

# CRIMINAL PROCEDURE AND EXECUTION LAW PROBLEMS RELATED TO DOMESTIC VIOLENCE<sup>1</sup>

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## I. INTRODUCTION AND OBJECTIVE

Domestic violence still constitutes a major social problem in our country as it does all over the world. An aspect of this type of violence which arrives as a result of numerous factors and which creates grave results for individuals is its dimension of execution law and criminal procedure. Domestic crimes are the least reflected crimes at organs of criminal procedure; since act of violence is applied by people who are “relatives” and the ratio of showing tolerance to the act of violence increases by the effect of this fact<sup>2</sup>. Another important problem is the approach of investigation organs and other specialists such as nurses and doctors to this issue. The unfavorable approaches of such organs and people create domestic violence events and harden the struggle with domestic violence events.

The objective of this study is to consider problems of criminal code and execution law related to domestic violence and put forth solution suggestions related to this subject.

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<sup>1</sup> This study is the text of declaration which has been presented in 13<sup>th</sup> World Criminology Congress (Rio de Janeiro / Brazil) in 12 August 2003.

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<sup>2</sup> YILDIZ, Yakup / YAVUZ, M. Fatih / SOKULLU – AKINCI, Füsün / GÖLGE, Z. Belma. Aile İçi Şiddet Olgularında 4320 Sayılı Ailenin Korunmasına Dair Kanunun Uygulamaları, in: Adli Tıp Dergisi, Volume: 17, No: 1, 2003, p: 60.

## II. METHOD AND MATERIAL

The study bases on the field research conducted throughout Turkey in the year of 2003. In the survey study face to face interview method has been used and assistance from students of different faculties of law, mainly İstanbul University faculty of law, has been taken. In the survey, questions pertaining to perpetrator profile, victim profile, type of domestic violence, the reasons of this violence, application to legal ways and the results of the applications have been asked and the data achieved from this survey have been evaluated on SPSS 10.0 computer program.

## III. FINDINGS

In this study, firstly, findings connected with criminal procedure and execution law will be discussed and after evaluations related to the subject, suggestions will be presented.

### 1. HAVE YOU EVER FILED A COMPLAINT ABOUT THE VIOLENCE YOU HAVE BEEN EXPOSED TO OR HAVE YOU EVER CONSIDERED COMPLAINING?

#### a) Whether a complaint has been filed.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	20	7,6	8,5	8,5
	No	214	81,1	91,5	100,0
	Total	234	88,6	100,0	
Missing	21	21	8,0		
	22	9	3,4		
	Total	30	11,4		
Total		264	100,0		

The question "have you ever filed a complaint on the violence applied on you" has been answered by 264 people of which 30 did not give a valid answer. Among these 234 people, 214 of them have stated that they haven't filed a complaint about the violence and 20 of these people have informed the violence they have been exposed to. This number constitutes 7,6 percent of people who have claimed to have suffered from domestic violence.

– Among the complainers 1 is male and 19 are females.

– When looked at age groups, it is realized that 3 of the complainers are in the age group of 19-25, 8 of them are in 26-35 age group, 6 of them are in 46-55 age group and lastly 1 of them is over the age of 56.

– 9 people who are not literate and have answered this question have never complained and 1 person who is literate, 3 elementary school graduates and 1

middle school graduate, 8 high school graduates and 7 university graduates have stated that they have complained the violence applied on them. As it can be seen; it is possible to say that educational status and the ratio of complaining depict a parallelity.

– When looked at professions, 1 of the complainers is a tradesman, 4 are civil servants, 1 is an academician, 1 is an artisan, 8 of them are unemployed or housewife and 5 of them are from other professions or students.

– Settlements of 12 complainers are in Marmara Region, of 2 are in Black Sea Region, of 1 is in Mediterranean, of 4 are in Inner Anatolian Region, of 1 is in Eastern Anatolia Region. 12 of these people reside in metropolitans and 7 of them live in city centers whereas 1 of them lives in squatter areas.

#### b) Result of the Complaint

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Demand to conclude	12	60,0	66,7	66,7
	Withdrawn	4	20,0	22,2	88,9
	Compelled to withdraw	2	10,0	11,1	100,0
	Total	18	90,0	100,0	
Missing	21	1	5,0		
	22	1	5,0		
	Total	2	10,0		
Total		20	100,0		

18 of the people among the 20 people who have stated to have complained have given valid answers. 12 of the people who have given valid answers have demanded their complaints be concluded and 4 of the complainers have withdrawn their complaints whereas 2 of them have been compelled to give up.

## c) People considering complaining

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Considered to complain	36	16,8	29,0	29,0
	Did not consider	88	41,1	71,0	100,0
	Total	124	57,9	100,0	
Missing	21	1	,5		
	22	89	41,6		
	Total	90	42,1		
Total		214	100,0		

Despite having been exposed to violence, 124 people have not complained; 36 of them have considered complaining but given up and 88 people have not complained at all.

**2. IF YOU HAD COMPLAINED, HOW WAS THE POLICE'S OR PUBLIC PROSECUTOR'S ATTITUDE?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strived to pass to adjudication	6	30,0	33,3	33,3
	Strived a domestic solution	9	45,0	50,0	83,3
	Ignored	3	15,0	16,7	100,0
	Total	18	90,0	100,0	
Missing	21	1	5,0		
	22	1	5,0		
	Total	2	10,0		
Total		20	100,0		

The answers of 2 people who have complained were excluded from evaluation. 6 of the people (30 %) among the 18 people who have given valid answers have stated that police and prosecutor have strived to pass the subject to adjudication. 9 of these (45 %) 18 people have stated that police or public prosecutor has showed effort to solve the problem domestically and 3 people have expressed that police and prosecutor have ignored the subject.

### 3. IF YOU HAD COMPLAINED, WHAT WAS THE RESULT OF YOUR COMPLAINT?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Acquittal	3	15,0	17,6	17,6
	Being sentenced	4	20,0	23,5	41,2
	Withdrawal of the complaint	6	30,0	35,3	76,5
	Have not followed	3	15,0	17,6	94,1
	Other	1	5,0	5,9	100,0
	Total	17	85,0	100,0	
Missing	21	1	5,0		
	22	2	10,0		
	Total	3	15,0		
Total		20	100,0		

This question, as different from the one considered above (1 b), aims to reveal the result of the complaint especially after its passing to adjudication.

3 of the people among the 20 people who have complained about the violence they have been exposed to have given invalid answers to this question. Among the remaining 17 people, 3 of them (% 15) have stated that perpetrator has acquitted. 4 Complainers (% 20) have informed that perpetrator has been sentenced, 6 complainers (% 30) have said that they have withdrawn their complaints. 3 of the remaining complainers (% 15) have not followed adjudication process and 1 of them (% 5) has given an answer apart from these.

### 4. IF YOU HADN'T COMPLAINED, WHAT WAS THE REASON?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Abstantion from compulsion	39	18,2	21,8	21,8
	Abstantion from being abandoned or divorce	8	3,7	4,5	26,3
	Children	29	13,6	16,2	42,5
	Attitude of neighbours or relatives	15	7,0	8,4	50,8
	Love	74	34,6	41,3	92,2

	Combination of reasons	14	6, 5	7, 8	100, 0
	Total	179	83, 6	100, 0	
Missing	21	32	15, 0		
	22	3	1, 4		
	Total	35	16, 4		
Total		214	100, 0		

214 people have answered this question and 35 of these people have been excluded from evaluation.

39 (18, 2 %) of these people who have been exposed to violence abstain from compulsion or force. 8 (3, 7 %) of them are in the fear of being abandoned or divorce. 29 (13, 6 %) of them haven't complained because of the children; 15 (7 %) of them abstain from their neighbours' or relatives' attitudes. 74 (34, 6 %) of the people haven't complained because they love the person who had applied violence and finally 14 (6, 5 %) of the people have not complained due to various factors.

#### 5. SHOULD RAPE OR SEXUAL HARRASMENT IN THE MARRIAGE BE REGULATED AS A CRIME?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Should be – ex officio	244	21, 5	25, 5	25, 5
	Should be – based on complaint	518	45, 7	54, 1	79, 5
	Should not be	105	9, 3	11, 0	90, 5
	No idea	91	8, 0	9, 5	100, 0
	Total	958	84, 6	100, 0	
Missing	21	174	15, 4		
	22	1	, 1		
	Total	175	15, 4		
Total		1133	100, 0		

244 of 958 people, who have given valid answers (21, 5 %) have claimed that rape / sexual harassment within the marriage should be regulated as an ex officio crime; whereas 518 (45, 7 %) of these people have stated that it should be regulated as a crime based on complaint. 105 (9, 3 %) and 91 (8, 0 %) of 958 people have stated that it should not be considered as a crime and they don't have an opinion on this subject respectively.

Of 244 people who have stated that sexual harassment / rape within the marriage should be regulated as a crime, 77 are males and 167 are females. Of people who believe that it should be regulated as a crime based on complaint, 231 are males and 287 are females. 78 males and 27 females think that it should not be considered as a crime while 48 males and 42 females do not have an idea on this subject.

Of people who believe that rape / sexual harassment within the marriage should be regulated as an ex officio crime 1 is illiterate, 4 are literates, 22 are primary school graduates; 9 are elementary school graduates; 119 are high school graduates; 75 are university graduates and 14 are master graduates. Of people who have the opinion that rape / sexual harassment within the marriage should be regulated as a crime based on complaint; 7 are illiterates, 10 are literates, 45 are primary school graduates, 24 are elementary school graduates, 268 are high school graduates. 4 of the people who have stated that it should not be considered a crime are literates, 12 are primary school graduates, 10 are elementary school graduates, 43 are high school graduates, 29 are university graduates and 5 are master graduates. Of the people who don't have an idea on the subject; 7, 5, 9, 8, 40 and 22 are illiterates, literates, primary school graduates, elementary school graduates, high school graduates and university graduates respectively.

Data achieved from people who have expressed opinions on the subject in terms of being exposed to violence are as follows: Of people who have been subjected to violence; 74 and 125 people have stated that it should be regulated as an ex officio crime and a crime based on complaint respectively. On the other hand 23 and 29 people have stated that it should not be considered a crime and they do not have an idea respectively. 164 of the people who have not been exposed to violence have stated that it should be regulated as an ex officio crime and 381 have expressed that it should be a crime based on complaint whereas 79 and 62 people have stated that it should not be considered as a crime and they don't have an idea on this subject respectively.

#### 6. WOULD YOU APPLY TO JUDICIARY BECAUSE OF DOMESTIC VIOLENCE?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	492	43, 4	59, 1	59, 1
	No	102	9, 0	12, 2	71, 3
	No idea	239	21, 1	28, 7	100, 0
	Total	833	73, 5	100, 0	

Missing	21	255	22, 5		
	22	45	4, 0		
	Total	300	26, 5		
Total		1133	100, 0		

492 people (43, 4 %) among 833 people who have given valid answers have given affirmative answers (yes) to this questions whereas 102 people (9, 0 %) have given "no" answer. 185 and 306 of the people who have given "yes" answer to this question are males and females respectively. Among the people answering "no" to this question 51 are males and 51 are females. 110 males and 129 females have been reported to have no idea on this subject.

#### IV. EVALUATION AND SUGGESTION

1) The results of the survey reveal that the percentage of complaining (7, 6 %) is remarkably low despite being exposed to domestic violence. Even though 34, 6 percent of the non-complainers have claimed that they love the person who had applied violence on them and up to 50 percent of the non complainers have stated that they abstain from compulsion, being abandoned, divorce or they abstain from their neighbours', relatives' or children's attitude. In a study, conducted in Ankara; it has been observed that women who have been victims of domestic violence have stated that they have obeyed to violence "for their children" and because "they can't look after their children" and "they had no place to go".<sup>3</sup>

According to the results of the study "Field Research and Case Analysis related to Reasons and Results of Domestic Violence" conducted throughout Turkey in 1994, "80 % of people who have been subjected to domestic violence believe that there is not much to do. This situation means the acceptance of despair and gives way to the passive attitude of violence victim"<sup>4</sup>.

These results reveal that the first step to be taken in struggle with domestic violence is to increase social consciousness regarding this subject, to increase social guarantees or to give assistance to people in acquiring economic freedom. In short, the reasons which make individuals submissive to domestic violence should be eliminated. Nevertheless, many individuals are not aware of their legal rights and due to this fact; they do not attempt to counteract to this type of acts. They have a false conviction that their applications will con-

<sup>3</sup> Narrating BÜLBÜL, Nafiye Yasemin. Ankara Barosu Kadın Danışma Merkezi ve Şiddet Mağduru Kadınların Başvuruları, in: Kadına Yönelik Şiddet ve Hekimlik Sempozyumu (Ankara Tabip Odası Yayınlarından), Ankara 2003, p: 114.

<sup>4</sup> See: <http://www.aile.gov.tr/Arastirma12.htm>



stitute a crime for themselves especially while the unity of marriage is continuing<sup>5</sup>. In the survey study we have conducted, 21, 2 % of men and 21, 1 % of women are not informed whether they can resort to judiciary organs or not against violence acts. As a result; education of the society about this subject; informing the society about the legal ways they can turn to and about the assistance they can receive from various institutions will be vital steps in struggle with violence.

On the other hand, it is essential that injured party who will report the crime must be ensured that he/she is not in danger and should be given guarantee of secrecy. As a result of this, police or armed forces who are in touch with the injured party should be educated and be equipped in this subject.

2) The attitude of the police and prosecutor constitutes a major problem about domestic violence. The result of the survey showed that 15 percent of these agencies do not concern about this subject, 45 percent try to find a solution within family environment and only 30 percent of these institutions try to pass the subject to adjudication.

Similar results have emerged in various researches conducted about this subject. The police do not want to interfere with domestic violence events, especially in cases in which the victim is female<sup>6</sup>, even without holding minutes about the case, they send the woman back or try to reconcile parties. In some cases humiliations or insults toward women can be observed<sup>7</sup>.

According to the results of another research carried out in Ankara; 60 % of women who have been exposed to domestic violence have resorted to police stations but it has been reported that most of them have given up because of the obligation of being medically examined in official expertise institutions (e. g. forensic Medicine Institution) and unfavorable attitudes in police stations<sup>8</sup>.

Police forces and public prosecutors should be educated in order to get these agencies to act sensitively and perceive domestic violence crimes as indifferent from other crimes and make them intervene in efficiency. Besides, police forces should form expert units in this field. One pleasing development

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5 See: BÜLBÜL, Ankara Barosu Kadın Danışma Merkezi ve Şiddet Mağduru Kadınların Başvuruları, p: 110.

6 CENTEL, Nur; Cinsel Suç Mağduru Kadının Korunması, in: Prof. Dr. Kenan Tunçomağ'a Armağan, İstanbul 1997, p: 60.

7 For further information see: Evdeki Terör – Kadına Yönelik Şiddet, Mor Çatı Kadın Sığınağı Vakfı, İstanbul 1996, p: 42.

8 Narrating BÜLBÜL, Ankara Barosu Kadın Danışma Merkezi ve Şiddet Mağduru Kadınların Başvuruları, p: 115.

in this field is the establishment of Children Branch Directorate under the texture of General Directorate of Policemen with a regulation published on 13. 04. 2001. According to this regulation, activities related to children who have been exposed to all kinds of violence and harassment have been arranged; and in the crimes subject to complaint and committed towards juveniles (children), if flagrante delicto state exists suspected person will be arrested without the complaint of the injured party and investigation will be conducted. Also, the testimony of the juvenile victim will be taken by social servants and the identity of the juvenile will be kept secret. In addition to this, in this regulation it is stated that parents who do not fulfil their duties and responsibilities must be complained to the prosecutor. In parallel to these, Juvenile Crimes Prevention Center under the texture of Gendarme Forces conducts activities regarding juvenile victims<sup>9</sup>. Nevertheless, the needed level has not been reached in this subject yet, since people who are charged in these units mentioned above are not specialists of the subject or specially educated officials and since they are appointed among administrative officials. As a result of these facts, it is not possible to say that they function efficiently in this framework<sup>10</sup>.

It would also be helpful to form an educated expert unit for women. In the unit which will be established within the police forces, experts can conduct various applications like directing domestic violence victims who resort to them.

3) It is essential to be careful in the application of the legislation related to the protection of persons exposed to domestic violence or persons who filed a complaint to the police forces, public prosecutors or adjudication within this subject. Related with this subject Tha Family Protection Act no. 4320 has determined some precautions dealing with the spouse applying violence<sup>11</sup>. It

<sup>9</sup> For information see: ŞİLTU – YURTSEVER, Başak; Jandarmanın Çocuk Suçluluğu, Çocukların Korunması ve Topluma Kazandırılması Yönünde Yaptığı Çalışmalar, in: Çocuk İstismarı ve Önlemleri Paneli (23-24 Mart 2002), İstanbul 2002, p: 123 vd.

<sup>10</sup> ÜNVER, Yener. Dimensions and causes of domestic violence in Turkey and suggestions, the declaration presented in 13<sup>th</sup> World Criminology Congress (Rio de Janeiro / Brazil – in 12 August 2003) published, in this number of AÜEHFD (Atatürk university Erzincan faculty of law), 2003, Volume: VII, S. 3-4; POLAT, Oğuz. Çocuk Hakları-Çocuk Suçluluğu, in: İSTEK Rehberlik ve Psikolojik Danışma Sempozyumu – Şiddet ve Okul Ortamina Etkileri (29 Nisan 2000), İstanbul 2000, p: 8 – 9.

<sup>11</sup> In this subject see: CENTEL, Nur; Mağdurun Korunmasında Yeni Bir Yaklaşım, in: Prof. Dr. Sahir Erman'a Armağan, İstanbul 1999, p. 113 vd; ÜNVER, Yener. Özellikle Cinsel Suçlar Alanında Olmak Üzere, Kadınlarla İlgili Ceza Hukuku Normlarındaki Değişim ve Türkiye'deki Durum, in: Adalet Yüksekokulu 20. Yıl Armağanı, İstanbul 2001, p. 345; ÜNVER, Yener. Einige Strafrechtliche Probleme über Kinder und Jugendliche in der

is foreseen that the public prosecutors can also apply or complain besides the person exposed to violence. It is essential to note that; in the law mentioned, in order to execute these precautions about the spouse applying domestic violence, no complaint is necessary and the prosecutor can file a complaint *ex officio*. Eventually, police forces and the prosecutor should behave in a more active manner in terms of the application of the law<sup>12</sup>.

According to the results of the study related to applications requiring precaution made by violence victims and public prosecutors in the Peace Court of Law in İstanbul between January 1998 and January 2000, during this period 100 applications have been made and 94 of these have been made by prosecutors while 6 have been filed by violence victim<sup>13</sup>.

4) An important problem about domestic violence (especially sexual violence) emerges in evidence and proof. In many cases, the sole witnesses of the crime are the perpetrator and the victim. Generally, the victim can not tell the event to other family members or even if he/she can tell, family members are in the tendency not to believe<sup>14</sup>. Since there is no sufficient evidence in such cases in which proving is too difficult, victim remains in a difficult position during trials<sup>15</sup>. In cases where sufficient evidence can not be obtained because there are two contradicting testimonies, the judge has no other choice than acquitting the accused person as the "in dubio pro reo" principle requires. As a result, it is of a major significance to obtain evidences in such cases. The police, prosecutors and even doctors, nurses and civil (non – public) community organizations and bars have to cooperate and co-work. These institutions should not treat people who have applied to them because of domestic violence in the same manner as people who have been victims of other crimes.

Testimonies and interrogations of people who have been exposed to domestic violence or who have witnessed domestic violence should be carried by specialists, experts and educated people in this subject. If required, cross – examination method should be applied and some technical equipment (telephones, videos, closed circuit TV system etc. ) should be utilized in order to reveal the truth. Especially, in investigation of sexual crimes educated and expert armed forces and prosecutors should be charged. Even, judges should

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Türkei, in: *Annales de la Faculté de Droit d'Istanbul*, Volume: 34, No: 51, İstanbul 2002, p: 209.

<sup>12</sup> ÜNVER, *Einige Strafrechtliche...*, p. 51.

<sup>13</sup> YILDIZ/YAVUZ/SOKULLU-AKINCI/GÖLGE, *Aile İçi Şiddet Olgularında...*, p: 61 vd.

<sup>14</sup> See: *Evdeki Terör – Kadına Yönelik Şiddet*, p. 39.

<sup>15</sup> CENTEL, *Cinsel Suç Mağduru...*, p. 60.

be educated in these subjects especially in domestic sexual violence<sup>16</sup>. In the same way, even if the perpetrator or the victim is not a minor, especially in trials connected with sexual crimes, psychologists should take place in phases of interrogation, gathering evidence and evaluating evidence<sup>17</sup>.

The common conviction is that most of the experts in medical institutions do not take sexual violence acts seriously and they have a lack of communication with violence victims<sup>18</sup>. Doctors, nurses and personnel who will give medical assistance to domestic violence victims should be educated so as to be able to behave and treat these victims consciously. These people should be taught medical ethics rules and ensured that they act meticulously in subjects such as medical examination, diagnosis and treatment, gathering evidence, keeping secret, informing the crime and report arrangement<sup>19</sup>.

5) The article 478 of Turkish Penal Code (TPC) which regulates the maltreatment of spouses to each other should be changed and the provision of complaint should be eliminated. The complaint provision for this type of acts has many disadvantages; assault and battery or mistreatment may recur in order to compel the victim to renounce his / her complaint or in the case of refusal of the demand<sup>20</sup>. In the survey study we have carried out 18, 2 % of domestic violence victims have stated that they have not filed a complaint because they abstain from compulsion. This article should be changed and this type of crime should be regulated ex officio.

6) We do not support suggestions related to the alteration of "proving burden"<sup>21</sup>. "Innocence principle" which is valid in criminal procedure whatever

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16 ÜNVER, Dimensions and. . .

17 UYSAL, Elif. Türk Hukuk Sisteminin "Kadına Yönelik Şiddete" Yaklaşımı, in: Kadına Yönelik Şiddet ve Hekimlik Sempozyumu (Ankara Tabip Odası Yayınlarından), Ankara 2003, s: 126; ÜNVER, Dimensions and. . .

18 In this subject see: ÖNAL, Gülsüm. Sağlık Alanında Kadına Yönelik Şiddete Etik Yaklaşım. , in: Kadına Yönelik Şiddet ve Hekimlik Sempozyumu. (Ankara Tabip Odası Yayınlarından), Ankara 2003, p: 64, 65.

19 ÜNVER, Dimensions and. . .

20 ÖZTÜRK, Bahri / ERDEM, Mustafa Ruhan/ ÖZBEK, Veli Özer. Uygulamalı Ceza Muhakemesi Hukuku, 7. Baskı, Ankara 2002, p: 1109; ÜNVER, Dimensions and. . .

21 For this suggestion see: NUHOĞLU, Ayşe. Cinsel Suç Mağdurunun Beyanı ve İspat, in: Kadına Yönelik Cinsel Şiddete Karşılaştırmalı Hukukun Yaklaşımı, 2. Bası, İstanbul 2002, p: 62-63; UYSAL, Türk Hukuk Sisteminin "Kadına Yönelik Şiddete" Yaklaşımı, p: 123.

the gravity of the crime is and absence of proving burden of the accused person can not be given up<sup>22</sup>.

7) One of the procedural problems is related to the examination of the body of the victims and especially with the examination of the hymen. There exist gaps regarding this subject in our law. A detailed arrangement related to this subject should be brought and it should be ensured that victim who already suffers from psychological disturbances does not experience new traumas<sup>23</sup>.

8) During the adjudication process of domestic sexual crimes, the victims should be protected and necessary legal alterations in this subject should be realized. Especially juvenile criminals should be protected from the pressures of mass media during adjudication process<sup>24</sup>.

9) Special programs should be entered into force in terms of struggle with domestic violence and made sure that expert scientists of the subject and officials collaborate and cooperate. Also, special effort should be shown in terms of betterment and improvement of domestic violence perpetrators. It also should not be underevaluated that implementations such as consideration of this crime under the same category with other crimes, punishment restricting freedom and postponing the execution will weaken the struggle with domestic violence<sup>25</sup>.

10) Application to Committee For Prevention of Discrimination Against Women (CEDAW) should be made available by changes which will be made in our legislation and individuals should be informed about this<sup>26</sup>.

11) With the changes made in some criminal codes in the last few years; the type and the duration of the precautions to be applied to sexual crime perpetrators have been increased. Special importance has been placed upon security measures and therapy with the comprehension that sentencing sanctions or increasing sentences alone can not be efficient in struggle with sexual crimes. For example, with the change brought to German Criminal Code in 1998, some renovations have been made. According to this, it has been accepted that the convict will be hospitalized in a medical therapy institution against his or her will and in the case he or she abstains from this, the convict should be

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22 ÜNVER, Dimensions and. . .

23 CENTEL, Nur / ZAFER, Hamide; Ceza Muhakemesi Hukuku, İstanbul 2003, p: 293.

24 ÜNVER, Özellikle Cinsel Suçlar..., p: 318, 334.

25 ÜNVER, Dimensions and. . .

26 ÜNVER, Dimensions and. . .

under detention for an indefinite period of time<sup>27</sup>. In my opinion, the most important deficiency about domestic violence is the non – existence of treating and rehabilitating applications. Necessary arrangements regarding this issue should be made in our legislation.

12) An arrangement should be made in order to extend judicial records of perpetrators who have applied to domestic violence and been convicted from this crime. In comparative law there is a tendency to prolong the period of past offence record eradication from judicial records. For example, with the changes made in the 32, 34, 41, 46 paragraphs of German Federal Judicial Record Law, necessary periods to erase the judicial records of perpetrators have been prolonged<sup>28</sup>. Also, in the United States of America, a person who rents his house, has the right to be informed about whether the tenant is a sexual crime perpetrator, or a person who has a child in school age has the right to learn whether there is a sexual crime perpetrator in that region<sup>29</sup>. It would be helpful to make changes in our legislation both in struggle with crime in general terms and in struggle with domestic sexual violence.

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<sup>27</sup> For further information see: ÜNVER, *Özellikle Cinsel Suçlar...*, p: 301.

<sup>28</sup> See: ÜNVER, *Özellikle Cinsel Suçlar...*, p: 319.

<sup>29</sup> For further information see: SOKULLU – AKINCI, Füsün; *Viktimoloji*, İstanbul 1999, p: 136.