



## Protecting the Woman or the Family? Contradiction Between the Law and Its Practice in Violence Against Woman Cases in Turkey

Tutku AYHAN\*

### Abstract

Recently there have been significant developments in Turkey concerning the issue of violence against women such as the signing of the Istanbul Convention and the enactment of the law number 6284 on violence. The main argument of this paper is that the legislation is not properly implemented and this situation is due to the contradiction between the regulation stipulating gender equality and the patriarchal-conservative approach of the Ak Parti. According to the paper, as a conservative party, Ak Parti perceives the empowerment of women as individuals rather as a threat to the unity of the family. That is why it does not comply with the obligations of the Convention and dedicates its discursive and political priorities to the maintenance of the family at the expense of the welfare of women. To prove its hypotheses, the paper firstly depicts a short overview of the Convention and the law on violence followed by an analysis of the problems encountered in the implementation of the law. For this analysis, it makes use of the reports and declarations of women's organizations which are members of Stop Violence Platform that has worked with the Ministry of Family and Social Policies during the law-making process. The paper secondly analyzes the public discourses of the Ak Parti governments between 2011 and 2016 concerning women as well as the activities of two parliamentary research commissions on violence against women and divorces. It aims to reveal that the reluctance of the Ak Parti in implementing the law is rooted in its conservatism.

**Keywords:** Violence against women, Istanbul Convention, law number 6284, Ak Parti, woman, family, conservative discourses and policies, parliamentary research commission.

## Korunan Kadın mı Yoksa Aile mi? Türkiye'de Kadına Karşı Şiddet Vakalarında Kanun ve Uygulaması Arasındaki Çelişki

### Öz

Türkiye'de son dönemde kadına karşı şiddet konusunda İstanbul Sözleşmesi'nin imzalanması ve 6284 sayılı şiddet yasasının çıkarılması gibi önemli gelişmeler oldu. Bu makalenin temel argümanı kadına

\* PhD Student, Boğaziçi University, Political Science and International Relations, tutkuayhan@gmail.com

karşı şiddet konusunda var olan hukuki düzenlemelerin tam olarak hayata geçirilmediği, bunun da sebebinin toplumsal cinsiyet eşitliği öngören yasalar ile Ak Parti hükümetlerinin kadına ve aileye muhafazakar-ataerkil yaklaşımının arasındaki çelişkidir. Makaleye göre Ak Parti muhafazakar bir parti olarak kadının birey olarak güçlenmesini aile birliğine tehdit olarak algılıyor; bu yüzden kadını şiddetten korumak için İstanbul Sözleşmesi'ne ve sözleşmenin getirdiği yükümlülüklerle uymuyor, kadının refahı pahasına söylem ve siyasi önceliğini aile kurumunu korumaya adıyor. Makale savını kanıtlamak için önce İstanbul Sözleşmesi ve şiddet yasasının kısa bir değerlendirmesini, ardından düzenlemelerin hayata geçirilmesinde karşılaşılan problemlerin analizini yapıyor. Analizi yaparken, yasa yapım sürecinde Aile ve Sosyal Politikalar Bakanlığı ile birlikte çalışmış Şiddete Son Platformu'na üye kadın örgütlerinin rapor ve bildirimlerinden yararlanıyor. İkinci kısımda ise 2011-2016 yılları arasında hükümet yetkililerinin kadınları ilgilendiren söylemlerinin ve kadına karşı şiddet ile boşanmalar hakkında oluşturulmuş iki meclis araştırma komisyonunun icraatlarının analizini yaparak, Ak Parti'nin çıkarılan yasaları uygulamadaki isteksizliğinin partinin muhafazakar yapısından kaynaklandığını kanıtlamayı amaçlıyor.

**Anahtar kelimeler:** Kadına karşı şiddet, İstanbul Sözleşmesi, 6284 sayılı yasa, Ak Parti, kadın, aile, muhafazakar söylem ve politikalar, meclis araştırma komisyonu.

## Introduction

Violence against women (VAW) is a hot topic in Turkey. The results of nation-wide surveys, media reports, declarations of women's rights organizations all point to the prevalence of male violence. Just to give an example, according to the study conducted in 2014 on VAW by the order of Directorate General on the Status of Women (which is attached to Ministry of Family and Social Policies), 33% of married women were victims of physical violence, 12% were victims of sexual violence and 44% were victims of psychological violence by their partners at some point in their lives (KSGM 2015). According to bianet, in 2015, at least 284 women were murdered by men <sup>1</sup>.

In face of extensiveness of the issue, one might think that the problem is related to the non-existence of laws and legal mechanisms that cover regulations and precautions which would protect women from violence. But that would be a wrong idea. Yet there have been two important legal developments under *Adalet ve Kalkınma Partisi* (AKP) governments rule: the first one is the signing of 'The Council of Europe Convention on preventing and combating violence against women and domestic violence', known as Istanbul Convention as it was opened to signature there. The second is the passing of law number 6284 on 'Protection of family and prevention of violence against women' that I will shortly call as 'the law on violence'.

This paper aims to draw attention to the contradiction between the gender equality approach observed in those legal mechanisms and the patriarchal-conservative values emphasized by the AKP. It argues that the unwillingness of the government in implementing the law lies in that

<sup>1</sup> Bianet, (2016). *Erkekler 2015'te en az 284 kadın öldürdü*. [online].

contradiction. After analyzing the amendments and the insufficiencies noticed in their exercise, the paper will cover a content analysis of government discourses concerning women and activities of two parliamentary research commissions to prove its point on the conservatism of the AKP.

The Istanbul Convention brings several obligations to signatory states from prevention of all kinds of discriminations related to gender, sexual orientation and gender identity and prevention of male violence to taking necessary measures against violence, compensations for women who were victim of violence and penalties for perpetrators commensurate with the severity of the violent act. The treaty, which Turkey is one of the first to sign in 2011, is the first international Convention for European Council which is binding and which has a monitoring mechanism. The law on violence on the other hand is passed on 8 March 2012 after long meetings and debates between Ministry of Family and Social Policies and the Stop Violence Platform which is consisted of more than 250 women's organizations. The law aims to protect married, divorced, engaged, in a relationship or out of a relationship women, children and family members who have already been victims of violence or who live under the threat of violence as well as all individuals who are victims of 'persistent pursuit'. According to the Stop Violence Platform, the law was prepared on the basis of Istanbul Convention and despite the shortcomings when compared with the Convention itself, it has been a significant achievement in terms of advocacy<sup>2</sup>. It provides two main measure injunctions as protective measures and preventive measures: Protective measures cover injunctions for the woman who is the victim of violence such as access to shelter, legal and psychological support. Preventive measures cover injunctions for the author of the violent act such as suspension. Those injunctions can be taken by Family Court judges and in urgent cases by the police.

However, we cannot really speak of a decrease in male violence since the passing of the law in 2012 or the emergence of firm and stable mechanisms to protect women. Although Istanbul Convention requires the states to collect detailed data on domestic violence, the data we have in Turkey on male violence is always problematic. This fact can be observed in Mor Çatı (Purple Roof) Independent Women's Shelter Foundation's report on parliamentary queries on VAW asked by members of opposition parties between 2011 and 2013 to the Ministries of Justice, of Interior, and of Family and Social Policies as well as the answers given by these Ministries (Mor Çatı Yayınları, 2014). The queries on domestic violence, femicide, sexual harassment cases and women's shelters are answered either late or not at all by those Ministers; and in case of a response, it is unclear or contradictory<sup>3</sup>.

<sup>2</sup> Kadının İnsan Hakları. *Şiddet Yasası*. [online].

<sup>3</sup> Despite the lack of detailed, well-organized official statistics, we have 4 important nation-wide surveys that aim to reveal the scope of VAW in Turkey. The first one is the 1995 report of Nielsen research ordered by Family Research Institution attached to Prime Ministry. The second one is 2007 report on "Violence against Women" of the research directed by Arat and Altınay and has a feminist social science framework. The other two are 2008 and 2015 reports of research on 'Domestic Violence against Women' carried by Hacettepe Population Studies Institute by the order of Directorate General on the Status of Women. What we observe in those 4 studies in short is that the percentage of women (married, single or divorced) exposed to physical violence in their relationships was 30% in 1995, 35% in 2007, 39% in 2008 and 38% in 2015.

Placing the declaration of the Minister of Justice on one side which states that there has been a 1400% increase in femicides between 2002 and 2009– because the reliability of those numbers are rather controversial since we do not know much about their categorization – according to statistics compiled by bianet by keeping records of all news reflected in media, men have killed 165 women in 2012, 214 in 2013, 281 in 2014 and 284 in 2015<sup>4</sup>. According to the We Will Stop Femicides Platform, those numbers are 237 women in 2013, 294 women in 2014 and 303 women in 2015<sup>5</sup>. Again according to bianet, men have raped 167 women and girls in 2013, 109 in 2014 and 133 in 2015.

After observing this prevalence of male violence in Turkey, one might think that it is related to the fact that the laws are not being properly implemented. This time, I argue that one would be right.

According to two reports of Mor Çatı prepared after the running of a project about the implementation of the law on violence by making field observations and interviews with 2072 women and children who acquired Shelter's support between 2013-2015 (Mor Çatı Yayınları 2014, 2016); one of the major problems observed in the implementation is that some women cannot have access to protection despite their claims before the police or governors. There have been cases of refusal of the request of the woman because she was not married or because she could not show evidence of violence. Yet, police are obliged by law to take necessary measures without asking for evidence after the woman's statement. One of the measures specified in law concerns assigning of a police officer to those in need. Still, it is noted in the report that many women have no or very little benefit from this protection. According to the report, the major problem is related to the insufficient number of state shelters and thus the density to the point that women cannot even apply for this service. The women with whom Mor Çatı conducted interviews expressed that shelters had problems to meet women's basic needs. A lack of psychological support was also pointed. Also, as Arat mentions, even though the government had passed a law in 2005 which required all municipalities with a population over 50.000 to open shelters for women, it was not implemented. In 2014, the law was amended and the municipalities with a population of 100,000 were required to open shelters. Mor Çatı emphasizes that in 8 provinces which have over 100.000 habitants, there is not a single shelter at all.

Thus, the paper asks the following question: Why does the AKP government not implement and fulfill the requirements of the Convention that it has signed and the law that it has passed? Why are special requirements not taken as obliged by law, the policies not developed and monitoring mechanisms not established?

As answer, my hypothesis is that there is a contradiction between the laws and the discourse and imagination of the government. I argue that it is not in intentions of AKP to eliminate gender-based inequalities and to protect and empower women as individuals but to preserve the unity of family and to prevent its breakdown at all costs, in all circumstances. While the

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<sup>4</sup> Bianet. *Bianet şiddet, taciz, tecavüz çetelesi tutuyor*. [online].

<sup>5</sup> Kadın Cinayetlerini Durduracağız Platformu. *Veriler*. [online].

Istanbul Convention and the law on violence carry a pro-feminist view and are based on the understanding that VAW is a form of gender-based violence that is committed against women because they are women; government's conservative discourses which emphasize the sacredness of the family, the difference of men's and women's creations (*fitrat*) and its other policies trying to restrict the autonomy of women and women's bodies (like the discourses on abortion and having at least three children) make them show no real commitment or political will to mobilize the implementers of the law.

Coşar says that while AKP works with women's rights organizations in a rather «rhetorical dialogue» for struggling male violence, it excludes and marginalizes feminist politics on moralistic grounds (Coşar 2014). On the other hand, according to feminist lawyer and women's right activist Hülya Gülbahar<sup>6</sup> who attended the negotiations of the Convention in Istanbul, the effort of the government in making the Treaty to be opened for signature in Istanbul was motivated by the desire to improve the deteriorated image of Turkey after the affair of Nahide Opuz before the European Court of Human Rights; but also because of the official declaration of the Minister of Justice revealing an increase of 1,400% of femicides in Turkey<sup>7</sup>.

The paper has a feminist framework and takes the issue of VAW as a part of gender based violence. I believe that Liz Kelly's concept of "continuum of violence against women" (Kelly 1988), which provides the link between different forms of male violence, can help us in approaching this issue in a broader perspective. While VAW may vary in severity and magnitude what they have in common is that they are derived from a gender-based discrimination. Feminist scholars' work on male violence put it into context with power relations between the sexes in a patriarchal society (Kelly 1988; Dobash & Dobash 1992). Societies that are characterized by male domination and oppression of women are qualified as patriarchal and gender relations are seen as power relations. These roles and relationships are generally defined by social and political construction of an "active and aggressive" masculinity and a "receptive and passive" femininity. Male violence is then identified as an inherent characteristic of patriarchal societies in which men hold power over women and children.

It can be said that the phenomenon of VAW is the result of a deep and complex issue that is rooted in gender relations in society. However, this does not mean that this issue is independent of governments. As Arat and Altınay put it, organized women in Turkey, who refused in the 1980s any cooperation with the State, began as early as the next decade to become institutionalized by creating their own organizations to transform the State and to seek developing state mechanisms which could combat male violence (Altınay & Arat 2008). In this sense, the fact that transformation of state policies embodied and still embodies an important pillar of the feminist movement (like women's organizations' efforts in changing the articles which were against gender

<sup>6</sup> T24, (2016). *Kadın hakları aktivisti Hülya Gülbahar: Kadınlar ne ailede ne de devlette reisli bir yaşam istemiyor.* [online].

<sup>7</sup> In the case of Opuz, where for the first time in Europe, a state was convicted by the ECHR for discrimination against women; Turkey was ordered to pay compensation. The Court said Turkey had been unable to protect this woman Turkish citizen from the violence of her husband, although she had addressed to the prosecutor.

equality in Penal Code, Civil Code and in preparation of the Istanbul Convention and the law on violence) illustrates the importance of the role of government in the fight against male violence. Certainly, it is not only the transformation of laws that will lead to big changes in the daily lives of women, but rather an effective cooperation of the State with women's organizations in the preparation and application of these laws; a holistic approach including prosecutors, judges, police and social service specialists in the struggle; and sustainable strategies. Similarly, we read on Istanbul convention's web site that: "It is the obligation of the state to fully address it in all its forms and to take measures to prevent violence against women, protect its victims and prosecute the perpetrators. Failure to do so would make it the responsibility of the state. The convention leaves no doubt: there can be no real equality between women and men if women experience gender-based violence on a large-scale and state agencies and institutions turn a blind eye". Therefore, asking the question whether laws aiming to prevent violence against women are properly implemented and if not, searching for possible reasons for their non-application seems to be of big importance to me. Inasmuch as the implementation of preventive and protective measures against male violence are of vital necessity for all those women who live under the threat of violence.

So the paper will firstly touch upon the critical evaluation of the Convention and the law on violence in terms of their approach to the issue of gender-based violence, the obligations they bring to the State and the concrete measures and mechanisms they offer to eliminate VAW. While doing this evaluation, I will be always comparing the demands and critics of the Stop Violence Platform as representative of women's organizations that was in dialogue with the Ministry of Family and Social Policies during the preparation of these legal regulations and its perception on the negative and positive outcomes with the way AKP presents and puts into force those amendments.

In order to do that evaluation, I look at the public declarations of both the Platform and government authorities concerning two laws. I scanned the online media to see how these regulations are mediatized and to analyze the declarations of feminist organizations like Mor Çatı, KADER, EŞİTİZ and Women for Women's Human Rights Foundation which make also the constituents of Stop Violence Platform. In order to reveal the problems encountered with their implementations and the lack of political authorities' will to meet the requirements enforced by the law, I make use of Purple Roof's reports on the application of law on violence as well as the declarations of Istanbul Convention Monitoring Platform Turkey to better illustrate the situation.

Afterwards, as the paper argues that these problems with implementation is due to the contradiction between the laws and the conservative, patriarchal approach of the government which contest women's rights both through its discourse and its policies (Arat 2015); I will be making a content analysis of its public discourses (by the President, Prime Minister or other Ministers) focusing mainly on the period between 2011 and 2016<sup>8</sup> that not only touch the issue

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<sup>8</sup> 2011 is the beginning of their third rule in the parliament which marks according to many, their devolving into majoritarian authoritarianism.

of VAW but have women as subject of the statement. Lastly, I scanned records and reports of two parliamentary research commissions, the one that worked between January and May 2015 on 'the examination of reasons of VAW and determination of measures to be taken' and the other one that worked between January 2016 and May 2016 on 'the examination of divorces and negative factors on family integrity and determination of measures to be taken to strengthen the family institution' that I will call shortly as 'the Commission on divorce'. I examine the Commissions in terms of the discourses used by their members during the meetings, the official and civil actors they invited to pursue their investigations and the conclusions they offer as solutions in their reports. I believe this content analysis of AKP discourses and Commissions (especially the Commission on divorces and the reaction to its final report by women's organizations) will reveal the contradiction that I claim to be of existence.

### **Istanbul Convention in Theory and in Practice**

'The Council of Europe Convention on preventing and combating violence against women and domestic violence' is the first regional Council of Europe agreement on VAW, especially on domestic violence. It is the first document that is binding upon and envisages sanctions for its signatories about domestic violence against women and it is mentioned briefly as 'Istanbul Convention' as it was opened to signature there for the first time. Turkey, the first country to sign the treaty without any reservations, adopted it in its parliament on November 25, 2011 and it became effective on August 1, 2014 with the signing of a sufficient number of members of the Council.

The Convention is built on the 4P approach comprised of the titles of 'prevention' for preventing VAW, 'protection' for protecting the victims, 'prosecution' for punishing the offenders and 'policy' for developing integrated government policies to this end. One of the most important points of the Convention clearly draws attention to the recognition that "VAW is a manifestation of historically unequal power relations between women and men" but also that "violence against women is one of the crucial mechanisms by which women are placed by force in a subordinate position against men". This means that the Convention, and through it all the signatory states, recognize the vicious cycle of violence against women, which is both the result and the source of gender inequality, and the need to eliminate it in order to accomplish substantive equality between women and men. From these definitions of VAW and domestic violence, one can observe that a feminist approach to the question is privileged in the Convention. Feminist approach considers VAW as a violence that occurs as the product of patriarchal societal structures. It argues that patriarchal structure is maintained by placing women in a secondary position in the society and by using gender based violence against them as a tool.

The Convention, which requires States to take measures for prevention also offers a comprehensive plan including issues such as research and data collection, the training of specialists, public awareness, prevention and rehabilitation programs, the role of media, shelters, and the power

of judges. In line with the ‘need to harmonize legal standards’ mentioned in the Explanatory Report of the Convention, it provides a detailed analysis of how the legal norms of laws against VAW should be put in place. The Convention requires signatory states to provide civil help to victims, both against the perpetrator and against state authorities that have failed to meet their responsibilities in preventing violence. The immediate response to the protection needs of the victim, a realistic assessment of her health, the application of prohibition or protection orders and the free offer of legal assistance are also among suggestions for the national laws and judicial systems of signatory states.

Another important highlighted aspect in the Istanbul Convention is the emphasis on data collection and its sharing among signatory states. Data collection is an important part of the struggle for the elimination of VAW since the progress and effectiveness of the measures taken cannot be assessed without intelligible data. The collection and sharing of data between states can also encourage them to adopt more effective measures. This could be very important for Turkey as for the moment the government still fails to provide reliable data.

The Convention also envisages mechanisms of monitoring for fulfilling the Convention objectives namely The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), which is made up of 10-15 members specialized in human rights and VAW and which is empowered to request reports from the state parties and pay visits to the countries if necessary. It is stated in the Convention that the GREVIO conveys its findings along with comments and recommendations to the relevant Party and, if necessary, to the Committee of the Parties and Council of Europe Committee of Ministers. It can also make use of information provided by the NGOs of signatory states about the implementation of the Convention. According to their website<sup>9</sup>, the first ten members of GREVIO were elected by the Committee of the Parties at its first meeting on May 4, 2015 with Feride Acar as President and GREVIO held its first meeting on 21 - 23 September 2015 in Strasbourg. The Questionnaire that will be sent by GREVIO to states to fill in, is also ready. According to the schedule, it will be sent first to Monaco and Austria and will be delivered to Turkey in February 2017. In June of the same year, Turkey is expected to send back a report which will be prepared from the replies to GREVIO’s questionnaire<sup>10</sup>.

In sum, although it does not have a real enforcement mechanism, the Istanbul Convention may however claim a significant place in the fight against VAW as it offers a gateway to the feminist movement to make itself be heard and also because it sets goals and provides support to the demands of the movement, just as was the case with the CEDAW Convention. However, when the Convention had been translated into Turkish, the concept of ‘domestic violence’ has become ‘family violence’, both in the title and throughout the Convention. This translation brings the result of taking the concept of domestic violence only in terms of family as outlined in the Turkish Civil Code. It also limits the number of persons protected by the Convention.

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<sup>9</sup> Council of Europe, (2016). *GREVIO*. [online].

<sup>10</sup> Mor Çatı, (2016). *Grevio İstanbul Sözleşmesi’ne ilişkin soru formunu yayımlandı*. [online].



The Convention has already been used by the representatives of women's NGOs in Turkey. The Stop Violence Platform benefited from the Convention during its lobbying with the Ministry about the new law on violence, an important step which will be detailed in the next section.

Hülya Gülbahar who participated in the work of Platform and attended the negotiations of the Convention in Istanbul, argue that the opening for signature of this Convention in Istanbul was largely due to the efforts of the then Secretary of State Ahmet Davutoğlu<sup>11</sup>. According to her, this effort was motivated by the desire to improve the deteriorated image of Turkey after the affair of Nahide Opuz before the European Court of Human Rights; but also because of the official declaration of the Minister of Justice revealing an increase of 1,400% of women crimes in Turkey. It was in a sense of a confession of the systematic nature of these crimes.

The Platform acts strategically: It asks first the signing of the Convention prior to the preparation of a new law on VAW so that the first one would be a model for the next. However, during the preparation of the law on violence, the then Prime Minister Erdoğan makes a reservation on the article: "There is an obligation to comply with international agreements in the fight against VAW."<sup>12</sup> Turkey, first signatory of the Convention of the Council of Europe in Istanbul, agrees to implement the article on 'the obligation to comply with the Convention' to its law on violence only because of the pressure of feminist platforms. Thus, feminists who see this agreement as an important tool considers that the AKP governments are more sensitive about the image of Turkey in the world than a real struggle against VAW.

As a matter of fact, when the process started for determining the candidate of Turkey for GREVIO delegation in December 2014, NGOs wishing to participate in the process conveyed their opinions and proposals the Ministry of Family and Social Policies. However, the demand of Istanbul Convention Monitoring Platform Turkey consisting of 77 independent women and LGBT organizations was not accepted to the committee which was formed by the Ministry. Platform had announced its own candidates for nomination<sup>13</sup>. Instead, three members of the committee that would determine Turkey's GREVIO candidate were chosen from KADEM, KASAD-D and AKDER<sup>14</sup>. Other six members were chosen from Parliamentary Investigation Committee on Human Rights, the Council of Europe Parliamentary Assembly, Ministry of Family and Social Policies, Ministry of Foreign Affairs and Ministry of Justice. The Platform who disclaimed publicly the legitimacy of the committee, argued that with 6 members who are public servants and 3 members who belong to pro-government associations; the committee

<sup>11</sup> T24, (2016). *Kadın hakları aktivisti Hülya Gülbahar: Kadınlar ne ailede ne de devlette reisli bir yaşam istemiyor.* [online].

<sup>12</sup> Bianet, (2012). *Şiddete Son Platformu Basın Açıklaması.* [online].

<sup>13</sup> Mor Çatı, (2015). *İstanbul Sözleşmesi Türkiye İzleme Platformu olarak Feride Acar'ın GREVIO adaylığını destekliyoruz.* [online].

<sup>14</sup> All these three associations have close ties with AKP (Erdoğan's daughter is in board of management of KADER, Davutoğlu's wife is one of the founders of KASAD-D). KADEM opposes gender equality and supports "justice" as an alternative. AKDER focuses its work on women's right to wear headscarf and KASAD-D emphasizes the importance of religious practices for health.

was set up with the aim of disabling GREVIO's control mechanism on Ministry of Family and Social Policies<sup>15</sup>. After these debates about the transparency of the Istanbul Convention process, Ministry declared Feride Acar – who was among Platform's candidates – as Turkey's candidate. Acar is currently the president of the international GREVIO committee.

## **The Law on Violence**

When Fatma Şahin became the Minister of Family and Social Policies in 2011, she felt the need to adopt a new law on VAW because as the existing law appeared insufficient<sup>16</sup>. In 2011, after the signing of the Istanbul Convention by Turkey, a new initiative of amending Law No. 4320 to adapt legislation to the requirements of the Convention was taken. The new 'Stop Violence Platform' was set up by feminist NGOs to lobby for the necessary amendments in law No. 4320 so that it complies with the Istanbul Convention. Thus, all the work already undertaken for law No. 4320 would not be lost.

## **From difficulties during preparation...**

After long negotiations and discussions between the Ministry and the Platform, the draft law was sent to the Prime Minister in November 2011. Erdoğan sent back the draft for the reason that it included unmarried women as well and asked for the change of that article. The women were mobilized and their protests appeared in the media<sup>17</sup>. They stressed the vital importance of this legislation for single, divorced and widow women. Afterwards a new draft was prepared and the Prime Minister, changing again some articles, sent it to the Justice Commission and Commission on Equal Opportunities for Men and Women to be examined. Commissions finally handed the draft to the Parliament and the law came into force by March 20, 2012.

The law focuses on the protection of women, children and family members who are victims of violence or who face the risk of violence as well as individuals who are victims of persistent pursuit. It also covers the elimination of violence and describes the measures that the administrative authorities, judges, prosecutors, police and the Ministry are supposed to take as well as the means of implementing these measures such as: precaution (excluding the perpetrator of violence from household, seizing of his weapon, etc.), monitoring of precautionary decisions, supporting services for the victim and providing the service of 'Violence Prevention and Monitoring Centers' (Şiddet Önleme ve İzleme Merkezi - ŞÖNİM) that the law regulates their foundation.

Contrary to Law No. 4320, the new law on violence, by protecting 'women' and 'victims of a persistent pursuit' covers a very broad population from single women to lesbians living together. The definition of violence takes into account the physical, economic, sexual and emotional

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<sup>15</sup> Bianet, (2014). *Kadın Koalisyonu'ndan Aile Bakanlığı'na açık mektup*. [online].

<sup>16</sup> Bianet, (2011). *Şahin: Sadece yasalar değil zihniyetler de değişmeli*. [online].

<sup>17</sup> Bianet, (2011). *Fatma Şahin ne dediyse unuttu*. [online].

violence. VAW is defined as violence that women suffer just because they are women. The requirements in Law No. 4320 to be married and to share the same household in order to benefit from the law, have been eliminated. Victims of abuse are no longer required to have proof. With preventive and protective measures, the law provides the victims with housing, economic support and nursery service for their children.

As mentioned above, there are differences between the current law and the draft prepared by the Ministry and the Platform. Although more detailed and explanatory than the previous Law No. 4320, Law No. 6284 is quite different from the state proposed by feminist organizations. The change starts in the name: during discussions in Parliament about the law, an AKP parliamentarian said: “If we protect women, we protect humans; however, the priority for protecting humans is protecting the family as a healthy unit. Positive discrimination should not facilitate the divorces and the disintegration of the family unity.” In light of this outlook, and apparently through the direct intervention of Erdoğan, the name of the law was registered as “Law on the Protection of the Family and the Prevention of Violence against Women”. The law thus firstly breaks connection with the Convention by favoring the family against women, granting women an importance simply as a member of the family unit.

The right of feminist organizations to participate in femicide and VAW cases present in the draft is removed from the law. The article “any reconciliation or mediation is not allowed for the cases of VAW”, which was included in the draft upon the request of feminists is also removed from the text. Platform also points attention to the missing aspect in the law in terms of providing protection only for the violence that has already taken place, not for the one that can happen; thus, losing the preventive aspect of the 4p principle of the Convention. Furthermore, the new law does not refer to gender terminology or to women as individuals, gender was also removed from the draft by the government. Hence, the law lost the ‘soul’ of the Convention and its connection with the concept of gender.

Given the fact that the subordination of women to violence is in most cases due to the absence of economic freedom, the article in the law about economic support is very important. However, the law specifies that this support will be provided by the perpetrator. This article provoked the reaction of feminists who argue that there is always a risk of giving rise to more violence in the sense that this direct compensation from the perpetrator may potentially participate in the establishment and maintenance of a relationship or even a dependency between the victim and the aggressor. According to them, the concern should focus on keeping the victim away from the author of violence. Women must reapply every six months to get a restraining order against the abuser even when exposed to an evident risk whereas in the draft they could apply for indefinite orders. Moreover, the total number of official staff working at ŞÖNİMs – centers which constitute the most important mechanism for the proper implementation of the law - is reduced from 5557 to 362 and the rule of choosing those officials preferably among women is removed when passing from draft to the law. There are no regulations concerning shelters or sexual violence crisis centers that Platform demanded their opening as a requirement of the Convention.

On the whole, the fact that feminist women and women's rights organizations working on VAW issues had to carry much effort to get their demands accepted and failed to do so in many cases show that the government, instead of drafting a law that meets the needs efficiently, is primarily concerned with the protection of the family and the improvement of its own image.

### **... to difficulties in implementation**

The law, despite its inadequate aspects, embodies nonetheless an important development by providing concrete measures for the protection of women from violence. But even more important is, beyond doubt, its implementation. However, the great number of protection order demands at Family Courts result in judges giving those orders almost automatically, without even finding time to read the complaints whereas each woman may need different measures according to her own situation. The judge of the First Family Court of Istanbul, Fatma Akyüz says that in Istanbul there are 17 Family Courts and that they receive daily between 90 and 100 precautionary requests. She argues the biggest problem in the implementation of the law lies within the judicial workload<sup>18</sup>.

As the Impact Analysis Report of the law is still not declared to public by the Ministry, we can only consult the two reports prepared by Mor Çatı about the implementation (Mor Çatı Yayınları 2014, 2016). One of the most apparent issues in these reports concern the police who do not either know the law or their incumbencies driving from it. They are either not informed about their authorization to give protection orders or they do not give it on purpose. Administrative authorities direct women to social solidarity institutions for pensions and aids whereas this support must be ensured by the Ministry which has no budget for that at the time being.

When obstacles against the use of the law are examined, we see that not every woman have equal benefit from it. There are not enough public campaigns, banners or posters prepared by the Ministry to explain the law and women's rights under it. Kurdish women who cannot read may have difficulties to lodge a complaint. They also face language barriers to access government services related to domestic violence. According to the Human Rights Watch report, there are no qualified interpreters in the Family Courts or police stations even in regions with high Kurdish population (Human Rights Watch, 2011). In addition, new large and massive courthouses can be a maze for women, especially because of the heavy bureaucracy and all those documents to be signed. These lead women to give up on their complaint, especially those who have never carried out a formal procedure before.

According to Mor Çatı's reports, another major problem for women is not having access to protection despite their claims before the police or governors. There have been cases of refusal of the request because the woman was not married or because she could not show evidence of violence. Report says that in the absence of physical evidence, women have to struggle to

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<sup>18</sup> Bianet, (2012). *Şiddet Çok, Nöbetçisi Yok*. [online].

convince the police that they are indeed victims of violence. Yet, just like prosecutors, the police are also obliged by law to take necessary measures without asking for evidence after the woman's statement.

One might think that the problems observed in the implementation concern only the police and the Courts and not the government. But this would mean forgetting the fact that the police carry out its duty under the command and supervision of the Ministry of Interior and the Minister of Justice is responsible of examining whether prosecutors conduct their work in accordance with the law or not. We can thus conclude that the reluctance of some police officers, prosecutors or judges to perform their duties according to law and to protect victims of violence can be explained by the apparent unwillingness of public authorities in applying it. As the law is based upon the Istanbul Convention, any reluctance in its implementation also means the failure of meeting the requirements of the Convention itself.

### **On shelters**

Shelters are essential tools in preventing VAW and helping women break the violence cycle and take refuge in a safe environment while gaining control of their lives. As of June 2015, there are 97 shelters belonging to the Ministry of Family and Social Policies, 32 shelters belonging to municipalities and 3 shelters belonging to NGOs; in total 132 shelters with a capacity of 3402 beds (Mor Çatı Yayınları 2016). The fact that there are only 32 shelters opened by municipalities in a country with a population of about 76 million people shows first of all that the municipalities do not fulfill their responsibilities under the law. The other fact that Ministry has only 97 shelters shows that it does not respect its responsibility defined in the Istanbul Convention. Women's organizations consider it as a must to increase the number of shelters and to improve their quality so that women can benefit from the law<sup>19</sup>.

The reports of Mor Çatı also claim that besides the insufficient number of shelters, there are many problems with existing ones. In some cases, there are not enough beds and women sleep on the floor. They are treated as if they were in prison; their mobiles are seized, their personal matters are controlled, they are searched in the entrance. There are no activities to help their empowerment. In addition to all these, boys over 12 years old are not welcome in shelters which is a deterrent factor for many women with male children. Sex workers or undocumented immigrants are not allowed either.

A journalist who reported to the police being subjected to violence by her boyfriend and demanded shelter support from the Ministry writes her experience as following:

*“After three sleepless nights, I leave the shelter with my swollen tonsils, my tired knees. I witness at the end of these three days at the shelter, women who told me if they had not*

<sup>19</sup> Sığınaksız bir dünya, (2015). 18. Kadın Sığınakları ve Da(ya)nışma Merkezleri Kurultayı Sonuç Bildirgesi. [online].

*come here, their husbands would kill them, going back home. I am even ashamed to ask them what they will do especially to those with children who are trapped between home where they are victims of violence and the shelter where their children fall sick. I have witnessed that a shelter can save a woman's life, but she has to share a bed with four other people for that protection.”<sup>20</sup>*

## On ŞÖNİMs

While working on the draft, the Platform asks the Ministry about the creation of ‘one-step centers against violence’ which would work according to the principle of a single step for support and protection for victims of violence, open 24/7. These centers are considered as places where women can have access to physical, legal and psychological aid in ‘one step’. The platform demands these centers be opened in all provinces, with a staff of 5,566 employees, preferably women. Once the legislation is passed, the name of those centers is changed to ‘Violence Prevention and Monitoring Centers’, the number of staff was reduced to 362 and the number of provinces was reduced to 14.

As I also mentioned earlier, despite Platform’s insistence, the article ‘any reconciliation or mediation is not allowed for the cases of VAW’ is erased from the draft. However, according to Article 48/1 of the Istanbul Convention, States are responsible for taking all necessary measures including legislative measures, to ensure the prohibition of all kinds of conciliation and mediation in cases of VAW. There is of course a reason why feminist approach insists on the prevention of any kinds of mediation between women and aggressors. Gülbahar explains this issue by giving the example of Şefika Etik who was convinced by her husband at the shelter to come back home and was stabbed to death in the bathroom the same day<sup>21</sup>. The fact that despite her requests for protection and divorce she has not been adequately protected, that her husband was able to find the address of the refuge which should be confidential in principle and could convince her to return; all show us the potential risks if the state plays a referee role.

Seven months after the enactment of the law, ŞÖNİMs are established in 14 pilot provinces by November 2012. Currently serving in only 36 provinces, they are still not widespread social service agencies serving the whole country. Their regulation is declared by March 2016 so there should be by now a standard in the services they provide. Given the needs of the population of Istanbul, only one center is far from being sufficient. Furthermore, according to Mor Çatı’s reports, there is little recognition of the centers among women. The women Mor Çatı has interviewed often answered negatively to the question whether they felt satisfied when they contacted these centers and majority of them gave official’s unwillingness to help as reason for their negative answer. At the end of the report, the difficulty in accessing those centers, their limited capacity

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<sup>20</sup> Taraf, (2013). *Kadın Süründürme Evi*. [archive].

<sup>21</sup> Cumhuriyet, (2015). *Parası neyse ödeyelim*. [online].

and incapability of responding the needs of victims of violence is stressed. Women still have to struggle to have access to shelters and to services such as economic support, vocational training or nursery service for their children. ŞÖNİMs are also deemed to be unable to perform their task of coordination defined in the law.

To conclude, we can say that the feminist movement in Turkey, with its engagement in judicial proceedings, has made important work especially with amendments in the Civil Code and the Penal Code and with the preparation of the law on violence. Meanwhile AKP governments have also taken important steps against VAW by signing the Istanbul Convention and passing of a new law which are important tools in struggling against male violence. However, by changing their names and their content against the demands of women's organizations and by displaying a clear lack of will in their proper implementation, AKP shows that it does not share the same belief with feminists on women's empowerment and their way out from family or marital relationships where they experience violence on a regular basis.

### **AKP Discourses on Gender and Family**

When we start to analyze the discourse of the AKP on women issues, what we firstly observe is that there is not a single article in the party program which states clearly the equality of women and men<sup>22</sup>. Under the 'woman' title in the 'Social Policy' section, it is written that "the party gives importance to women's issues primarily because it is them who raise healthy generations." The gender equality is mentioned implicitly about equal opportunities of free enterprise which refers rather to the business world. The prevention of VAW is presented as one of the party's policy priorities. In the next chapter of the program, under 'The Family and Social Services' section, it is recalled that the family is the building block of society and that the party intends to give priority to policies focusing on the family.

Erdoğan and other AKP members and deputies often present their party as 'conservative democrat'<sup>23</sup>. The conservative character of the party is exposed as an ideology that gives importance to the family and the protection of family values. At the Congress of the British Liberal Democratic Party in 2011, the then Minister of Economy Şimşek said that "AKP is conservative in the family, liberal in the economy and socialist in income distribution."<sup>24</sup> In the party code, it is stated: "AKP considers the family as the foundation of the Turkish society. We believe that the family, which is a bridge between the past and the future, is a fundamental social institution for the transfer of national values, feelings, customs and traditions of our country to new generations."<sup>25</sup>

<sup>22</sup> Ak Parti. *Parti Programı*. [online].

<sup>23</sup> Habertürk, (2012). *Muhafazakar demokrat bir partiyiz!* [online].

<sup>24</sup> Sol, (2011). *Mehmet Şimşek ortaya karışık attı!* [online].

<sup>25</sup> Ak Parti. *Parti Tüzüğü*. [online].

In 2004, while defending the law project which would criminalize adultery, Erdoğan said that the family is a sacred institution for them, the nation is strong only if the family is strong and that we must keep our family institution strengthened<sup>26</sup>.

Hence, after 2011 elections which gave AKP its third rule in the parliament, Erdoğan decided to abolish the Ministry of Women and established in its place the Ministry of Family and Social Policies because “as a conservative democrat party, they needed to strengthen the family structure.”<sup>27</sup> Women, who wanted to be treated as citizens and not as a mere element of the family, launched a signature campaign against the abolition of the Ministry of Women<sup>28</sup>. They argued that Turkey was obliged to strengthen gender equality policies according to international conventions that it has signed. They also stated that by placing the Directorate General on the Status of Women under Ministry of Family and Social Policies’ hierarchy, the monitoring mechanism for gender equality would lose its effectiveness and that women would be considered from then on as part of the family and not as individuals in themselves.

Since the family is seen as the basis of society and plays a major concern for the AKP governments, on 8 March 2008 Erdoğan advised mothers to have at least three children. He regularly insists this advice since then<sup>29</sup>. Later in 2010, at a meeting with representatives of women’s organizations, he said: “Men and women cannot be equal, they are different. They complement each other. I am not in favor of equality, but equality of opportunity. We are conservative democrats. Our people have elected us for this reason. If people support us with their vote, we must respond to their need.”<sup>30</sup> In 2014, at the First International Woman and Justice Conference organized by KADEM, he stated that women and men cannot be equal as this would be against their Godly created natures (*fitrat*)<sup>31</sup>.

In his speech during the Conference on Population and Development in Istanbul in 2012, Erdoğan said that he was against the practice of cesarean and that abortion was murder, which caused a major public debate<sup>32</sup>. The next day he repeated his statement at the congress of the women’s branch of the party. He talked about a law project that would bring more restrictions to abortion. Afterwards the Director of Religious Affairs also said that abortion was a crime. Following these statements, women were mobilized. Through the parallel struggle of the ‘Our bodies, our decision’, ‘Abortion is a right and the choice belongs to women Platform’, and the ‘Abortion cannot be prohibited’ signature campaign, the possibility a new law on abortion was finally prevented<sup>33</sup>. However, according to women’s organizations and Turkish Gynecology

<sup>26</sup> Sabah, (2004). *Kadının hakkını koruyoruz*. [online].

<sup>27</sup> Ntv, (2011). *8 bakanlık gitti, 6 bakanlık geldi*. [online].

<sup>28</sup> İmza.la, (2011). *Kadın Bakanlığı kaldırılmamış*. [online].

<sup>29</sup> Bianet, (2014). *Erdoğan: 1-2-3-4 çocuk, gerisi Allah kerim*. [online]. Ntv, (2009). Erdoğan: İş işten geçmeden en az üç çocuk. [online]. Sabah, (2013). *Başbakan 3 çocuk isteğini revize etti*. [online].

<sup>30</sup> Milliyet, (2010). “Başbakan bizi şoke etti.” [online].

<sup>31</sup> Cumhuriyet, (2014). *‘Kadın ile erkeği eşit konuma getiremezsiniz, fitratına aykırı.’* [online].

<sup>32</sup> Ntv, (2012). *Erdoğan: Kürtaj cinayettir*. [online].

<sup>33</sup> Bianet, (2012). *“Kürtaj hakkı” kampanyası başladı*. [online]. Bianet, (2012). *Paris de “Benim bedenim, benim kararım” dedi*. [online]. Bianet, (2012). *Yasal kürtaj değil, yasadışı kürtaj öldürür*. [online].



Association, even if there is no law explicitly banning abortion and it is still legal until the tenth week of pregnancy; in practice, it has become very difficult to have an abortion in public hospitals because doctors refuse more and more to perform this operation.

With his discourse on abortion and his advice to women on the number of children to have, Erdoğan shows that his party is the bearer of the conservative ideology in favor of a control of female body as a means of population policy. Women must exist only as mothers in the family. In 2012, another member of AKP had announced: “We must not hand out an invitation to feminists because they focus their efforts on clearing the authority of men. Each woman is a family member. The rights of women as individuals are, of course, important, but the unity of the family is even more important. The principle of positive discrimination should not lead us to the ease of divorces, to breakdown of family institution.”<sup>34</sup> In the International Women’s Labor Meeting in 2013, Erdoğan said: “Motherhood is a higher status, a more special status in femininity.”<sup>35</sup> In June 2013, he explained that a Muslim Turkey of 100 million people represents a major objective and that the family planning policies are betrayal to national interest<sup>36</sup>. In October 2013, the then Minister Şahin stated that a credit of 10,000 tl without interest will be given to newly married couples and in the case of a pregnancy during the first year of marriage<sup>37</sup>.

During a wedding ceremony, Minister Bülent Arınç said the following to journalists: “Marriage is very important according to our customs and traditions. We believe concubinages without marriage are frowned. Marriage protects people from a lot of trouble. Today these concubinages bring a lot of misfortune and illness to the society.”<sup>38</sup> The same year, during a group meeting of his party, Erdoğan evoked his concerns about student-shared flats where ‘girls and boys live together’ and said they were ready to take the necessary measures against it<sup>39</sup>. In November 2013, the Ministry of Youth and Sports announced that if university students decide to get married during their studies, the state would remove their debts on their school loans<sup>40</sup>.

During the ‘Family in a Changing World’ conference which was held in Malatya in 2013, Fatma Şahin, the then Minister of Family and Social Policies has reported her anxiety facing the increase in divorces. She said that the Ministry was struggling with this problem: “We are reformed during the mastering phase of our government [the second electoral triumph of the AKP]. Prime Minister Erdoğan reiterated our Department. We work to strengthen the institution of marriage.”<sup>41</sup> At the same meeting, the AKP Malatya MP said they were fighting for the preservation of the traditional family structure. Like so, in November 2013, Şahin declared that her department was working in coordination with the Ministry of Justice in order to send specialists from social services to

<sup>34</sup> Bianet, (2012). *Yine erkekler konuştu: 2012'nin akla ziyan açıklamaları*. [online].

<sup>35</sup> Hürriyet, (2013). *Başbakan Erdoğan'dan önemli açıklamalar*. [online].

<sup>36</sup> TRTHaber, (2013). *“Doğum kontrol oyununu artık bozuyoruz.”* [online].

<sup>37</sup> Bianet, (2013). *Evlen, çocuk yap, krediyi ötele devri*. [online].

<sup>38</sup> F5haber, (2013). *Arınç nikah töreninde sevgi seliyle karşılaştı*. [online].

<sup>39</sup> Habertürk, (2013). *Başbakan Erdoğan'dan flaş öğrenci evi açıklaması!* [online]. Available

<sup>40</sup> Mynet, (2013). *Evli öğrencinin kredi borcu silinecek*. [online].

<sup>41</sup> Timeturk, (2013). *Bakan Fatma Şahin: Yılda 650 bin evlilik, 110 bin boşanma oluyor*. [online].

the Family Courts in order to prevent divorces<sup>42</sup>. She said: “On one hand, we try to increase the employment of women; on the other hand we need to develop good population policies for the future of this country. With flexible jobs for women and increased number of nurseries, women can both participate in the economy and fulfill the duty that God has given them, the motherhood.”

Erdoğan directly addressed feminists during his meeting with *mukhtars* in February 2015. He said that women are God’s entrust to men and for this reason they should be protected. He claimed ‘those’ feminists who oppose this declaration have no appreciation or knowledge of Islam<sup>43</sup>. While talking about the maternity leave rights of the working women, then Prime Minister Ahmet Davutoğlu stated: “For us, a woman who gives birth accomplishes both her holy duty of motherhood and her national duty. Giving birth is in a way like military service so their time on maternity leave will be counted as civil service.”<sup>44</sup>

On the other hand, when we look at the AKP governments’ rhetoric on VAW, we do not see any link to gender inequality in the society or the need to empower women. What we see are moral and religious references which state that VAW is a ‘shame’, a ‘sin’. For example, on 25 November 2012, during the International Day for the Elimination of VAW, Erdoğan said: “I condemn all violence against women, regardless of the pretext. A Muslim, a believer cannot do such a thing.”<sup>45</sup> During his speech at the party meeting in March 2013, he added: “It is not possible for someone who has conscience to appeal to violence against a woman. This is unfairness, remorselessness.”

Ayşe Gürcan, Minister of Family and Social Policies at the time, revealed in a statement in 2015 her ignorance of women by saying that their department was a Ministry of ‘charity and prayer’ and that their responsibility was to serve to ‘those in need’<sup>46</sup>.

This discourse of AKP repositions women as a sex which requires the protection of men and which can only receive this protection in exchange for her loyalty and submission as a mother and wife. Likewise, in the draft Constitution prepared by the AKP during the debate on the constitutional reform in 2007, they wanted to replace Article 10 of the current Constitution, “Women and men have equal rights. The state must ensure that this equality exists in practice” with the article “Women, children, the disabled and the elderly are particularly protected.”<sup>47</sup> This initiative clearly shows that AKP considers women as a social group who are in need of protection and not as individuals in themselves.

<sup>42</sup> Merhabahaber, (2013). *Bakan Şahin: Boşanmaların önüne geçmek için hukuki altyapı oluşturduk*. [online].

<sup>43</sup> Cumhuriyet, (2015). *Erdoğan: Bu feministler falan var ya...* [online].

<sup>44</sup> Gazeteport, (2016). *“Doğurmak vatani görev”*. [online].

<sup>45</sup> Canhaber, (2012). *Erdoğan: Kadına şiddet uygulayanlar Nazi ruhu, faşist ruh taşıyor*. [online].

<sup>46</sup> Cumhuriyet, (2015). *Aile ve Sosyal Politikalar Bakanlığı değil hayır ve dua bakanlığı*. [online].

<sup>47</sup> Bianet, (2007). *AKP’nin anayasa taslağının tam metni*. [online].

As I mentioned, for AKP, VAW is a 'sin.' But that is the case only when it is acknowledged. In other cases, it is not even seen: Davutoğlu's wife Sare Davutoğlu once declared that violence should be considered as a whole and that each time speak of VAW, we are in fact exaggerating the issue; more we speak of femicides, more we increase those killings violence<sup>48</sup>. In a TV show, former Family and Social Policy Minister Semra Ramazanoğlu complained about the emphasis on the women victims of violence while talking about the work of Ministry and said: "When we speak about woman, we have to take into account her role as employee, as mother, as wife. Pushing aside all the roles of a woman and talking only about violence while referring to woman is not right." About domestic violence, she added: "Our family values are being emptied. We need to look into the family to find the values we have lost. We need to find the origins of the problems occurring in the family. We have Ministry officials working in the field to find the risks concerning the breakdown of families."<sup>49</sup>

However it is unfortunately not possible to protect woman and the family at the same time: violence takes place predominantly in the family; it begins with a slap and goes to murder. Media analysis and women's organizations' reports and statistics all indicate that majority of femicide cases are committed by husbands or ex-husbands and the most common reason observed in femicide cases is women wanting to make their own decision in life, such as divorce<sup>50</sup>. When the main goal of the political will focuses on the protection of the family, the message given to women becomes 'stay at home at any price.'

Under these circumstances, it is not surprising for one to observe the unwillingness of the AKP to implement the Istanbul Convention and the law on violence, regulations which would empower women as individuals and help them break the violence cycle if implemented properly. Indeed, government takes one step further and tries to restrict the rights of women gained by the struggle of women's organizations through the work of the Commission on divorce. In the last section, I will cover this Commission.

### **The Commission on Divorce**

With ongoing male violence and the persistence of HDP, a commission on 'the examination of reasons of VAW and determination of measures to be taken' is founded in the parliament in December 2014 and worked between January to May 2015. Though women's organization who have been working in the field for long time and who have worked with the Ministry during the preparation of the law on violence were not invited – but KADEM was. These organizations criticized both the working methods of the Commission and the people it invited to demand opinion as well as the final report it published<sup>51</sup>. They stated that a Commission made up of

<sup>48</sup> Diken, (2015). *Sare Davutoğlu'na öyle geliyormuş: Kadına şiddet demek konuyu büyütüyor*. [online].

<sup>49</sup> Habertürk, (2016). *Ramazanoğlu: Toplumsal şiddete sıfır tolerans*. [online].

<sup>50</sup> Bianet, (2016). *Erkekler 2015'te en az 284 kadın öldürdü*. [online]. Filmmor. *Kadın Cinayetleri Önlenebilir!* [online]. Kadın Cinayetlerini Durduracağız Platformu. *Veriler*. [online].

<sup>51</sup> Mor Çatı, (2015). *TBMM Kadına Yönelik Şiddetin Sebeplerinin Araştırılarak Alınması Gereken Önlemlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırma Komisyonu Dikkatine*. [online].

deputies who have no knowledge or experience on VAW would not produce any efficient result. Thus, the result was indeed a failure in terms of providing concrete solutions to the problem. The report included minutes of the proceedings, the powers and responsibilities of the authorities, the literature in the field of VAW, a screening on national and international regulations as well as detections and recommendations for preventing VAW<sup>52</sup>. It did not include anything new in terms of new assessment or analysis; it was more like a compilation of what we already had in hand.

Although this Commission of VAW did not bring anything, we cannot say the same thing for the Commission on divorce (in its full name ‘the Commission on the examination of divorces and negative factors on family integrity and determination of measures to be taken to strengthen the family institution’) which has worked from January to May 2016. The AKP deputy and President of the Commission Ayşe Keşir asserts regularly during the meetings that the aim of the Commission on divorce is to take a clear step towards the determination of the issue and proposing solutions by preparing a report that would recommend concrete policies to the government<sup>53</sup>.

As a matter of fact, there is a certain history behind that Commission. During her Ministry of Family and Social Policies, Şahin had declared already in 2013 that she did not fancy the law on violence: “It does not protect the family. In content, its main focus is on struggle against violence. Let’s make a new law together which would protect the family”<sup>54</sup>.

Even more, during the ‘Family, Child and Woman in Turkish Legal System’ Workshop Program where Minister of Family and Social Policies and the President of Supreme Court were also present, Minister of Justice Bekir Bozdağ has criticized state intervention in cases of VAW and argued that those interventions with judges, police, social workers, and so on as well as the abolishment of the mediation power of the police were actually harmful to family integrity<sup>55</sup>.

Regarding the motivation of the Commission and these declarations of officials, one might get into the feeling that in Turkey people no longer want to get married and those who are, are getting divorced in large numbers. However, the real picture is quite different. Turkey is a country with a very low divorce rate, especially when compared with its population growth<sup>56</sup>. There are Family Counseling Centers in 43 provinces and Family ‘Spiritual and Ethic’ Guidance Offices in 81 provinces whereas there are only 14 ŞÖNİMs in the whole country. Ministry has been carrying out family training programs and counseling services on divorce process for several years.

<sup>52</sup> Both the minutes and the final report are accesible on Parliament’s website via the link: [https://www.tbmm.gov.tr/develop/owa/komisyon\\_tutanaklari.donem\\_listele?pKomKod=1014](https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.donem_listele?pKomKod=1014)

<sup>53</sup> The minutes are accesible on Parliament’s website via the link: [https://www.tbmm.gov.tr/develop/owa/komisyon\\_tutanaklari.donem\\_listele?pKomKod=1018](https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.donem_listele?pKomKod=1018). The report which has not yet been put on Parliament’s website can be found in draft version on the link: <http://www.kadinininsanhaklari.org/bosanmakomisyonu/>

<sup>54</sup> F5Haber, (2013). *Bakan Şahin: 6284 sayılı kanun aileyi korumuyor*. [online].

<sup>55</sup> T24, (2016). *Adalet Bakanı Bozdağ: Aile içi şiddette kadımla erkeğin arasına devletin bu kadar girmesi ne kadar doğru?* [online].

<sup>56</sup> According to statistics on Eurostat, on divorce rates, Turkey is 21th on the list among 29 EU members with an avarege of 0.17%. The average divorce rate among EU members is 0.2%.

Hence the Commission, whose need is questionable in many ways, worked in a very anti-democratic way according to dissenting opinion reports of opposition deputies. Apparently, The President and AKP deputies decided among themselves which provinces to visit, which people, institutions or NGOs to listen. The dominance of religious discourses is also observed in Commission minutes.

The final report is declared to public on May 16, 2016 and presented to Speakership's office. If the advices in the report are made into regulations without any change, in main titles, the following will happen: Children will be forced to marry their abusers – there will be no penalty for child abusers if they stay married with the child for at least five years; legal marriage age will fall below 15; eunuch penalty will be implemented; mediation and conciliation services will start for both divorce and violence cases; women victims of violence will not be able to go to police station during office hours; women will be asked for evidence of violence to get protection orders; the period of these measures will be shortened; women's alimony right will no longer be lifetime; the period for suing in division of property cases will be shortened; after the death of her husband, the woman will no longer receive her 50% share in division of property; and finally family counseling services will be based on a religious context. In short, despite the presentations of some experts during the meetings which related the problems observed in the family with the unbalanced position of women and children; the report in its whole brings proposals which would confiscate women's rights acquired in the Civil Code, the Penal Code and in the law on violence.

Women were not late in reacting against the report and disclaiming it. They have issued press releases, staged street manifestations and social media protests<sup>57</sup>, organized petition campaigns<sup>58</sup> and distributed 'certificates of shame' to Commission members from AKP<sup>59</sup>. In response to these reactions, the President of the Commission Keşir has written on her Twitter page that "Defending women's and children's rights should not be seen as the alternative of defending the integrity of the family". The question remains on how these two could be achieved at the same time when women and children are mostly exposed to violence in the family.

## As Conclusion

Despite the positive developments in the legal system in terms of protection of women from gender-based violence and prevention of VAW mainly due to women's movement's efforts, there are still many problems in Turkey in the implementation of these laws. Main reasons of these problems lie in the conservative discourses and actions of government authorities which legitimize gender inequality, the non-existence of an administrative organization which would

<sup>57</sup> Kadının İnsan Hakları, (2016). *Kadın ve Çocuk Hakları*, TBMM Boşanma Komisyonu aracılığıyla gasp edilmeye çalışılıyor. [online]. Bianet, (2016). *EŞİTİZ'den Boşanma Komisyonunun önerilerine tepki*. [online]. Bianet, (2016). *Boşanma Komisyonuna karşı kadınlar eyleme çağırıyor*. [online].

<sup>58</sup> Erktolia, (2016). *Boşanma Komisyon Raporu Meclis Genel Kurulu'ndan Geçmesin*. [online].

<sup>59</sup> Mor Çatı, (2016). *Mor Çatı'dan Boşanma Komisyon Raporu için utanç sertifikası*. [online].

enable the implementation and lastly the fact that arbitrary behaviors of law enforcement agencies do not face any sanctions.

This is because as a conservative party, AKP considers woman more as a mother and a family member than an individual in herself. The party gives much more importance to the unity of the family than the well-being and safety of women. What it says about VAW, are moral and religious references referring to VAW as 'shame' and 'sin'. Erdoğan himself says that he does not believe in equality between men and women and that both sexes are marked by essential differences.

In conclusion, we have today two important legal arrangements which have the potential to be important tools in the struggle against VAW but we observe that the will to implement them properly is missing on government's side. This is related to the fact that women mostly suffer from violence within those families that government wants to protect so eagerly. What follows on from this is that political power thinks any effort to fight VAW damages family unity, creates a sense of gender equality and thus encourages women to demand their rights. However, woman is considered as a threat to family and society when she demands her rights. Such that, a political will which tries to get back the rights conferred to women a will which insists on solving the VAW issue within the boundaries of family has already revealed itself in the Commission on divorce.

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