police officers trying to return the women to the domestic unit where the violence is taking place, a health professional who undermines the trauma of sexual abuse or blames the victim for it, or the judicial process that causes the victim to relive the abuse over and over.

Istanbul Convention aims to protect against these as well. In its Article 15/1 the Convention includes prevention of secondary victimization as a topic of inclusion in the training of professionals, as a point to be careful of for all relevant personnel who service or get in contact with both the victims and the perpetrators. In the Article 18/1, under the heading of “Protection and Prevention,” the Convention obliges Party States to ensure the measures taken under for protection and prevention also aims to avoid secondary victimization.

While or after applying to state institutions as victims of violence, women victims of violence may suffer secondary victimization due to the attitudes of the police forces and law enforcement personnel, by having to stay face to face with the offender, by having to stay away from the family domicile and/or their children...etc. While trying to protect women from further violence, other

¹³⁵ Brown, S. 1991. Counseling victims of violence. Alexandria, VA: American Association for Counseling and Development cited in Hattendorf, J and Tollerud, T.E. 1997. “Domestic Violence: Counseling Strategies That Minimize the Impact of Secondary Victimization”. In *Perspectives in Psychiatric Care*. V. 33 No.1 pp. 14 – 23.

conditions may cause these women further trauma. Istanbul Convention is the first binding international document to outline the presence of such a possibility and urge states to take measures not to allow it to happen.

This point is also important for children who grow up with violence in their families. Witnessing such acts causes children to be directly drawn into the patriarchal family structures that place women in a secondary position; and also the psychological damage it causes harms these witnesses gravely. Therefore, the Convention is very critical to be utilized for this aspect as well.

Specific Legal Regulations:

In line with the “need for harmonized legal standards” mentioned in the Explanatory Report of the Convention, the Istanbul Convention gives detailed analysis of how the legal standards of laws on combating violence against women should be established.

The Convention asks the Party States to provide adequate civil remedies for the victims, both from private perpetrators and from State authorities who has failed to fulfill their responsibilities to prevent violence or protect the women from it. Further, the Convention asks for legal remedies compensation for sustained damages on health, and urges the State to provide the compensation if the compensation cannot be taken from the perpetrator or insurance. And the Convention does not forget to mention that the compensation should be provided in “reasonable time” which considering the delays in even the “protection orders” given by judges in Turkey, under Law No. 4320, is especially important to be pointed out.¹³⁶

¹³⁶ It is hoped that the new law, No. 6284, will allow for faster decisions for protection orders, in compliance with the Istanbul Convention.

The Convention continues to outline the substantive laws that should be in place to prevent VAW and protect women and children against the effects of VAW regarding custody, visitation rights, safety; forced marriages; psychological violence; stalking;¹³⁷ physical violence; sexual violence and rape; female genital mutilation; forced abortion and forced sterilization; sexual harassment; and honor crimes. Aiding, abetting or attempting a crime as detailed in the Convention should also be punishable by law in Party States.

Further, the Convention specifically asks a Party State to undertake necessary action against an offence that has occurred in their territory, on a board of a ship with their flag, on an aircraft under their laws, or by one of their nationals, by or to a person who is habitual residence is in their territory, thus trying to minimize responsibility disputes between Party States. For example, if a Turkish citizen who lives and works in Germany is a victim or perpetrator of violence Turkey will still bear the responsibility of taking the necessary legislative and other remedies to protect the victim against violence.

Regarding the sanctions that should be given to perpetrators of violence, the Convention states that they should be effective, proportionate and dissuasive such as monitoring of convicted person and withdrawal of parental rights if in the best interest of the child, and may even lead to, where necessary, jail time or extradition.

The Convention lists these conditions as aggravating circumstances on Art. 46: If the violence has been committed against a family member; if the offence was repeated; if it was committed against or in the presence of children; if the offence was committed against a vulnerable person (thus acknowledging and emphasizing multiple forms of violence); if the offence was committed together by two or more people, if the offence was accompanied by extreme levels of violence, if

¹³⁷ Stalking is also a new concept introduced to the international documents on VAW by İstanbul Convention

there was a use or threat of use of a weapon, if the offence resulted in physical or psychological harm for the victim; and if the perpetrator has previously committed this type of a crime before.

Further, the Party States, when sentencing an offender, should take into account, if present, another sentence given by a Party State in which the crime was committed or which has a national involved in the offence or as a victim.

The Convention asks the States to prohibit alternative dispute resolution methods, which may be cultural or otherwise, that would allow for the perpetrator not to be sentenced to the extent of the offence, or for the victim to be unprotected.

Immediate response to the need of protection of the victim , making realistic risk assessments for the health of the victim and giving decisions accordingly, application of restraining and protective orders, not using the sexual history of the victim as evidence when not necessary, providing legal aid to the victims free of charge, and specific conditions for protection measures for the victims are also among the details given in the Convention for the Party States to integrate into their national laws and judicial systems.

Role of Nongovernmental Organizations

Nongovernmental organizations have been an important part of the international systems, and it can easily be said that they have been the driving force of the women's rights agenda in the international regimes. An example of their influence can be found in the Shadow Reports written to the CEDAW Committee. The Committee accepts Shadow Reports from nongovernmental organizations and uses these reports strongly both during their constructive dialogue with the government representatives and in the final report they submit on a state's review, outlining their concluding comments. Yet, in its text, CEDAW only mentions nongovernmental organizations under Article 7, where it tells States to ensure that

women can participate in the activities of the nongovernmental organizations on equal terms with men.

The Istanbul Convention on the other hand, spares an article of its own, Article 9, for non-governmental organizations and civil society. In the article, the Convention urges the states to recognize, encourage and most importantly support the work of NGOs and civil society working on VAW and asks the States to make effective cooperation with these NGOs. Furthermore, in Article 8, the Convention asks the State Parties to “allocate appropriate financial and human resources” for policies, programs and measures, “including those carried out by non-governmental organizations and civil society.” Considering that one of the most commonly faced hardships of the women’s NGOs in Turkey is the lack of financial resources, Art.8 of the Istanbul Convention can provide a strong hand for these organizations to ask for resources from the State of Turkey to aid in their combat against VAW and domestic violence.

In relation to Article 9, the Convention urges collaboration with nongovernmental organizations and civil society, on several other articles such as Article 13 on raising awareness, Article 18 to protect and support the victims, Article 55 to assist and support victims upon their request during investigations and judicial hearings.

The Monitoring Mechanism of the Istanbul Convention, GREVIO, can also take information from the nongovernmental organizations and civil society of a State Party on the implementation of the Convention according to Article 68/5. Although there is no clear systematic to this information receiving process in place yet, as the utilization of the Convention progress in different Party States, with the help of the nongovernmental organizations, it is hoped that this information receiving may find its own working mechanism.

Monitoring Mechanism

In order to monitor the implementation of the Istanbul Convention a mechanism should be in place. For this mechanism, the Convention indicates that the representatives of the Party States, the Committee of Parties will meet one year after coming into effect of the Convention, and there elect the members of the monitoring body for the Convention, named as GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence). Six months after the getting into effect of the Convention, the Committee of the Ministers of Council of Europe will determine the method of election after getting the unanimous approval of the Party States. At that meeting of State representatives, 10 members will be elected to GREVIO, from the list of experts nominated by Party States, among their nationals, taking into consideration geographical, gender and disciplinary balance. Five additional members will be chosen to GREVIO upon ratification of the Convention by the 25th Party State. The Committee of the Parties will further meet upon the request of one third of the State Parties, or of the Secretary General of Council of Europe, or of the President of the Committee of the Parties.

The members of GREVIO are expected to be of high-moral standards, with competence in human rights, gender equality, violence against women, domestic violence, or on assisting and protecting of victims, or on the areas covered by the Convention. They will be nationals of a Party State, but they will be acting in their individual capacities and will be expected to be impartial and independent in their monitoring of the States. Only one GREVIO member can be elected form a State Party in each term, which is four years.

As a first report, State Parties will prepare a document on legislative and other measures in relation to the Istanbul Convention, based on a questionnaire prepared by GREVIO, and will submit it to the Secretary General of Council of Europe. McQuigg (2012) interprets the presence of a questionnaire as a signal that the GREVIO will focus on particular aspects of the Convention and analyze the

state's compliance with these aspects rather than looking into the whole Convention. This in turn, he argues, will allow those aspects chosen to be examined more in-depth and GREVIO to proceed through monitoring the states more quickly than other international mechanisms.¹³⁸

GREVIO will consider the report of the party state, with the representatives of that state. The subsequent reports will be taken up periodically, will also be based on questionnaires provided by GREVIO and the duration of this period will be decided by GREVIO. The exact formulation of this reporting cycle will be determined by GREVIO once it is formed. The General Directorate of Women's Status of Turkey, in the information report they have sent, argues that these Reporting cycles will also help establish common norms on the combat against violence against women within Europe.¹³⁹

The Convention is encouraging GREVIO to take information regarding the answers to the questionnaires from the States, from different sources such as related nongovernmental organizations and civil society, other international and regional instruments dealing with the aspects of the Convention, and relevant bodies of the Council of Europe.¹⁴⁰ GREVIO will analyze all the collected information and the answers provided by the State Party, and then prepare a draft report which it will convey to the State Party undergoing the evaluation. The State Party may present comments on the draft and GREVIO may take these comments into consideration when adopting the final report which would also include GREVIO's suggestions for better implementation of the Convention in the State Party. Prof. Acar stated in our interview that while GREVIO is not under

¹³⁸ MsQuigg, Ronagh J. A. "What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence" *The International Journal of Human Rights*. Dec. 2012. Pg 1 – 16.

¹³⁹ KSGM. Information Note. 9 August 2012.

¹⁴⁰ This is also significant as it can lead to a shadow reporting mechanism by the NGOs, like that of CEDAW which has been utilized very efficiently by the women's NGOs in Turkey until now. (pls refer to İ. İlkkaracan., 2008).

obligation to include the comments the states give on the reports to the final draft of the report, but it is under obligation to release these comments to the public along with its final report.¹⁴¹

GREVIO may also organize country visits if they feel the information provided in the answers to the questionnaire is insufficient. GREVIO will organize these visits in cooperation with national authorities and experts. A country visit, with the permission of the State Party concerned, would also be possible, for a member of GREVIO, if information received from either the concerned Party or another source requires further inquiry. The member would report back her/his findings to GREVIO afterwards. In such a case, a special urgent report may also be asked from the State Party in question. When on a country visit, GREVIO members and their accompanying staff will have immunity from arrests, restrictions on their free movement between countries, censorship on their communications etc... as detailed in the Appendix of the Convention.

The governments of the State Parties are required to submit their reports to GREVIO also to their national parliaments, and the national parliaments are also invited to participate in the monitoring of implementation of the Istanbul Convention. The Convention also invites the Parliamentary Assembly of Council of Europe to evaluate the implementation of the Convention from time to time.

The monitoring mechanism of the Istanbul Convention is still very much vague as GREVIO will need to be formed and then will have to decide on its operational mechanisms. Nevertheless, the main structure of reporting and monitoring is similar to the operational mechanism of CEDAW. However, as an active structure, time will show how similar or different GREVIO will turn out to be

¹⁴¹ Acar, Feride. Personal Interview. 5 July 2012. Prof. Acar also stated that this is different than the procedure of CEDAW, where the draft of the final concluding comments only goes to the state in review for checking numerical and factual errors, rather than getting a feedback on the concluding comments. However, Prof. Acar added, this is only due to the working mechanism of the Council of Europe, as every international institution has different rules of procedure.

from CEDAW and how effective it will be. In spite of this, the presence of a monitoring structure like GREVIO is a very important political gain, as Nazik Işık indicated in our interview, and should be utilized widely in all possible ways by the women's movements in member states.¹⁴²

Mechanisms to Raise Awareness in the Society

The Istanbul Convention, under its Article 12 in the Chapter on Prevention, urges States to encourage all members of the society, and adds “especially men and boys” to actively contribute to the work on to combat violence against women. The emphasis on the participation of men and boys in the process, acknowledges that eliminating VAW, and moving towards gender equality is the responsibility of all members of the society.

The Convention further asks the States to conduct awareness raising programs, and preferably in collaboration with national human rights institutions and NGOs, to increase awareness on all forms of violence against women and its effects on children. As mentioned in the previous sections of this thesis, the feminist approach to violence tells us that violence against women is deeply rooted in the patriarchal societal structures and in order to eliminate it we need the comprehensive and wholesome struggle that includes all members of the society. The emphasis, the Istanbul Convention puts on the inclusion of men and boys in the combat against violence is especially important as a direct reference to the feminist approach to violence and will strengthen the hands of women's movement in their lobbying efforts to their respective States for efficient awareness raising programs on the issue of violence against women.

On Article 14, the Convention urges States to include teaching materials, appropriate to the age of the audience, on equality, non-stereotyped gender roles, non-violent conflict resolution, gender based violence against women and mutual

¹⁴² Işık, Nazik. Personal Interview. 28 June 2012.

respect and right to personal integrity in formal education curricula and at all levels of education, as well as in informal education facilities and occasions. While there have been previous initiatives to include human rights in teaching materials in Turkey, direct inclusion of elimination of violence against women in the formal education will be a first, as this issue found its way into the new law, No.6284, through a reflection from the Istanbul Convention. However, this is of course not enough, both the practice of this law and also including the elimination of violence against women agenda in the nonformal education is necessary.

International Cooperation

International Cooperation is detailed under Chapter VIII of the Convention. The Convention urges the States to cooperate with each other “to the widest extent possible” towards preventing and prosecuting all forms of violence defined in the Convention, protecting and assisting the victims of violence, on investigations and proceedings, and realizing the judgments issued by judicial authorities to eliminate violence against women, including domestic violence under Article 62.

The article also urges the states to allow for necessary measures to be taken by a state, in which a crime under this Convention has been committed, to allow for the victim to make a complaint at another state where their residence resides. If a mutual treaty between such two states does not exist to allow such a case to be opened, then the two States can accept the Istanbul Convention as such a mutual treaty to process such a case.

The Convention also encourages Party states to get into cooperation that for the benefit of a third States towards protection of victims from violence against women. This is a practice that has been frequently used by the Council of Europe member states before, and is encouraged in the Convention.

If a Party State has information, signaling that a person is at immediate risk of being a victim of violence against women on the territory of another party state,

the Party is encouraged by the Convention to transmit that information to the other party without delay to ensure immediate protection is given to the person at risk. Further, information can be requested by a party of this Convention from another party state for actions taken as a result of the above mentioned cooperation, and the asked state is requested to provide the information without delay, together with information on possible circumstances that may hinder the undertaking of necessary actions to stop violence against women.

Another important aspect of the international cooperation outlined in the Istanbul Convention is its emphasis on data collection and data sharing between party states.¹⁴³ Data collection is a very important part of the struggle to end violence against women, as progress and effectiveness of the measures taken cannot be understood without comprehensive data. The data collection and sharing between the states can also help different states to motivate each other to take more effective measures to end violence against women so not to fall behind of each other in the progress made. This article may be very important for Turkey, as its lack of data collecting has been emphasized several times by the Concluding Comments of the CEDAW Committee, and the truth is that it only conducted two surveys to this end in the last 17 years, as was discussed in the previous sections of this thesis.

Amending the Convention

As has been experienced in the case of CEDAW Convention and as detailed in the above sections, Conventions are usually static documents while the agenda and the perspectives on women's human rights are constantly changing. Therefore, as was in the case of VAW, some issues end up being missing from very important international documents. As the amendment of these Conventions, or putting together a new Convention requires many years of work and the common

¹⁴³ Acar, Feride. Personal Interview. 5 July 2012.

acceptance from Party States that come from different perspectives and agendas on women's human rights, such an effort takes years to complete, if at all.

Therefore, it is important for such binding international documents to have a mechanism through which they can, without the need for a new Convention or bringing the whole signatories together, to add new perspectives and issues to the Convention.

The Istanbul Convention regulates this flexibility through two articles. One is Article 69, which allows the monitoring committee, GREVIO to adopt general recommendations on the implementation of the Convention, where they see appropriate. This is similar to especially the general recommendations of CEDAW in its first 10 years, where they specified certain points or elaborated on it for better implementation of CEDAW.¹⁴⁴

The second article regulating this flexibility is Article 72 on Amendments. Party states of the Convention can ask for amendments, and they should communicate their amendment proposal to Secretary General of the Council of Europe, who then forwards the proposal to all the signatory states, the European Union, and all states party to this Convention. The Committee of Ministers of the Council of Europe, then takes up this proposed amendment, and after consulting the signatory states who are not members of the Council, may adopt the amendment if the majority in Art. 20.d of the Statue of Council of Europe is satisfied. The text of the adopted amendment will be sent to all Parties of the Convention and will come into effect one month after the date of the last acceptance from all the Parties to the Convention.

¹⁴⁴ Although in our interview, Prof. Feride Acar cleared this by saying that the Istanbul Convention gives GREVIO the possibility to adopt general recommendations, whether GREVIO will or will not use this method to further the scope of the Convention will depend on the rules of procedure they will adopt after the body is elected for the first time.

The concerns mentioned in the first paragraph of this section holds for the amendment procedure of the Istanbul Convention as well, as getting all the Parties of the Convention to accept an amendment is quite a rough process. However, it is hoped that the General Recommendations will provide a gateway for a better flexibility to the Convention.

Explanatory Report

Explanatory Report of the Istanbul Convention is a long document (nearly three times the length of the Convention) detailing how every article should be interpreted and applied in the context of member states. Prof. Feride Acar said in our interview that the Explanatory Report has been drafted and discussed in the CAHVIO line by line and was accepted by the Council of Europe Committee of Ministers, just as the actual text of the Convention.¹⁴⁵

Nazan Moroğlu, in our interview, stated that the Explanatory Report of the Convention “has the evidential value of a bylaw for the Istanbul Convention on how the Convention should be applied.”¹⁴⁶ This statement clearly establishes how important the Explanatory Report is and how often it should be referenced when using the Convention to further the struggle to end violence against women.

“In the document, examples are given on how the articles of the Convention should be interpreted and what should be done on the application processes. Although this Explanatory Report is not legally binding for the states as the Convention is, it will be very enlightening and guiding for the implementers of the Convention.” said the General Directorate on Women’s Status in the informative note they have shared with the thesis writer.¹⁴⁷ As it is quite probable that the

¹⁴⁵ Acar, Feride. Personal Interview. 5 July 2012.

¹⁴⁶ Moroğlu, Nazan. Personal Interview. 27 August 2012.

¹⁴⁷ KSGM. Information Note. 9 August 2012.

General Directorate will be the implementer and coordinator institution for the application of the Convention and also the new law, No. 6284, on violence against women, it can be hoped that the General Directorate will use the Explanatory Report in the instructive and guiding sense that is meant to be.

Protection of LGBT's against Violence

One of the protagonist aspects of the Istanbul Convention is its clear and direct reference to discrimination against LGBT's in its text. It cannot be overlooked that the LGBT's suffer greatly from the gendered nature of violence and are especially vulnerable in Turkey due to the conservative social structure present and alienating LGBTs. In Article 4 – Fundamental Rights, Equality and Nondiscrimination the Convention states:

3) The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, ***sexual orientation, gender identity***, age, state of health, disability, marital status, migrant or refugee status, or other status.

(CoE, Istanbul Convention)

The Convention, even though it is not in effect yet, has already been utilized by the NGO representatives in Turkey. The primary example is the End to Violence Platform and how the Platform used the Convention for lobbying about the new law No.6248 about violence against women, which will be detailed as an important milestone in the next section.

The Convention has also been utilized by the LGBT groups in Turkey during their lobbying efforts for inclusion of “gender identity and sexual orientation” clauses in the Discrimination article of the new draft of the Turkish Convention. SPoD, Social Policies, Gender identity and Sexual Orientation Studies Association,

opened a text for signature which they shared with the public on July 25th, 2012.

In the text:

“Another positive development is that the article on discrimination of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence, which was opened for signatures in Istanbul in 2011 and of which Turkey is one of the first signatories to, clearly includes sexual orientation and gender identity clauses. However, this international obligation could not find its reflection in the laws of the Republic of Turkey.

.....

We, the signatory institutions, would like to remind our parliamentarians these aspects: protecting LGBT individuals from violence and all other kinds of discrimination is the duty of the state. It should be clearly stated in the constitution that LGBT individuals are equal citizens like all other individuals of the society. For guaranteeing the safety of life of LGBT individuals and actualizing their right to an honorable life, the article regulating the discrimination ban in the New Constitution should include “sexual orientation” and “gender identity” clauses.”¹⁴⁸

SPoD also reached out to International Gay and Lesbian Human Rights Commission (IGLHRC) to spread their petition campaign and ask the international community to send a letter to the parliamentarians to include the clauses “sexual orientation and gender identity” in the new draft of the Constitution of Turkey. The letter they have outlined also has a reference to the Istanbul Convention, reminding the parliament that they are under the responsibility of protecting the rights of LGBT individuals.

Prof. Feride Acar, in our interview mentioned that while the parliamentary commission which is preparing the new draft of the constitution of Turkey could not agree on inclusion of the phrases “sexual orientation” and “gender identity” into the nondiscrimination article of the new draft, the parliamentarians were trying to find an alternative way to include these concepts in the

¹⁴⁸ SPoD. “LGBT Individuals are Equal Citizens of the Republic of Turkey.” <http://anayasaizleme.org/wp-content/uploads/2011/11/LGBTIlere-Anayasal-Es%CC%A7itlik-imza-metni-.pdf> [accessed 02 September 2012]

nondiscrimination article by saying that the article applies to all concepts outlined in the international conventions that Turkey has ratified.¹⁴⁹ While this could provide a headway into greater enjoyment of the human rights of LGBT's, it would require the judges and prosecutors in the system to catch up with the nondiscrimination clause of the Istanbul Convention.

Cooperation with the Media and the Private Sector

Media has been an important party to the struggle of ending discrimination against women for a long time. The international regimes have also realized this and thus included media in their efforts to eliminate violence. For example while CEDAW Committee included media in their General Recommendations 12 and 19, to eliminate violence against women, the European Council, in the third European Ministerial Conference on Equality between Men and Women in 1993, focused on the issue of "Strategies for elimination of violence against women: media and other means."¹⁵⁰ Both in Turkey and internationally, media both supported the struggles of women's movements to eliminate violence against women by giving voice to representatives from the movements, and sometimes, like in the case of Hurriyet Newspaper in Turkey became an active part of campaigns against violence against women.¹⁵¹

With the rising of the social responsibility and cooperate responsibility concepts, the private sector, too, started, through different means, to take part in campaigns to end violence against women or support NGOs that work to combat violence against women and support the victims. However, both the campaigns of the

¹⁴⁹ Acar, Feride. Personal Interview. 5 July 2012.

¹⁵⁰ MsQuigg, Ronagh J. A. "What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence" *The International Journal of Human Rights*. Dec. 2012. Pg 1 – 16.

¹⁵¹ Here the reference is to the "Aile içi Şiddete Son" (End to Family Violence) campaign of the Hurriyet Newspaper, which it started in 2004 and continues to this day. For more information, please see: <http://aileicisiddeteson.com/>.

media and the private sector go in an uncoordinated manner, and only with their own initiatives.

For the first time, the Istanbul Convention recognizes the need to include these two actors, media and the private sector, in the struggle to end violence against women and solidifies the this necessity in its Art. 17:¹⁵²

- 1) Parties shall encourage the private sector, the information and communication technology sector and the media, with due respect for freedom of expression and their independence, to participate in the elaboration and implementation of policies and to set guidelines and self-regulatory standards to prevent violence against women and to enhance respect for their dignity.
- 2) Parties shall develop and promote, in co-operation with private sector actors, skills among children, parents and educators on how to deal with the information and communications environment that provides access to degrading content of a sexual or violent nature which might be harmful

Thus, with the coordination of the state, these two important and strong actors of public life will help both the spread the word and support the implementation of combats to end violence against women and also to help prevention of violence against women by helping people to realize and avoid harmful or violent information and communications environments.

Possibility of Universal Ratification

The Istanbul Convention is considered a regional women's human rights treaty such as the Inter- American Convention on the Prevention, Punishment and Eradication of Violence against Women and the Protocol to the African Charter on Human and People's Rights of Women in Africa, adopted in 2003 in Maputo,

¹⁵² This is another example that the Istanbul Convention works from the feminist theory of violence, as it reflects the necessity of using several sectors and approaches, including those that will influence the public towards zero tolerance to violence against women, to end violence against women, by including the media, which is very effective on the society of Turkey , and the private sector.

though not only focused on VAW. However, a big difference of the Istanbul Convention from these documents, aside from its more comprehensive nature is that the Istanbul Convention is open to ratification of states that are not a member of the Council of Europe.

Art. 75 of the Istanbul Convention states:

- 1) This Convention shall be open for signature by the member States of the Council of Europe, the non-member States which have participated in its elaboration and the European Union.

The explanatory report elaborates on this by clarifying Art. 75:

“Once the Convention enters into force, in accordance with paragraph 3, other nonmember states not covered by this provision may be invited to accede to the Convention in accordance with Article 76, paragraph 1.....This decision requires the two-thirds majority provided for the Article 20.d of the Statute of the Council of Europe and the unanimous vote of the Parties to this Convention”

As such the Convention can have a much broader ratification base, the Council of Europe is seeking for awareness raising regarding the Convention and possibly ratifications by greater number of States in different meetings they hold with regards to the Convention. Some of the efforts to spread the information on the Convention and also increase the number of party states will be detailed in the upcoming sections.

MISSING POINTS OF THE CONVENTION

The “Janus Headed” structure of the Convention¹⁵³

Evident from its name, “Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence”, covers within itself two notions that have been analyzed separately, and from time to time together: violence against women and domestic violence.

While the concept of violence against women is defined in the Convention Art 3(a) 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” the concept of domestic violence is defined in Art 3(b) as “acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.” These definitions clearly highlight the difference between the two concepts; violence against women explicitly focuses on the systematic form of violence women face as a result of the patriarchal structures embedded in the society, yet the concept of domestic violence can apply to all genders and does not carry a systematic structure to it. More details on how these two terminologies are defined and differentiated have been given in Chapter II of this thesis.

Prof. Feride Acar, who has been involved with the formulation of the convention since the very beginning said that this “Janus-Headed” structure is a result of the

¹⁵³ The concept “Janus Headed” belongs to Prof. Feride Acar, and was conveyed to the write in their interview. Acar, Feride. Personal Interview. 5 July 2012.

combination of two different efforts which coincided in the Council of Europe.¹⁵⁴ While the Task Force established by the Council of Europe to work on a report on violence against women was working and preparing their report, another committee, European Committee on Crime Problems was undertaking a study on domestic violence.¹⁵⁵ While the committees did not have any prior contact, when the decision was given for a convention to be prepared the European Council Committee of Ministers has asked the two groups to work together to prepare such a convention together encompassing either the two topics together or just on one of them. For this effort CAHVIO was formed and the end result turned out to be the Istanbul Convention.

Prof. Acar indicated that it is not uncommon for two committees of the same international structure to work on similar issues without any contact. However, this led to discussions within the CAHVIO to determine the focus of the Convention and resulted in compromises to be made on both sides of the discussion; i.e. those who argued for a convention on domestic violence and those who argued for a convention on violence against women. Prof. Acar said that she, and thus Turkey, was supporting the formation of a convention that would specifically stress the gendered and systematic nature of violence that women face and detail the necessary measures accordingly. However, some of the other states were arguing for a convention that would also cover men and children against violence within the home, and these states included the conservative states, as well as the Nordic countries which were arguing that gender inequality is diminishing and we should mainstream the protection efforts to all members of the society. “These countries were trying to cut the gender dimension of the Convention” Prof. Acar stated. During the negotiations, while the Nordic countries understood the necessity to emphasize the gendered and systematic aspect of violence against women within the Convention, the conservative states

¹⁵⁴ Acar, Feride. Personal Interview. 5 July 2012.

¹⁵⁵ *Ibid.*

have hold onto their arguments for a convention on domestic violence.¹⁵⁶ As Prof. Acar pointed out in our interview; “yes, there is violence against other members of the family as well, but there are specific conventions already in place to protect children and elderly; and for violence against men within the family there are laws in every country’s penal code.” Therefore, a specific convention on violence against women with strong measures and clear responsibilities on the part of the states was of primary importance.

As Art. 2 of the Convention states:

- 1) This Convention shall apply to all forms of violence against women, including domestic violence, which affects women disproportionately
- 2) Parties are encouraged to apply this Convention to all victims of domestic violence. Parties shall pay particular attention to women victims of gender-based violence in implementing the provisions of this Convention

Thus, in the end, “the focus of the Convention ... remains primarily on prevention of violence against women in its various forms, including violence against women taking place in the home”¹⁵⁷. And as Prof. Acar stated such compromises are not uncommon in international treaties and in the end Istanbul Convention still brings out very important and to the point provisions for the party states to undertake.

Penalty Mechanism for States

GREVIO will be a very important part of the application procedure of the Istanbul Convention. Although the Committee will determine its own rules of procedures, once it is established, the Committee can be used in ways like the CEDAW Committee and its reporting procedure. While this method of reporting has been utilized similarly in the UN Conventions that have monitoring bodies, such as

¹⁵⁶ *Ibid.*

¹⁵⁷ McQuigg, Ronagh J. A. “What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence” *The International Journal of Human Rights*. Dec. 2012. Pg 1 – 16.

CEDAW, CAT... etc., it is also true that this method provides changes in the long term and with extensive efforts spared in the part of the Committee and the civil society of the state party under examination.

Brynes (1994) states that “the limitations of international law generally when it comes to enforcement of binding standards are well known, and international human rights law is no exception in that regard” and he attributes these limitations to “lack of an international policing force that demands compliance with international edicts.”¹⁵⁸ It is true that without an enforcement mechanism, such as that of the European Court of Human Rights, where the states can face financial sanctions for the crimes they committed against the human rights of their citizens, international law is only left with the “name and shame” aspect of the procedure. It is for this reason, both Habibe Yılmaz Kayar and Canan Arın argued in our interview that it is an important deficiency that the Istanbul Convention is lacking a financial compensation aspect.¹⁵⁹

Although not having a substantial penalty mechanism, the Istanbul Convention can still hold a valuable place for the struggle against violence against women as it will provide an entry point for the women’s movement to lobby for their claims and also it will set standards and give support to the claims of the movement, just as has been the case with the CEDAW Convention and its reporting procedure

Possibility of Applying Reservations

As was mentioned in the “Janus-Headed Structure of the Convention” section, compromises are not uncommon in international conventions, as different states bring onto the table different sensibilities and different demands. Prof. Acar stated

¹⁵⁸ Brynes, A. 1994. “Enforcement through International Law and Procedures” in *Human Rights of Women – National and International Perspectives*; ed. Rebecca Cook. University of Philadelphia Press: PA. Pg. 191- 192

¹⁵⁹ Yılmaz Kayar, Habibe. Personal Interview. 28 April 2012 and Arın, Canan. Personal Interview. 5 August 2012.

in our interview that they even had to argue on the definition of “gender,” that it was a socially constructed role.¹⁶⁰

In these heated discussions, one of the important compromises that they had to make was on the issue of reservations, as Prof. Acar indicated. Reservations grant the signatory state possibility to suspend the responsibility set in the article that they are applying the reservation to, while agreeing to hold onto their responsibilities in the rest of the Convention.

According to the Istanbul Convention Art. 78:

- 1) No reservation may be made in respect of any provision of this Convention, with the exceptions provided for in paragraphs 2 and 3.
- 2) Any State or the European Union may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the provisions laid down in:
 - Article 30, paragraph 2;
 - Article 44, paragraphs 1.e, 3 and 4;
 - Article 55, paragraph 1 in respect of Article 35 regarding minor offences;
 - Article 58 in respect of Articles 37, 38 and 39;
 - Article 59.
- 3) Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right to provide for non-criminal sanctions, instead of criminal sanctions, for the behaviours referred to in Articles 33 and 34.
- 4) Any Party may wholly or partly withdraw a reservation by means of a declaration addressed to the Secretary General of the Council of Europe. This

¹⁶⁰ Acar, Feride. Personal Interview. 5 July 2012.

declaration shall become effective as from its date of receipt by the Secretary General

However, the fact that the list of articles that reservations can be applied to are limited is important and a positive step. As McQuigg states “the adoption of such a narrow approach to the issue of reservations may well serve to increase the effectiveness of the Convention.”¹⁶¹ Further, the reservations can be made for five years at a time, according to Art. 79, which will allow for the states to examine their reservations at the end of that time frame and will also give the civil society in those states a point of entry to lobby for the removal of those reservations. Thus, the reservations will not be forgotten by the states as it has been in the case of Turkey’s declaration (a softer version of a reservation) to CEDAW Art. 9. While the internal law in Turkey has been changed in accordance with the CEDAW Convention Art. 9 in 2003, the declaration was only removed in 2008 when the General Directorate on Women’s Status started to prepare the 6th Periodic Report of Turkey on CEDAW.¹⁶² Thus, it will prove very useful for the civil society of the party states which applied reservations to the Istanbul Convention that at least every five years the states will be reminded of their reservations and will need to reevaluate their stance on these.

It can, however, be proudly said, that this missing point will not create a handicap for the women’s movement in Turkey to utilize the Istanbul Convention, as Turkey has ratified the Convention without any reservations to any of its articles.

¹⁶¹ McQuigg adds onto this by saying that it situation may also deter some states from signing the Convention, but with lacking a penalty mechanism this may not be the case. McQuigg, Ronagh J. A. “What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence” *The International Journal of Human Rights*. Dec. 2012. Pg 13.

¹⁶² KSGM. 2008. Sixth Periodic Report of Turkey prepared to be Submitted to the CEDAW Committee. pg. 25.

Wrongful Translation of the Convention into Turkish

Ali Onaner, the Division Head of the Human Rights Division of the Ministry of Foreign Affairs, emphasized in our interview that their Ministry has worked extremely hard to quicken the process of ratification for the Istanbul Convention, after Turkey's signing on 11 May 2011, with the directions of Ahmet Davutoğlu, the Minister of Foreign Affairs.

Mr. Onaner continued onto explain that all of such international documents go through a process where they are sent to the relevant ministries and governmental institutions to be discussed and analyzed with reference to the laws of Turkey. Before sending the documents to these institutions, the document needs to be translated into Turkish. In order to fasten the feedback process, the Ministry of Foreign Affairs made the translation very quickly, and even sent the translation to Prof. Feride Acar for a review.¹⁶³

Despite the oppositions of Prof. Acar, the official translation of the Istanbul Convention came out and the title was: “Kadına Yönelik Şiddet ve Aile İçi Şiddetin Önlenmesi ve Bunlarla Mücadeleye Dair Avrupa Konseyi Sözleşmesi.” The direct translation is “Council of Europe Convention on Preventing Violence against Women and Family Violence and Combatting These.” The main difference with this title and the actual Convention title is the translation of the concept “domestic violence.” As can be seen above, the concept is translated as “family violence” where it was supposed to be translated as “ev içi şiddet” or “hane içi şiddet” (domestic violence) and this continues throughout the translation of the text of the Istanbul Convention. According to Gülsen Ülker, from Ankara Women's Solidarity Foundation, this translation causes domestic violence to be understood in the frame of the concept of “family” as it is outlined in the Turkish Civil Code and thus limits the titles of the individuals who can be protected by

¹⁶³ Onaner, Ali. Personal Interview. 14 July 2012.

this Convention.¹⁶⁴ Also, as Prof. Feride Acar stated in our interview, the Convention protects those who are not considered family that live or have lived in the domestic unit and this will be missing from the translation with the notion of “aile içi şiddet.” (family violence) in it.¹⁶⁵

In the information note the thesis writer received from the General Directorate of Women’s Status, the concept is also used as “aile içi şiddet” (family violence), showing that there is a tendency inside the state bureaucracy to continue to use the notion as such, rather than as “domestic violence.”¹⁶⁶ The question of whether this preference is a reflection of the emphasis on family the state put into all its work on women for a while such as changing the name of the new law on violence against women (No.6284) by adding “protection of the family” to its title and changing the name of, the prior Ministry of Women and Family Affairs, to now Ministry of Family and Social Policy, comes to mind in light of this insistence of translating “domestic violence” as “family violence”. Interestingly, however, the new law on violence against women, Law No. 6248, includes articles and definitions on “ev içi şiddet” (domestic violence) rather than the prevalent terminology “family violence” mentioned above which can be argued is remnants from the draft law that the Platform to End Violence prepared.

PROMOTING THE CONVENTION IN TURKEY AND THE WORLD

Prof. Feride Acar, with the help of CEDAW Executive NGO Forum in Ankara, organized two meetings during the preparation of the Istanbul Convention to give information to the women’s movement in Turkey regarding this new Convention being prepared, so they can also lobby the government to support the preparation of and ratification of the Convention when it is ready. This also allowed the women’s movement to use the Convention, before it was ratified by Turkey, in

¹⁶⁴ Ülker, Gülsen. Personal Interview. 4 September 2012.

¹⁶⁵ Acar, Feride. Personal Interview. 5 July 2012.

¹⁶⁶ KSGM Information Note. 9 August 2012.

the lobbying work they have done for the new law on violence against women, that will be detailed in the later chapters. These meetings are the place where many of the interviewees from the women's movement said that they have heard of the Convention for the first time.¹⁶⁷

Women's organizations are also working to promote the Convention. For example, Nazan Moroğlu stated in our interview that she directs the lobbying efforts, in the name of Turkish University Women's Association, with the aim of increasing the number of European countries that sign the Convention. She says that she also demands members of the European Union Women Lawyers Association and University Women of Europe, which Ms. Moroğlu is a founding member of, to lobby their governments to sign and ratify the Convention.¹⁶⁸

WWHR – New Ways also indicated that they will have activities “regarding the law (No. 6284) increase the awareness of women about the law and the application of the law”¹⁶⁹

As lawyer Nazan Moroğlu has emphasized in our interview “men and women should work together in raising awareness on combating violence against women.”¹⁷⁰ As this is a point that reflects the soul of the Istanbul Convention, the Ministry and women's organizations will work very hard to raise awareness on VAW in general and the Istanbul Convention and Law No.6284 in particular.

On the international level, Mr. Onaner, from the Ministry of Foreign Affairs said that in the light of the leading role Turkey has played in the development and the accession of the Istanbul Convention, they are also working, in collaboration the

¹⁶⁷ Ülker, Gülsen. Personal Interview. 4 September 2012. And Hacisoftaoğlu, Çiğdem. Personal Interview. 17 July 2012 and Yılmaz Kayar, Habibe. Personal Interview. 28 April 2012.

¹⁶⁸ Moroğlu, Nazan. Personal Interview. 27 August 2012.

¹⁶⁹ Batik, Ebru and Ayman, Zelal. WWHR – New Ways. Personal Interview. 8 May 2012.

¹⁷⁰ Moroğlu, Nazan. Personal Interview. 27 August 2012.

Council of Europe to promote the Istanbul Convention and increase the number of party states – as the Convention is open to ratification by nonmember states as well.¹⁷¹ They held the first such meeting as a side event in the 56th session of United Nations Committee on the Status of Women meeting in New York, USA on 27 February 2012.¹⁷² Mr. Onaner ensured during our interview that the Minister Ahmet Davutoğlu, himself, pays great attention to the issue of elimination of violence against women, and the Ministry is determined to undertake the organization of many other such meetings in big international conferences to promote the Istanbul Convention in collaboration with the Council of Europe.

¹⁷¹ Onaner, Ali. Personal Interview. 14 July 2012.

¹⁷² For details of the meetings please see: <http://www.coe.int/t/dghl/standardsetting/convention-violence/Seminars/ny2012/>

CHAPTER VII

HOW CAN THE CONVENTION BE UTILIZED

Women's organizations already give great importance to the Convention for "describing, for the first time, violence against women as a discrimination and human rights violation and emphasizing the connection between violence against women and gender inequality."¹⁷³ Çiğdem Hacısoftaoğlu said that "Turkey, by ratifying this Convention, has accepted on paper what we (women's organizations) have been saying for years."¹⁷⁴ However, as Canan Arin emphasized in our interview, "While the Convention is really positive, I should repeat that the application (of the Convention) is as important as the Convention itself."¹⁷⁵ It is for this reason that the civil society and the government in Turkey need to find different methods to utilize this Convention as a strong tool for elimination of VAW in Turkey.

GREVIO: The Monitoring Body

The operating mechanisms of the GREVIO are not detailed much in the Istanbul Convention and the exact means through which the Committee will work is left for them to decide when it will be established after the Convention gets into effect. The few present guidelines for GREVIO have been outlined in the previous sections of this thesis.

In spite of the vague nature of the Committee as of yet, but also due to the positive experiences the women's movement in Turkey had with the CEDAW Committee, all of the interviewees whose opinions were taken to enrich this thesis have

¹⁷³ Batik, Ebru and Ayman, Zelal. WWHR – New Ways. Personal Interview. 8 May 2012.

¹⁷⁴ Hacısoftaoğlu, Çiğdem. Personal Interview. 17 July 2012.

¹⁷⁵ Arin, Canan. Personal Interview. 5 August 2012.

counted the GREVIO mechanism as one of the first and foremost advantages of the Convention that can be utilized in the struggle of ending violence against women in Turkey.

Like CEDAW, the review mechanism of the Istanbul Convention will also be a point of entry for the national, regional and local women's NGOs into the discussions on VAW between Turkey and the international community. The women's NGOs in Turkey has utilized the CEDAW review process very well and contributed to it with detailed Shadow Reports and lobbying efforts in the UN. With this background, it can easily be expected that the women's movement will also be able to utilize the review process of the Istanbul Convention very well, and get their voices heard in this arena as well.

Supporting VAW Cases in European Court of Human Rights

Çiğdem Hacısoftaoğlu counts the European Court of Human Rights as an important instrument which they have utilized in their struggle to eliminate VAW.¹⁷⁶ The European Court of Human Rights gave their first decision on a VAW case in the *Opuz vs. Turkey* case in 2009. In the case, the applicant argued that the state failed to protect her and her mother, in spite of the fact that they have applied for protection under the Law. No 4320, of the time. The applicant also demonstrated that violence against women is a systematic occurrence in Turkey and that the state is failing its due diligence obligations for protecting women from violence against women. The court found Turkey as guilty due to its negligence to protect Opuz, with a special emphasis on the judicial passivity and its consequences of further victimization violence against women.¹⁷⁷ The Court also established in its decision that gender based violence is a form of

¹⁷⁶ Hacısoftaoğlu, Çiğdem. Personal Interview. 17 July 2012.

¹⁷⁷ McQuigg, Ronagh J. A. "What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence" *The International Journal of Human Rights*. Dec. 2012. Pg 4.

discrimination against women, which was a milestone as violence against women as a form of discrimination against women was not established in the Council of Europe system prior to this decision. In this light, the *Opuz vs. Turkey* decision has further motivated the Council to make a wholesome convention on the issue.

Today, the Istanbul Convention brings to Council of Europe a more wider and comprehensive definition and standards on violence against women and domestic violence. Once in effect, as a document of Council of Europe, like the European Convention on Human Rights, the Istanbul Convention will be an important document that the European Court of Human Rights can base their decisions upon. This will allow for many cases tried against Turkey in the court, on violence against women, to be more accurately judged due to the presence of a standard setting document as the Istanbul Convention.

Further as McQuigg (2012) states in his article: “Also, a treaty body such as that to be established under the convention, can make much more detailed recommendations to states on a particular issue than could a court, such as the European Court of Human Rights”¹⁷⁸ Thus, the Convention will allow much more detailed analysis of the states’ combat against violence against women, and this will further give the European Court of Human Rights much detailed standards and obligations to judge the party states by. Combining the standards of the Istanbul Convention with the financial remedy aspect of the European Court of Human Rights will give a much stronger outcome for the efforts of the women’s movement in Turkey, Nazik Işık states.¹⁷⁹

Habibe Yılmaz Kayar indicated in our interview that when the internal legal remedies are ran out and justice is not achieved, applications to international

¹⁷⁸ MsQuigg, Ronagh J. A. “What Potential Does the Council of Europe Convention on Violence agaissant Women Hold as Regards Domestic Violence” *The International Journal of Human Rights*. Dec. 2012. Pg 1.

¹⁷⁹ Işık, Nazik. Personal Interview. 26 June 2012.

institutions are made and their priority is the European Court of Human Rights as it includes a financial penalty mechanism.¹⁸⁰ Thus, when applying to the European Court of Human Rights in such cases, which has been considered as a stronger mechanism for state recognition of violations of human rights due to its mechanism for sanctions and financial penalties to the states, as discussed in the earlier sections, the Istanbul Convention, as well as the recommendations and reports of the GREVIO to the states it monitors will be able to be referenced as such and used in the arguments in their files of application.

With Reference to Article 90 of the Constitution of Turkey

The General Directorate on Women's Status of Turkey also cited Art. 90 of the Constitution of Turkey as the legal means through which the Istanbul Convention can be applied to the Turkish legal system. The judges can be held accountable for not giving decisions in line with the Convention, once the Convention gets into effect, as with reference to Article 90 of the Constitution of Turkey, the Convention will hold priority to the national laws if there is a discrepancy between the two. As will be detailed in the following sections, this is actually a common explanation/excuse used by law making authorities to explain that the national laws should be in line with the relevant international treaty is actually not that important as the judges can give decisions by directly referring to the Convention rather than on the actual national law.

This is, of course, a method that the women's movement can hold the judiciary system accountable if they do not give decisions in line with the Istanbul Convention and apply for an appeal with reference to the Convention and Art. 90 of the Constitution of Turkey. However, previous experience revealed that for judiciary to utilize international conventions in their decisions, with reference to Art. 90, they need to know these documents well, and prefer to use them instead of the national laws, which has not been a wide practice yet. This will require in-

¹⁸⁰ Yılmaz Kayar, Habibe. Personal Interview. 28 April 2012.

service trainings for judiciary officials to take place on a regular basis to update the knowledge of judges and prosecutors on recent international treaties ratified by Turkey and how and in which situations they can use this information in the favor of the victim.¹⁸¹

As a Reference in Law Making Processes

As a binding, international treaty, the Istanbul Convention is an important document that will strengthen the hands of women's rights NGOs for combating VAW in many ways. The new law, No. 6284, prepared to enhance the measures in the old Law. No 4320 can be considered as a result of signing this Convention and is an important signal that more can be achieved in terms of State actions and cooperation between the State and women's rights NGOs against VAW.

Women's NGOs started to use the Convention, as Women's Platform to End Violence did, in the lobbying work they have undertaken for the amendment of the 4320 Law on Protection of the Family and base their proposals on the Convention.¹⁸² The details of the process will be detailed in the following sections. However, there will be many other opportunities for the women's NGOs to use this Convention as a tool on combat against VAW, by itself or in unison with other aforementioned tools. For example, the women's NGOs can hold the State accountable for not detailing the laws on VAW, as much as the Istanbul Convention. The Convention gives very clear details on what laws should cover in terms of protecting and prosecuting VAW.

¹⁸¹ Ayata, Gökçeççek. Personal Interview. 25 July 2012.

¹⁸² As will be detailed in the following sections, a new law was made, in the end, rather than amending the old law, as the law included many changes that could not be encompassed in an amendment.

As a Matter of International Reputation

Being party to international human rights treaties has long been a matter of international reputation in the arena of international relations. Guzman (2001) argues that the international treaties are especially effective in their force for compliance by the states if they are on “relatively modest” issues. The author goes onto explain that he argues that while topics of territorial law, law on wars, arms laws will be less successfully regulated by international laws, “relatively modest” topics such as environmental issues and economic issues will be successfully affected by the relevant international treaties. It is also true that women’s issues are generally counted among these “relatively modest” topics and thus argued by Guzman (2001) that can be forced for compliance by international treaties and international reputation that follows.¹⁸³

Especially in international instruments where there is a monitoring mechanism involved, the States put their progress in the specific area of that document to analysis of a group of people – that consists the monitoring mechanism – who are from different States within the same international regime. The comments of the monitoring body are published to the international community and the women’s movement of the State can distribute the recommendations and warnings to the State to the international community. Thus, the situation of that particular topic in the country in question is spread throughout the world by this process.

Turkey has played a very leading role in the negotiations of and the adoption of the Istanbul Convention. Turkey has made a lot of lobbying to coincide the first signing of the Convention with its term presidency of Council of Europe.¹⁸⁴ This

¹⁸³ Guzman, A. 2001. A Compliance Based Theory of International Law. https://docs.google.com/viewer?a=v&q=cache:bMmxwqfQjOwJ:www.law.berkeley.edu/files/guzmanComplianceandIL.doc+&hl=tr&gl=tr&pid=bl&srcid=ADGEESiUMj1oNRHGwvdMYapbiqMTkhik1M5DTws1j9q2JNRqouRx1tkZAgPj5siKzTOlsT3ziRIi:QVSOhu1sDrKeUMdKAZOVqCACwLpeS3oZKdI466mX0dS5X_CBgNs27yKwx4henn-&sig=AHIEtbSjfk9WYwbQswEglfbRppAk-A7pQ [accessed 09 September 2012]

¹⁸⁴ Acar, Feride. Personal Interview. 14 July 2012.

leading role has provided the women's movement an important argument for forcing the government of Turkey to accept the Convention in its parliament and send in the ratification documents as the first member state to do so. To date Turkey remains as the only country that has sent in its documents of ratification for the Istanbul Convention.

It is the belief of the thesis writer that this leading status will give several opportunities to the women's movement when lobbying with the State before, during and after the periodical reviews Turkey will go through under the Istanbul Convention.

Asking for Budgetary Allocations

Another strong hand the Convention gives to women is on funding, as Canan Arın explained in our interview that “a proper budget can be asked from the State based on this Convention.”¹⁸⁵ According to the Article 8 of the Convention, the State is responsible for allocating resources for the work of NGOs on VAW. As resources are getting more and more scarce for women's rights organizations this article is a strong point they can hold onto while asking for funding from the State. It should also be noted that Turkey does not give direct funding to women's organizations currently; this may be a point of entry for this practice, which is more common among other member states of the Council of Europe.

This will also greatly help women's NGOs which are trying very hard to sustain the shelters they operate. Both in terms of human resources and in terms of financial resources, these shelters are operating under very hard conditions. As under the Convention, States have an obligation to open enough shelters, the State can utilize the independent shelters or fulfilling their obligation to provide enough shelters, and support them by giving them enough of their budget.

¹⁸⁵ Arın, Canan. Personal Interview. 5 August 2012.

There are oppositions within the women's movement for taking budgetary allocations from the State as it may impound on the independency with which the women's organizations can work if they take money from the government. However, as shown from the interview with Canan Arin, some organizations also find the possibility helpful. The budgetary allocations from the state should not be attached to conditions, only a possible financial control, but no content control over the projects/programs the women's organizations will undertake with that specific budgetary allocation.

For being Party to VAW Cases

Canan Arin, as a lawyer who has worked on VAW cases for many years, says that Article 22 of the Convention, "Art. 22(2) Parties shall provide or arrange for specialist women's support services to all women victims of violence and their children" can forced to be interpreted as a way into allowing women's organizations to be a party to legal cases regarding violence against women. This issue has been on the agenda of the women's movement in Turkey for many years. The last two shadow reports prepared by the women's organizations to the CEDAW Committee has discussed this issue in length and asked for the CEDAW Committee to take up this issue in their Concluding Comments. The courts of Turkey has rejected the women's movements requests to be a party to the cases many times unfortunately, but hopefully the Istanbul Convention can be a tool to strengthen the hand of the women's organizations in this sense as well.

It is promising to see how much the civil society in Turkey owned and prioritized the Istanbul Convention and how much, in many different ways, they use the Convention to put pressure on the Government of Turkey for elimination of violence against women. The workshops and training programs mentioned in the "Promoting the Convention in Turkey and Around the World" section of this thesis, will further allow the Istanbul Convention to be utilized by a wider group of people in the civil society, public officials and private sector to eliminate

violence against women and domestic violence and thus further the struggle towards reaching gender equality.

AN EXAMPLE TO UTILIZATION OF THE CONVENTION : The new law “Protection of the Family and Violence against Women” 6284 No. Law

As mentioned in the previous sections, the “Law on Protection of the Family” No. 4320, was a very brief law, open for interpretation and frequently interpreted in favor of the offenders. A lot of initiatives were undertaken by the women’s movement in Turkey to force the governments to amend the law to include the international standards in the struggle against violence against women.

With the leading role Turkey played in the preparation of the Istanbul Convention, the Ministry on Family and Social Policy prepared the “Draft Law on the Protection of Women and Family Members from Violence” and in a very democratic manner, in collaboration with the women’s movement. Pinar İlkkaracan, in our interview, said that both herself and all the members of the “End to Violence Platform” have studied the drafts of the Istanbul Convention intensively to prepare suggestions for the content of the draft law.¹⁸⁶

The women’s movement prepared a suggestive draft law, with the help of the lawyer members of the Platform, hoping that “the law would be an internal law of the Istanbul Convention” carrying all the important measures of the Convention.¹⁸⁷ The draft was signed by nearly 250 women’s organizations and was sent to the Ministry of Family and Social Policy on September 30th, 2011. The Platform insisted that the law include:

¹⁸⁶ The Istanbul Convention was not approved and signed by the Council of Ministers of the Council of Europe, thus the End to Violence Platform has worked from the drafts of the Convention published by EWL. İlkkaracan, Pinar. Personal Interview. 13 July 2012.

¹⁸⁷ Batik, Ebru and Ayman, Zelal. WWHR – New Ways. Personal Interview. 8 May 2012.

- Title as “Law No 4320: Law on Prevention of All forms of Violence against Women and Domestic Violence and Combatting Violence”
- A reference to the aim of the law as “empowering women and aiming for substantial equality between women and men”
- The new notion of “stalking” introduced by the Istanbul Convention to the international documents
- References to the international conventions related to the issue of VAW, especially the Istanbul Convention and CEDAW
- A definition of violence that emphasizes that violence against women is a gender based discrimination and a violation of women’s human rights.
- A consideration of forced and early marriages of girl children as a form of violence
- Protection against digital and electronic forms of violence against women
- Articles to include all members of the society, especially men and boys in the prevention of all forms of violence
- Articles for inclusion of private sector and NGOs in the struggle against VAW
- Articles to spare enough resources from the general budget for ending violence against women
- Prevention of secondary victimization
- Empowerment and economic independence of women who were victims of VAW
- Due dates for important services that will be provided to the victims of violence (For example, the draft of the Platform gives a three month deadline, from the date of the publication of the law, to set up a hotline against VAW, and a year for establishing sexual violence crises centers),

- Articles to ensure the privacy and protection of the victim once she applies for protection under this law.
- Training programs for the victims for their empowerment
- Training programs for the offenders towards anger management, gender, coping with stress etc...
- Sentencing the offender to give precautionary alimony to the victim if the offender is sole provider for the family, without looking for the request from the victim
- Legal and legislative officials should be obliged to report the violence cases they observed.
- Bureaus for protection from violence in law enforcement officers
- Establishment of Commissions for Violence Follow-up and Expertise Action to oversee the implementation of the law.
- An article stating that the Ministry will take into consideration the work of the NGOs on violence against women and children, support and promote them and cooperative with them and also spare enough financial and human resources, including the NGOs, to eliminate violence.
- In the process of prosecution, victim's demand, statement and complaint is not required, even though the complaint is withdrawn, case continues.
- Regarding crimes under this law, arbitration cannot be procured.
- Legal actions against government officials who did not perform its duties and did not evaluated applications with required urgency, care and attention.
- Measures on all the 4 P's, i.e. prevention, protection, prosecution, and policy, covered by the Istanbul Convention.

Because the process started in a very democratic manner, the women's organizations were very optimistic about the new law being prepared.¹⁸⁸ Prof. Feride Acar, in our interview, said that she also expected the new law to reflect

¹⁸⁸ İlkkaracan, Pınar. Personal Interview. 13 July 2012.

the standards set in the Istanbul Convention, as Turkey played such a leading and progressive role in the preparation of the Convention (but was very much disappointed with the resulting law in the end).¹⁸⁹ The Ministry prepared a draft law, with slight changes from the Platform's draft, but caught the spirit of the Istanbul Convention largely.

The women's organizations conveyed their suggestions to the Ministry and the parliamentarians on several occasions to change this draft, once in the consultation meeting with the Ministry on October 22nd, and then on the faxes and emails they have sent to the Ministry on Nov 25th, 2011, in occasion of the ratification of the Istanbul Convention by TBMM.

The Ministry held another meeting with some women's organizations on 27th December 2011 regarding the draft law. The women's organizations realized after the meetings, from the information the media provided – they have not been told about this by the state officials in the meeting itself -, that the Prime Ministry has removed the concept of “people living in close affiliation” from the draft law, causing the law to exclude protection to women who are not in a legal marriage. Further, the monitoring mechanism that women's groups proposed for the application of the law was not included in the new draft, thus eliminating the feedback women's organizations could provide from the field regarding the application of the law. In the new draft, the women, with their children, were proposed to be brought to newly established probation offices, putting victimized women and their children in close proximity with former criminals, which can cause many more and unpredictable problems and further victimizations to occur.¹⁹⁰

¹⁸⁹ Acar, Feride. Personal Interview. 5 July 2012.

¹⁹⁰ KİHEP E-List Serve. 29 December 2012. “Şiddete Son Platformu Basın Açıklaması” (End to Violence Platform Press Release)

The law was sent to the TBMM on 24th February 2012. The draft law was expected to be reviewed by the Equal Opportunities Commission for Man and Woman as it is a law on gendered violence, but the commission was considered as a subsidiary commission, the law was discussed in the General Assembly of TBMM instead. In an effort of the Ministry to make a statement about their commitment to women's human rights, the law No. 6284 was accepted in the TBMM on March 8th, 2012 on International Women's Day.¹⁹¹

The resulting law was far more different than what was proposed by the draft of the End to Violence Platform. However, with the effort of the End to Violence Platform, the new law included "people living with close affiliation" to be covered by the provisions of the law. Nazan Morođlu, in her interview said "Irrespective of their marital status, the law encompasses all women – married, single, divorced, young, old, those with a fiancée or a boyfriend"¹⁹² which is a very important step towards accomplishing the standards of the Istanbul Convention.¹⁹³

Further, the law is important for acknowledging and protecting for violence that happens outside of office hours, the law allows for law enforcement officials to take protection measures in the absence of a family court or a prosecutor. The establishment of "Violence Prevention and Monitoring Centers" that will operate on a 24 hours, 7 days basis are also established with the law.¹⁹⁴ The law asks the judiciary not look for a proof of violence to give the decision for a protection order.

¹⁹¹ Nazan Morođlu. 2012. "Kadına Yönelik Şiddetin Önlenmesi : 6284 sayılı Yasa ve İstanbul Sözleşmesi" UBAP Magazine. pg 374 http://portal.ubap.org.tr/App_Themes/Dergi/2012-99-1169.pdf [accessed 26 June 2012]

¹⁹² Nazan Morođlu. 2012. "Kadına Yönelik Şiddetin Önlenmesi : 6284 sayılı Yasa ve İstanbul Sözleşmesi" UBAP Magazine. pg 374 http://portal.ubap.org.tr/App_Themes/Dergi/2012-99-1169.pdf [accessed 26 June 2012].

¹⁹³ Yet, unfortunately the new law No.6284 does not cover same sex couples.

¹⁹⁴ A pilot application of this, called ŞÖNİM in short, was established in Bursa as of writing of this thesis even though the regulations of these institutions is not accepted yet.

The old law, No. 4320, only included the one method of protection for the victims, perpetrator leaving the family home and this left the victim open to attacks in the other parts of her life. The new law allows for further protection of the victim in other places and also forces perpetrator to stay away from victim's work place, and take rehabilitation sessions if necessary. The new law asks for imprisonment of those perpetrators who do not obey the restrictions in the protection order.

Ministry of Family and Social Policies has its own budget regarding this law and victims can now take allowance from this budget if they need it. The victims will also get two months of childcare paid by the State so they can go back to working life to stay on their own feet.

It is also a good sign that the new law includes the concept of "stalking" with the translation of Prof. Acar as "ısrarlı takip" directly taken from the Istanbul Convention.¹⁹⁵

Although much detailed and comprehensive from the previous law, the new law on VAW is much different than the draft law proposed by the women's organizations involved in the End to Violence Platform. The changes started from the name of the Law. As Moroglu quotes, a parliamentarian during the discussions around the Law in TBMM said: "if we are protecting women, we protect the human, however the priority to protect the human is to protect the family as a healthy unit. Positive discrimination processes should not turn into steps to make divorcing more easily or cause family unit to disintegrate quickly"¹⁹⁶ In light of these perspectives, and apparently through an intervention directly from the Prime Ministry, the name of the law was accepted as "Law on protection of the Family and Prevention of Violence Against Women." The law breaks its first connection with the Istanbul Convention by prioritizing the family over the women, giving

¹⁹⁵ Acuner, Selma. Personal Interview. 16 July 2012.

¹⁹⁶ *Ibid*, pg 375

women importance as only a part of the family unit, as also emphasized by Nazan Moroğlu in her interview with Hurriyet Daily News.¹⁹⁷

An interesting interpretation came from Eray Karinca, a previous family court judge. He argued that the new law has a lot of articles which cover, basically, wishes and advices that will not be applied when giving decisions as they are just details and lack an enforcement mechanism. He argues the law would be much better off with a shorter and concise version.¹⁹⁸ His interpretation is that the details in this law is not applicable to the real life decision making of the judges, but it will be the women's movement to monitor the application of the law and lobby for a better implementation of the missing parts. For example, the compulsory imprisonment, which will be given to the offenders if they breach the protection order, can only be applied as a disciplinary context, not as a sanction.¹⁹⁹

The biggest missing point in the new law comes is in its philosophy. As mentioned before the Istanbul Convention is based on the 4 P's approach to eliminating violence against women: Prevention (of violence), Protection (of victims), Prosecution (of offenders) and Policy Making (to eliminate violence against women). As Prof. Acar stated in our interview, one would aspect that a national law that was accepted in the Turkish Parliament only months after the acceptance of the Istanbul Convention in the Parliament, would reflect many aspects of the Convention, especially the 4 P's approach which is its foundation.²⁰⁰ Moroğlu further states that a missing aspect of the law is that it "provides protection for the violence that has taken place, not for violence that might occur" missing the prevention aspect of the 4 P's of the Istanbul

¹⁹⁷ Gürel, Emrah. "Female Activist Make History with New Law to Protect Women" Hurriyet Daily News . <http://www.hurriyetdailynews.com/female-activists-make-history-with-new-law-to-protect-women.aspx?pageID=238&nID=15649&NewsCatID=339> [accessed 26 August 2012]

¹⁹⁸ Karinca, Eray. Personal Interview. 3 September 2012.

¹⁹⁹ Karinca, Eray. Personal Interview. 3 September 2012.

²⁰⁰ Acar, Feride. Personal Interview. 5 July 2012.

Convention.²⁰¹ The awareness raising that is outlined in the law can only provide a limited mechanism for prevention. The law of course also carries the prosecution approach with it, covering only three of the 4P's and only partially. Prof. Acar stated that the policy aspect is something they have stressed for since the reviews under the CEDAW Convention, and it should have been in place as the political statement the Istanbul Convention makes by saying that violence against women is a discrimination of women's human rights is a fundamental part of the philosophy of the Convention that should have been carried onto the national law.²⁰² The policy approach is also an essential part of the feminist approach to violence, which in the previous sections of this thesis, was argued to be the theory which the Istanbul Convention drives from. According to the feminist approach to violence, a wholesome and integrated approach to ending violence against women is necessary and this would require a steadfast and persistent determination on the part of the state to take all necessary measures to end violence against women and combine and coordinate these measures through policy.

Nebahat Akkoç, in our interview, added onto this argument by saying that the new law also does not use vital terminology such as gender and reference to women as individuals. These terminologies, while in place in the draft law prepared by the Platform to End Violence were taken out by the government once the draft law came to the ministerial cabinet. Thus, the law missed the "soul" of the Convention, in the words of Ms. Akkoç, and lost its connection to the understanding of the gendered nature of violence that is mentioned in the Istanbul

²⁰¹ Gürel, Emrah. "Female Activist Make History with New Law to Protect Women" Hurriyet Daily News . <http://www.hurriyetdailynews.com/female-activists-make-history-with-new-law-to-protect-women.aspx?pageID=238&nID=15649&NewsCatID=339> [accessed 26 August 2012]

²⁰² It is also important to note that KSGM, in the information note they have sent to the thesis writer as answers to the questions provided, emphasizes that the Istanbul Convention is based on the fundamentals of 4 P's, but interestingly they could not carry it onto the new law No. 6284. KSGM. Information Note. 9 August 2012.

Convention.²⁰³ It should be noted that regardless of its insufficiencies, Ms. Akkoç stressed that they have already started to use the new law, when applying to state institutions with victims of violence against women, especially to remind the officials of their responsibilities with regards to the new law.²⁰⁴

Prof. Acar stated that some people argue that although there are many missing points in the new law No. 6284, everything does not need to be in one law, other laws can be made to complete the missing points. However, the women's movement in Turkey quite well knows how difficult it is to change the laws already in place or ask for new ones to be made; open areas of struggle for women's movement while they could have been closed with this new law. The second argument people make, said Prof. Acar, is that while Art. 90 of the Constitution of Turkey (mentioned before) is in place, there is no internal law required to reflect all the gains of the Istanbul Convention, as the Convention is superior to all internal laws in Turkey. However, this would also require judges and prosecutors to know the Istanbul Convention by heart and utilize it in appropriate cases. It was seen in the case of CEDAW trainings by Istanbul Bilgi University that many of the judiciary officials do not know the international documents in that extend and rarely cite them in their decisions.²⁰⁵ Thus, it is the opinion of the thesis writer is that the points missing in the law no. 6284 will require the struggle of the women's movement in the long run again and again.

²⁰³ Akkoç, Nebahat. Personal Interview. 12 September 2012.

²⁰⁴ *Ibid.*

²⁰⁵ Of course, there are a few exceptions to this observation, such as Mr. Eray Karınca, who was a family court judge and stated in our interview that he used CEDAW in several of his decisions related to cases of violence against women. Karınca, Eray. Personal Interview. 3 September 2012.

CHAPTER VIII

CONCLUSION: LOOKING FORWARD FROM THE ISTANBUL CONVENTION AND THE LAW NO.6284

Violence against women, including domestic violence is a grave problem in Turkey affecting one in every three women at least once in their lives. The problem takes many forms and levels, from stalking, to deprivation of economic liberties, from rape to honor killings, yet underlying all these forms is the struggle of men, whether consciously or not, to preserve the power hierarchy placed onto them by the patriarchal society.

The statistics revealed by the recent State research on the issue, provide important data to strategize and build programs on. The increase in the number of women considering VAW unacceptable is promising, yet on the other hand the depressingly low number of women who apply to legal institutions or women's NGOs upon being victims of violence tells us there is still much to do on the issue such as awareness raising on the present laws and on the part of the state officials who work face to face with victims of VAW, providing legal literacy campaigns, effective prosecution of the abusers and protection of the victims, etc...

The women's movement has used the tools they have had in their hands against violence against women extensively until now to raise awareness on the issue, protect the victims of violence and force the State to establish effective legislation and mechanisms to eliminate violence against women, including international documents and procedures, national legislations and campaigns where several different tools were utilized at the same time. Now, they have a new tool to utilize: Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, a.k.a the Istanbul Convention. This thesis evaluated the Istanbul Convention with regards to the tools it can provide to the women's movement in Turkey for their struggle to eliminate violence against

women, in light of the previous tools they have utilized and experiences they have gathered from these experiences.

Prof Acar emphasizes the most important aspect of the Convention as “the Istanbul Convention codified an approach which has been a soft law until now for the whole world, and turned this into a hard law for Europe.”²⁰⁶ The issue of violence against women was not taken on in other binding treaties in the UN system before, it existed only as a “soft law” in General Recommendations of the CEDAW and in the nonbinding document of DEVAW. Therefore, this is the first time the issue of violence against women is codified in a European binding treaty, with a monitoring body, which Turkey is party to.

The Istanbul Convention provides an important standpoint for its member states to work from for eliminating violence against women. The Istanbul Convention takes on the work of CEDAW Gen. Rec. No12 and 19, DEVAW and the U.N. Special Rapporteur on Violence against Women to define violence against women and to set the standards in combatting it, and like these documents follows the feminist approach to violence, acknowledging the gendered nature of violence, acknowledging its utilization as a tool to preserve women’s secondary position within the society, recognizing multiple forms of discrimination and acknowledging the wide range of comprehensive activities necessary for elimination of violence.

The Istanbul Convention introduced or solidified for the party States, in a binding treaty, many important points that has been on the agenda of the international women’s movement such as the topic of secondary victimization, stalking, including NGOs in the work of the State against violence against women, international cooperation among States for data collection and protection of the victims, international cooperation in the case of migrant populations, protection of LGBT’s against violence against women and domestic violence... etc. All these

²⁰⁶ Acar, Feride. Personal Interview. 5 July 2012.

issues has been taken up by the women's movement in Turkey, but the movement, until now, did not have a solid international document where they could set their demands against. The Istanbul Convention can now be the document the women's movement can lobby from, on these issues and more, and the monitoring body of the Convention.

As in the case of negotiations on international treaties, as Prof. Acar stated in our interview, some compromises had to be made and these compromises resulted in the missing points of the Convention. The thesis writer finds it important to highlight these missing points as well, as they also show the women's movement the areas where they should look elsewhere for supporting their arguments. The missing of a substantial penalty mechanism, other than the "name and shame" aspect of the international monitoring bodies, is a point worth considering. Mechanisms such as the European Court of Human Rights, can provide better solutions when such penalty is sought for the violation of women's human rights by a state. Further, the problems in the translation of the Convention into Turkish, as "domestic violence" is translated into Turkish as "family violence," raises questions about the intentions of the state on how they want to utilize the convention and form their standpoint on violence against women. The emphasis on family violence bring onto mind the emphasis the state is showing in the recent times on preservation of the family and its reluctance to accept women as individuals within the society and apart from the family structure.

This thesis concludes that, in spite of its missing points, many aspects of the Convention can and will be used by the women's movement in Turkey, with the help of the previous experiences the movement acquired, in their struggle to end violence against women. The monitoring mechanism of the Istanbul Convention, GREVIO, will provide a periodical arena for the women's movement to bring their problems and the areas they think needs work onto the attention of the international community and also, thus, onto the attention of the government of Turkey. The monitoring periods will provide an opportunity for the women's

movements voice to be heard as was the experience of the movement with the monitoring periods of the CEDAW Convention.

The Convention can also be utilized when taking violence against women cases to the European Court of Human Rights, as the Court will use the Convention as a reference when giving decisions on violence against women cases. The Convention also has an article which allows the women's rights NGOs to be a part of violence against women cases, which the women's movement in Turkey has been struggling to attain from the state for many years now.

The international conventions have the power of national legislation in Turkey according to the Art. 90 of the Constitution of Turkey. The article has tried to be used by the women's movement previously in reference to the issues in the CEDAW Convention. However, as argued by the thesis writer, the utilization of this tool will also need the cooperation of the legal officials, to learn and use the Istanbul Convention in their arguments in the legal cases on violence against women.

The movement has already started to utilize the Convention in their lobbying efforts to include phrases of "sexual orientation" and "gender identity" in the new draft of the Constitution of Turkey and in their lobbying efforts in the formation of the new law on violence against women, Law No. 6284. It is very promising to see the movement analyzing and utilizing the Istanbul Convention this quickly, thanks to the meetings Prof. Acar held with the women's movement during the preparation of the Convention, alerting and informing the movement regarding the Convention and also thanks to the experiences the women's movement already had with their lobbying campaigns for the Turkish Civil Code and Turkish Penal Code reforms.

While the Istanbul Convention is providing an important basis from which both the State and the women's NGOs can work up from, still a lot is falling on the State to integrate the articles and the philosophy of the Convention wholly and

effectively to the lives of women in Turkey to reduce the number of women living this grave violation of their rights. This thesis aimed to highlight the many other points of entry the Istanbul Convention provides to, in a broader perspective, the women's movement in Turkey on their struggle against violence against women and, in the broader context, to achieve gender equality in Turkey.

The thesis tried to evaluate the effectiveness of the Istanbul Convention for the women's movement in Turkey in their struggle to eliminate violence against women. However, as the Convention is a very recent one, the literature review on the Convention was very limited. Further, the interviews were also limited in number and scope due to the recency of the Convention and also the geographical and time-wise constraints. Therefore, a wider research, with more literature to analyze from and more face to face interviews, can reveal many more tools spreading from and in depth analysis of the Convention. Also, it is well known that the women's movement in Turkey is very active and creative, and thus the tools mentioned in this thesis will be very much expanded and detailed by the movement during their actions to combat violence against women, which can be the topic of further study in the upcoming years as the information about and the utilization of the Istanbul Convention widens.

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Appendix 1: Questions for the Interview

- 1) How do you summarize your involvement in women's movement in Turkey?
- 2) If you are not directly attached to / involved in women's movement in Turkey, how do you define yourself and your role in terms of combating violence?
 - a) Advocacy?
 - b) Activism?
 - c) Lobbying?
 - d) Consciousness Raising/Awareness?
 - e) Training?
 - f) Policy making
 - g) Other
- 2) How would you summarize your involvement with the violence against women (VAW) agenda in Turkey?
- 3) Do you think women's movement paved the way to combat violence against women? In what ways? Please specify.
- 3) Which of the below tools did you use during your work in this field? If you have used one of the below tools, please elaborate how you have utilized it/them?
 - a) CEDAW
 - b) DEVAW
 - c) NGO Campaigns
 - d) Laws:
 - 4320
 - TCK
 - TMK
 - e) *Council of Europe's new Convention on preventing and combating violence against women and domestic violence (CETS n° 210) – namely the Istanbul Convention*
 - f) Other: Please specify
- 4) Which of the tools or a combination of tools you have utilized proved to be most effective?

5) Have you heard of the Istanbul Convention? Through what means? (Please answer the below questions if you have heard of the Convention)

6) Have you examined the Convention? What are your opinions on it?

7) What do you think about the political gains of Istanbul convention for women rights?

8) In which aspects do you think the Istanbul Convention can be utilized for the aim of eliminating violence against women?

9) Which area of the struggle against violence against women can the Istanbul Convention provide the most aid?

- a) Formulating and the application of laws;
- b) Giving assistance to victims of violence;
- c) Providing support for the NGOs working on VAW by the State;
- d) Other:

10) How can the Istanbul Convention be utilized in collaboration with the other tools outlined (or not) in the above articles?

11) Other comments:

Only to be answered by representatives of women's organizations:

12) Are you or your organization, part of the Platform to End Violence against Women. If yes, can you please tell more on:

- How you have come to be involved in the Platform?
- What did the Platform do until now?
- What is the eventual goal of the Platform, how does it plan to achieve it,

and what will you/your organization's role in the process be?

Appendix 2: List of Interviewees

Prof. Dr. Ayşe Feride Acar. Face to face interview. 5 July 2012.

Feride Acar has been a member of the UN Committee on the Elimination of Discrimination against Women (CEDAW) since 1997 and served as its rapporteur in 1999/2000. She was also head of UN Committee on the Elimination of Discrimination against Women (CEDAW) until December 31st. She is Professor of Political Sociology at the Department of Political Science and Public Administration, Middle East Technical University in Ankara, Turkey.

Prof. Acar has been involved in the Ad Hoc Committee that Council of Europe established in 2006 and has been an active part of the process until the Istanbul Convention was adopted. She also continues to support the Istanbul Convention through seminars and meetings to spread the word on the Convention and widen its applications.

Pınar İlkkaracan. Face to face interview. 13 July 2012.

Pınar İlkkaracan is a researcher trained both in psychotherapy and political science and a human rights activist. She is the co-founder of two NGOs, Women for Women's Human Rights (WWHR) – NEW WAYS, a women's NGO that led various successful legal reforms in Turkey towards gender equality in Turkey and the Coalition for Sexual and Bodily Rights (CSBR), a network of leading organizations and academics from 14 Muslim countries. She has written the "Sıcak Yuva Masalı" (Warm Home Tale) in 1996 with Canan Arın and Leyla Gülçür on the unseen aspects of domestic violence against women. She is also the editor of Women and Sexuality in Muslim Societies (translated into Arabic and Turkish) and Deconstructing Sexuality in the Middle East (2008), as well as many other articles. She was awarded the prestigious Gruber Prize for Women's Rights of The Peter and Patricia Gruber Foundation in 2007 for her leadership for women's rights at the global level

Gökçeçek Ayata. Bilgi University. Human Rights Law Research Center. Face to face interview. 25 July 2012.

Gökçeçek Ayata has been working with the Bilgi University Human Rights Law Research Center since 2006. Among the projects they have undertaken in the Research Center one of the longest and most wide spreading one was on the training of judicial officers on CEDAW and its application to the judiciary system in Turkey. Another project they have undertaken was the “Combating Discrimination in Turkey through Documenting and Reporting “ in which they have examined the international documents that can be used in a reporting cycle to lobby the state to further human rights. Their experiences on these topics can easily be reflected onto the utilization of the Istanbul Convention.

Nazan Morođlu. Written interview. 27 August 2012.

Nazan Morođlu, is a lawyer teaching on women law at Yeditepe University. She is also founder and president of Turkish University Women’s Association. She is still head of Women’s Commission in Istanbul Bar and Istanbul Union of Women Institutions. She was a member of the national delegation of Turkish Government on OSCE, Council of Europe Committee on Gender Equality, HABİTAT, and Eurasia Women Cooperation meetings.

Ebru Batik and Zelal Ayman. WWHR – New Ways. Written Interview. 8 May 2012.

Women for Women’s Human Rights (WWHR) – New Ways, an independent women’s NGO, was founded in 1993 with the aim of promoting women’s human rights in Turkey and on the international level. Since its foundation, WWHR has

become a widely renowned non-governmental organization around the globe. Through a decade of activism, advocacy and lobbying, WWHR – New Ways has contributed significantly to various legal reforms in Turkey, networking in Muslim societies and promotion of women’s human rights at the United Nations (UN) level. Since 2005, WWHR - New Ways has consultative status with the Economic & Social Council (ECOSOC) of the UN.

Canan Arın. Written Interview. 5 August 2012.

Canan Arın is founder of Purple Roof Women’s Shelter Foundation, women’s human rights activist / defender, Founding member of Women’s Human Rights Implementation Center of Istanbul Bar. . She has written the “Sıcak Yuva Masalı” (Warm Home Tale) in 1996 with Canan Arın and Leyla Gülçür on the unseen aspects of domestic violence against women. She was member of national delegation of Turkish Government in UN’s World Conference on Women in Peking on 1995 and Peking +5 Conference in New York on 2000. She was also a part of the group who wrote the shadow report for CEDAW at 1997, 2005 and 2010. As a lawyer, Canan Arın takes on many cases of violations of women’s human rights and has a firsthand experience with the application of the laws into practice.

Seniye Nazik Işık. Written Interview. 26 June 2012.

Seniye Nazik Işık is Secretary General of Women’s Branch of Republican People’s Party (CHP). She was active member of shadow reporting process at 2005 and 2010 to CEDAW. She has extensive works regarding the training of security forces on violence against women.

Ciğdem Hacısöftaoglu. Purple Roof Foundation. Written Interview. 17 July 2012.

Purple Roof Foundation was started as an initiative for protecting victim of violence against women. In January 1989 a telephone helpline was created offering legal and practical support for victims of violence. As the solidarity network was unable to meet the needs of these women, the need for a women's shelter soon became clear. In 1990 the 'Mor Çatı Women's Shelter' was created in order to continue consultations with women and to strengthen the fight against domestic violence.

General Directorate on Women's Status. Written Interview. 9 August 2012.

The General Directorate on the Status and Problems of Women was founded in 1990 in line with the requirements of the United Nations Convention on Elimination of All Kinds of Discrimination against Women. Attached to the Turkish Prime Ministry, its activities are supervised by the State Ministry responsible for women and the family. The directorate is comprised of four main departments: Educational and Social Affairs; Economic Affairs; Documentation, Publications, and Statistics; and Foreign Affairs.

Its major objectives are to protect and to promote women's rights; to improve women's social, economic, cultural, and political status; and to ensure that women enjoy equal rights and opportunities in all walks of life. To these ends, it conducts and finances research projects with a policy orientation; collaborates with other public institutions, local administrations, and women's associations; and raises consciousness through the mass media about women's issues.

The Directorate is the sole responsible institution appointed by the Ministry of Family and Social Policy to respond to and apply issues under the Istanbul Convention.

Refik Ali Onaner. Ministry of Foreign Affairs. Phone Interview.14 July 2012.

Refik Ali Onaner is high level bureaucrat working of Ministry of Foreign Affairs in Turkey. He is Head of Human Rights Department in the Ministry of Foreign Affairs. He was part of national reporting processes for ECOSOC, CEDAW and etc. He was also worked on signing process of Istanbul Convention. After the ratification of the Istanbul Convention his division has taken on all of the responsibilities of the Convention.

Habibe Yılmaz Kayar. Written Interview. 28 April 2012.

Habibe Yılmaz Kayar is the founder of KAHDEM – Juridical Support Center for Women. She is a women’s human rights lawyer who has been working as an activist since 1990’s. She was also a part of the group who wrote the shadow report for CEDAW at 2010. Both in her own law practice and in KAHDEM, Habibe Yılmaz Kayar experiences the application of laws on violence against women first hand.

Dr. Selma Acuner. Written Interview. 16 July 2012.

Selma Acuner has been an activist on women’s human rights for many years. She has been the president of the General Directorate on Women’s Problems and Status during the 2nd and 3rd combined review of CEDAW in 1997. She actively works with European Women’s Lobby and its counterpart in Turkey AKL – Turkiye (European Women’s Lobby – Turkey). Her expertise with the Council of Europe system and international women’s human rights regimes has been very valuable for the interview.

Eray Karınca. Written Interview. 3 September 2012.

Eray Karınca is a lawyer / human rights defender who is actively involved in cases regarding violence against women. He has various publications regarding the juridical dimension of violence against women and CEDAW.

Gülşen Ülker. Women's Solidarity Foundation. 4 September 2012.

Gülşen Ülker is working for a women's rights association based in Ankara: Foundation for Women's Solidarity.

Foundation for Women's Solidarity is an independent organization that aims to fight with every kind of violence against women, especially domestic violence, by the way of women's solidarity. The foundation makes contributions to societal change towards bringing an end to the legitimization of violence against women, developing pressure about women's human rights through its media and public opinion oriented studies. Furthermore, with different training programs, on the fact of struggle against domestic violence, studies of Consciousness (Awareness) Raising are done towards women coming Consulting Center, volunteers of the Foundation and professional staff members.

Nebahat Akkoç. KA-MER. 12 September 2012.

Nebahat Akkoç is a human rights and women's human rights defender, who has established the KA-MER Foundation in 1997 for as a center for women victims of violence to apply for counseling and services. KA-MER Foundation has now reached 23 centers throughout the East and Southeast of Turkey. Nebahat Akkoç holds several international awards on the subject of human rights and women's human rights. Her in field expertise has been very important to analyze the usefulness of the Istanbul Convention and the new Law No.6284 on violence against women.



APPENDIX 3: TEZ FOTOKOPİ İZİN FORMU

ENSTİTÜ

Sosyal Bilimler Enstitüsü

YAZARIN

Soyadı : KIYMAZ BAHÇECİ

Adı : ŞEHNAZ

Bölümü : KADIN ÇALIŞMALARI ANABİLİM DALI

TEZİN ADI (İngilizce) :

EVALUATION OF ISTANBUL CONVENTION:
ITS CONTRIBUTIONS AND CONSTRAINTS FOR ELIMINATION OF
VIOLENCE AGAINST WOMEN IN TURKEY

TEZİN TÜRÜ : Yüksek Lisans

- Tezimin tamamı dünya çapında erişime açılsın ve kaynak gösterilmek şartıyla tezimin bir kısmı veya tamamının fotokopisi alınsın.

Yazarın imzası

Tarih