

The Macrotheme Review

A multidisciplinary journal of global macro trends

VIOLENCE AGAINST WOMEN IN THE CODE NUMBERED 6284

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Abstract

Serious increase in violence against women in our country in recent years is worrying. Such acts of violence, women are deprived of their most basic human rights and freedoms. The formation of a healthy social environment and is one of the biggest obstacles to sustainable personal and social violence. Violence created a problem in the World which may be observed in all fields of human life. The most common form of violence is against women and in family environment. Violence against women is an important problem in Turkey as well. Our legislation to ensure gender equality with the changes made in recent years and significant progress regarding the prevention of violence against women were recorded. Constitution, the Turkish Civil Code, except for provisions in the basic laws such as the Turkish Penal Code, Domestic Violence and Prevention of Violence Against Women on 24.11.2011 Regarding Combating and signed the Council of Europe Convention. Although the countries that first check the compliance process in Turkey agreement must be fast and efficient. Terms of violence against women, whether it occurs in the private sphere public wants, physical women, sexual, all acts of gender-based psychological and economic pain or suffering that or could or threats of such acts, coercion or deprivation of liberty arbitrarily and a human rights violation and a form of discrimination against women "as if domestic violence" victim offender same household do share in not sharing the family or household, any kind occurred between former or current spouses or partners, physical, sexual, psychological and economic violence defined as. The concept of domestic violence laws introduced by the 4320 Convention, which is one of the criticisms brought to unmarried (engaged, divorced spouse, such as extramarital affairs women living imam) includes violence against women. 8 March 2012, and new provisions for the protection of family violence against women by taking into account those criticisms and Law No. 6284 was introduced. In line with the fight against gender violence and discrimination against women, we see that support the protection of victims and punishment of the perpetrators of the existence of the necessary legislative matters. In this regard, the crucial issue is to eliminate the difficulties and lack of practice. Yet much of the violence is not limited to measures to be taken after the legislation is notable insufficient in preventing violence.

Keywords: Violence, women, The Code Numbered 6284, human right

INTRODUCTION

The significant increase in violence against women in our country in recent years is worrying. Such acts of violence deprive women of their most basic human rights and

freedoms. One of the biggest obstacles to establishing and sustaining a healthy social environment is personal and social violence.

There has been significant progress regarding the prevention of violence against women and ensuring gender equality through the changes made in our legislation recently. Except for provisions in the basic laws such as the Constitution, the Turkish Civil Code, Turkish Penal Code, the law, which enacted in 2012, "The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)" has been signed (RG.08.03.2012, 28227). Turkey, as the first country to ratify the convention, needs to be quick and effective in integration process. The convention defines violence against women as "the violation of human rights and a form of discrimination against women and means all acts of gender-based violation that result in, or are likely to result in physical, sexual, psychological, or economic harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life" and domestic violence as "all acts of physical, sexual, psychological or economic violence that occur with the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim". The concept of domestic violence brought by the Convention comprises the violence against unmarried women (such as engaged, divorced spouse, women having an extramarital affairs through religious marriage) which was one of the criticisms of "The Family Protection Law" no. 4320. With "Law to Protect Family and Prevent Violence Against Women" No. 6284 (RG20.03.2012, S.28239), new provisions were brought for preventing and combating violence against women in the family based on these criticisms. In this study, the people protected under Law No. 6284 and types of violence will be analyzed taking into consideration the provisions of the Istanbul Convention and then protective and preventive measures prescribed for the prevention of violence against women will be analyzed.

I. THE AIM, CONTENT AND FUNDAMENTAL PRINCIPLES OF LAW NO. 6284

In the first article entitled "The Aim, Content and Fundamental Principles" of "Law to Protect Family and Prevent Violence against Women" No. 6284, the purpose of this law has been defined as to protect the women, the children, the family members and the victims of stalking, who have been subject to the violence or at the risk of violence, and to regulate procedures and principles with regard to the measures of preventing the violence against those people. Law No. 6284 is based on the Turkish Constitution and international agreements to which Turkey is a party and the Istanbul Convention of the Council of Europe in particular (Ceylan, 21; Sağıroğlu, 28). The enforcement of the Convention in terms of Turkish law is based on Article 90 of the Constitution. In this respect, in accordance with the Article 90 of the Constitution, in the case of a conflict between international agreements and the domestic laws in the area of fundamental rights and freedoms due to differences in provisions on the same matter the provisions of international agreements prevail.

The scope of persons protected by the abolished Law No. 4320 was kept narrower stating that the law is enforced when a spouse or child or another member of the family living under the same roof or a family member regarding to whom a court decision on divorce has been rendered or who has the right to live separately or who is factually living separately despite being married is subject to abuse. Law No. 6284 has a wider scope of protection than Law No. 4320 as it comprises protecting persons who are in danger of being subject to violence and victims of

violence in extramarital unions and the victims of stalking. (Gençtan, 92; Ugur, 348; Bölükbaşı, 24; Tosun, 98). In this context, Law No. 6284, in line with the Istanbul Convention of the European Council, has extended the protection scope including both the victims of violence, the people who are in danger of being subject to violence even if they haven't been subject to violence and all the victims of violence outside the family members. Moreover, it has been stated that evidence or report proving the violence is not required in order for the judge to take cautionary decision; and the preventive cautionary decision cannot be delayed as to endanger the realization of the aim of this law by considering all kinds of requests seriously to prevent any possible damages.

Within the scope of the Law, the people under protection are women, children, family members and the victims of stalking. To ensure the protection of children and women, it is not necessary for them to be subject to violence within the family. It doesn't make a difference whether the violence arises from family members or people in the same household or from the community members or civil authorities (Öncü, 43; Akbulut, 147). Any child and woman benefits from protection wherever they suffer violence or in danger of being subject to violence. Anyone who was born as woman or who has reassigned his gender into female in accordance with Turkish Civil Code art.40, who has suffered or under risk of being subject to violence, whether single, married, divorced, regardless of having religious marriage benefits from the protection of this law. It has been stated that the phrase woman comprises the girls under 18 in Istanbul Convention. According to the convention, the people whose gender is female will be considered in this context regardless of their age.

Law No. 6284, which recognizes children as persons to be protected as well as women and the ones who suffer from domestic violence, states that there is no need to consider girls younger than 18 as woman to be included in the scope of protection. According to the Child Protection Act (OG., 15.07.2005, N.25876) and the Convention on the Rights of the Child (OG., 01.27.1995, N.22184), even if they are mature at an earlier age, everybody under 18 are considered to be children. Therefore, children who are victims of violence, when they are subject to violence or under the risk of being victims violence, it doesn't make a difference for them whether they were born in or out of wedlock or adopted in terms of benefitting from the protection under this law (Sağiroğlu, 29; Gençtan, 93).

Under the Law No. 6284 other persons intended to be protected have been expressed as family members, but there has been no explanation regarding the people who are considered as family members. Every family member subject to domestic violence was intended to be protected regardless of their being child, woman or man. In accordance with article 41 of the Constitution, "the family is the foundation of Turkish society based on equality between the spouses. The state takes the necessary measures and establishes the necessary organization to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and ensure the education and the application of family planning. Every child has the right to establish and maintain a personal relationship with his or her parents and benefit from protection and care, unless it is contrary to his or her interests. The state takes all kinds of preventive measures to protect children from abuse and violence". Law No. 6284 is an action for this goal. Family is the smallest human community formed by individuals with different genders (Akıntürk/Karaman, 3; Duran/Öğüz/Gümüş, 1; Helvacı/Erlül, 127; Öztan, 403; Hatemi/Oğuztürk, 1; Zevkliler/Acabey/Gökyayla, 665-666; Hatemi/Serozan, 3). Although the concept of family hasn't been defined in the Civil Code, it has been expressed in 3 different senses, narrow, broad and the broadest. Family in the narrow sense is just a family unit consisting of spouses. Family in the broad sense is the community of the spouses and their children. In the broadest sense, the family

comprises all the people living together under the management of a household head, who live together due to the blood and kinship or contractual relationship such as servant, nurse, caretaker, driver, and gardener. The family members referred in Law No. 6284 covers the individuals who make up the family in narrow, broad and the broadest sense (Hatemi/Oğuztürk, 1; Zevkliler/Acabey/Gökyayla, 665-666; Hatemi/Serozan, 3; Sağiroğlu, 31 and more; Akıntürk/Karaman, 3; Dural/Öğüz/Gümüş, 1; Helvacı/Erlül, 127; Öztan, 403).

Victims of domestic violence are usually women and children. In the Istanbul Convention considering the fact that women and girls have a higher a risk of being subject to gender-based violence than boys, the party states were required to attach particular importance to women who suffer from gender-based violence is violence (Istanbul Convention, Introduction). Under the provisions of the Convention, children will be considered as victims not only when they are subject to violence or in danger of being subject to violence, but also when they witnessed the domestic violence. Although Law No. 6284, does not clearly identify the children who have witnessed the domestic violence as victims of violence, but it has been emphasized that they are victims of violence since they are affected negatively by the violence stating that the children who witness violence fail in school, become individuals inclined to be violent in later years, and have mental disorders (Akbulut, 148). Therefore, whether they are in or outside the family, the law provides a more extensive protection by putting the children that are affected or under the risk of being affected by violence and every person who is in the scope of the law in this context.

With the Law No. 6284 the concept of “victims of stalking” has been mentioned for the first time and the victims have been put under protection. There is no clear definition in the law regarding the victims of stalking and the violence they are subject to. However, the concept, stalking, has been defined in the Regulation for the implementation of the Law No. 6284 on Prevention of Violence against Women and the Protection of the Family (3/§) dated January 18, 2013. According to this definition, stalking includes “all kinds of oppressive attitudes or behaviours committed actually, verbally, written or using of any kind of communication tool, by the perpetrator of violence directed to the victim of violence, in a manner of causing concern for the safety, physical or psychological fear or feeling of desperation regardless of the actual content and whether there is a family bond or a relationship in between”. This definition of stalking is more explanatory than the definition “the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety” given in the Istanbul Convention, and it includes the provisions of the Convention. However, unlike the Convention, this definition doesn’t include the expressions “intentional”, “repeatedly”, and “threatening”; instead, it includes *the concept of all kinds of oppressive attitudes or behaviours*. Examples of stalking behaviours or attitudes, which has rapidly spread in the whole world, are prying or following the victim, confronting the victim constantly, waiting for the victim in various places, sending gifts, flowers, chocolate and etc., without the demand of the victim, filming or photographing the victim secretly, making unwanted telephone calls, sending unwanted letters and e-mails and spreading of false gossip in public or on the internet (Türkmen, 1389). Because of these acts, protective measures can be implemented for the victim against the perpetrator within the scope of Law No. 6284 for the prevention of violence. There is no doubt that the victim of stalking will benefit from the provisions of the Turkish Civil Code as the acts are damaging to their personality rights and the Turkish Penal Code if the acts are of a criminal nature identified in the Criminal Code (Türkmen, 1399; Sağiroğlu, 35; Bölükbaşı, 31).

With the provision Law No. 6284 (m.1/II), fundamental principles are observed to enforce this law and provide necessary services are as follows:

a) The Constitution of Republic of Turkey, the international agreements to which Turkey is a party, especially the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, and other current regulations prevail,

b) A fair, effective and speedy method, which is based on basic human rights, sensitive to the equality of men and women, applicable to the social state principle, is maintained in providing support and services to the victims of violence,

c) The cautionary decisions taken for the victims and perpetrators of violence are implemented with respect to human dignity and honor.

ç) The special measures taken within the scope of this law to prevent the gender based violence against women and protect the women from the gender based violence cannot be interpreted as discrimination.

The law includes some definitions of frequently used and important concepts. The concept "violence" is no doubt the most important of these. Therefore, more comprehensive descriptions are made for this concept.

1. The Concept and the Types of Violence

A. General

Violence, according to Turkish Language Institute, is defined as the grade of an action or force, intensity, hardness. Violence, in general, is a set of offensive, compelling, and aggressive behaviours towards person's dignity, physical integrity, liberty, the right to life, safety and sexuality (Gençcan, Boşanma, 310). Law No. 6284 (2/1-d) defines violence as "the acts which result or will probably result in person's having physical, sexual, psychological and financial sufferings or pain and any physical, sexual, psychological, verbal or economical attitude and behavior which include the treat, pressure and arbitrary violation of person's freedom as well and conducted in social, public and private space". Law No. 6284 also describes the perpetrator and the victim of violence. The victim of violence (art.2/1-e) is describes as "the person who is directly or indirectly subject to or at the risk of the attitudes and behaviors which are defined as violence in this Law and the people who are affected by violence or at the risk of being affected by violence" and the perpetrator of violence (2/1-g) is described as "the people who exhibit attitudes and behaviors defined as violence in this Law or entail the risk of exhibiting them". In the Istanbul Convention (art.3/e), the victim of violence is described as any natural person who is subject to violence against women and domestic violence. In this respect, there is a more comprehensive and clear definition in the Law. In the section related to the definition of victim in the Regulation for the Implementation (art.3/1-n), it is stated that any person subject to violence in Turkey will benefit from protection regardless of being a Turkish citizen or not within the framework of the principle of reciprocity. This provision which is not in the Law No. 6284 has been arranged by taking into consideration the provision of Article 4 of the Istanbul Convention.

With the new regulation brought by the Law No. 6284 quite accurately, to benefit from protective provisions, it is sufficient to have the danger of violence and the application of violence is not a must. Therefore, it is possible to implement measures specified in the law when there is a notice or a complaint concerning the implementation of violence. Through this provision, the legislator wants to prevent this problem by attaching importance to the reporting of violence to avoid any damage. Istanbul Convention also imposes obligations on states parties to take the necessary legislative or other measures to ensure to engage to all forms of violence promptly and immediately (art.50).

In general, the definition of the concept of violence will be analysed in two categories, domestic violence and violence against women.

B. Domestic Violence

Domestic violence is defined as “any physical, sexual, psychological and economical violence between the victim of violence and the perpetrator of violence and between the family members and the people who are considered as a family member whether they live or do not live in the same house” (Law No. 6284, art. 2/1-b). According to this definition, domestic violence refers to the violence used between individuals considered to be family members or the people living in the same household. In this respect, unlike the Law No. 4320, this law aims to protect the religiously married or divorced spouses, fiancés or fiancées, girlfriends or boyfriends excluding the requirement of sharing the same house (Özkara/Can, 346; Bölükbaşı, 43; Sağıroğlu, 58). The definition “domestic violence” (violence in same household) in the law is in parallel with the definition “domestic violence” (violence in family) given in the Istanbul Convention. According to the provision 3/1-b of the Convention, domestic violence refers to all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. With this provision in the Istanbul Convention, the same-sex unions benefit from protection provided they are considered to be partners as it will be implemented before domestic laws in accordance with the Article No. 90 of the Constitution (Akbulut, 151). The damages of the significantly increasing domestic violence in our country in recent years have dangerous consequences for both the individual and society. Research shows that the persons subject to domestic violence are mostly women and children. When the domestic violence is used by a person who is required to show love, mercy and compassion the person subject to violence tend to resort to violence in the future since the violence they are exposed to remains in their subconscious. Violence is legitimized by repetition in a vicious circle (Erdem, 57; Sağıroğlu, 59; Bölükbaşı, 42; Ayan, 206). The violence against women who experience domestic violence mostly and the ones who the Law especially aims to protect is the basis of our study.

C. Violence against Women

Violence against women is defined as “the gender-based discrimination directed against a woman just because she is a woman or that affects women disproportionately and any attitude and behavior violating the human rights of women and defined as violence in this Law” (Law No. 6284, art.2/1-ç). Protecting women against violence under this Law requires the condition that women are subject to violence since they are women or there is a violation of human rights and a form of gender-based discrimination. The Istanbul Convention (art.3/a) defines violence against women as all acts of gender-based violence. Gender refers to the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for men and women. This concept has first appeared in CEDAW (Moroğlu, 25). Although various results have been gathered in research carried out in many disciplines, such as sociology, psychology, law, anthropology, criminology, and as political science on the causes of violence against women the main reason has been found to be the gender-based discrimination (Nuhoğlu, 63; Bölükbaşı, 47). The male-dominated structure of the society, the superior position of men against women deriving from the patriarchal structure of society is an important factor that feeds the violence. Indeed, this fact limits the opportunity of women to achieve legal, social, political, and economic equality in community and leads to discrimination against women. Due to threats and acts of violence, fear and mistrust that enter the women's lives make them fail in every aspect of social life (Sağıroğlu, 60). Keeping the domestic violence and gender-based discrimination secret, even regarding it as usual since it is considered to be private unfortunately, man’s being driven by his environment, having a family history of violence, abuse of alcohol or a substance, personality

disorders, conflicts or marital disharmony in the family, economic, social or cultural reasons engenders violence. A survey result shows that in Turkey man's battering his wife is considered to be justifiable in cases such as, woman's burning food, talking back to her husband, leaving home without permission, refusing to have sexual intercourse, maintaining the relationship with her own family (parents) (Altınay/Arat, 75 and more; Sağıroğlu, 63). The violence against women results in deterioration in women's physical and mental health and especially, physical and sexual violence causes serious injuries and death. The most important consequence of violence against women is undoubtedly death. According to "the Survey on Domestic Violence Against Women in Turkey" conducted by the Ministry of Family and Social Policy in 2014, women experience violence mostly from their spouse, 36 percent of married women is subject to physical violence perpetrated by their spouses or cohabitants, and the physical violence continues for 1 of every 10 women during pregnancy. 12 percent of married women are exposed to sexual violence, and 44 percent of them do not tell anyone about the violence. As of 2014, the number of people who received service from Violence Prevention and Monitoring Centres in Turkey is 64.798, and the provinces that service is most requested are Istanbul, Ankara, Samsun, Izmir and Gaziantep. According to the figures reflected in the data of the Digital Monument which kept the tally of women who died due to domestic violence, it is reported that 258 women were killed in 2015.

Violence against women is in various forms. The most common forms of violence are physical, psychological, economic and sexual.

2. Types of Violence

A. Physical Violence

Physical violence is the most frequently encountered type of violence against women. Physical violence which leaves obvious and permanent scars is a type of violence which is talked about most. Physical violence which can be seen in various forms such as kicking, slapping, pushing, twisting hands and arms, punching, hitting his/her head on the wall, hitting with a hard object (such as sticks, iron, wood, roller, hockey sticks, chains, belts, hose, and whip), choking, putting the cigarettes out on the body, etching with hot iron and other equipments, injuring with a fiery stab tool (gun, axe, broken bottles, cutlery, razor, scissors, knife, adze), pulling hair, dragging on the ground holding her hair, cut her nose, burning with nitric acid, locking him/her in for days without food and water, leaves severe pain and visible traces on persons who are subject to (Parliamentary Research Commission Report, 91-103). Physical violence often leaves the victims with a very physical disability, and even results in their death. Actions which are assaults against body integrity and health that take place in the form of injuring and killing as a result of physical violence also carries the nature of crime in terms of the Turkish Penal Code (Bölükbaşı, 50; Nuhoglu 57; Ceylan, 23).

B. Psychological Violence

Though psychological violence, also defined as "emotional violence", generally carries elements of threat, it is considered together with verbal violence by some researchers (Parliamentary Research Commission Report). The most common forms of this type of violence is insulting, swearing, and threatening. Some other examples of psychological violence are making the woman lose her self-respect (by exploiting her emotions by actions of humiliation, teasing, insult), intimidating, making her feel weak, divorcing, not letting her see her children, not allowing her to go out alone, locking her in a room or house. The women who are exposed to these kinds of violence face serious problems due to the trauma of the self and emotional fluctuations she experiences (Karinca, 53; Sağıroğlu, 62, Ceylan, 23; Bölükbaşı, 51, 52). These

types of acts which deprive people of their liberty are regarded as criminal offense under Turkish Penal Code and constitute the qualified version of the crime when committed against spouse.

C. Economic Violence

The subject of economic violence is a more complex structure than other forms of violence and economic resources and money, is used as an oppression and control tool over the woman. Behaviors in a manner of disallowing the woman to work or forcing her to work, confiscating profits and assets of the woman, not giving pocket money to the non-working woman, constantly criticizing by controlling the money spent by the woman, not meeting household costs, taking away her jewellery, not giving money for meeting their personal taste and need are among examples of economic violence (Erdem, 56; TGNA Research Commission Report, 91-103)

D. Sexual Violence

Sexual violence is a serious form of violence that leaves physical and psychological scars on the victims. Sexuality is used as a tool of threat and intimidation. Behaviours such as actions, verbal harassment, touching not desired by the woman, non-consensual sexual intercourse or prostitution at unwanted time and manner, adultery, forced pregnancy or abortion, doing humiliating acts against women, crimes committed against women on the pretext of honor, early marriage of girls, teenage pregnancies, implementation of female circumcision may be mentioned as examples (Uçar, 82; TGNA Research Commission Report, 91-103). Victims of sexual violence may experience various sexual and reproductive health problems even after many years with as well as physical injury. Yet psychological problem to the extent of the damage to mental health are the most common results of sexual violence. Thus, suicide, honor killings, the transmission of the HIV virus, death of the victim during non-consensual sexual intercourse are common examples. Such acts have the characteristics of sexual crimes against immunity and penalized by TPC. However, deterrence of punishment disappears since the investigation is based on complaints and due to the fear the woman subject to violence is feeling for her husband (Akbulut, 163).

II. THE PROVISIONS ON PROTECTIVE AND PREVENTIVE MEASURES UNDER LAW NO. 6284

1. General

Ending violence against women primarily depends on finding ways and measures to prevent it. The concept of measure, as a word, stands for method or precaution to prevent something bad or wrong. And, one of the most important regulations that Law No. 6284 (1/2-b,c,d) has brought is following a procedure which is based on the fundamental human rights, sensitive to gender equality, in compliance with principle of social state, fair, effective and expeditious while providing victims of violence with support and services. The objective of this regulation is to ensure that the measures taken are in accordance with the objectives, the damages caused by delay are prevented and protection offered to the victim of violence or the person in danger of being subject to violence is used rapidly and effectively. Yet, as clearly stated in the first article, special measures taken to prevent particularly gender-based violence against women and to protect women from gender-based violence will not be interpreted as discrimination in addition to requiring enforcement worthy of human dignity in fulfillment of the measures to be taken against the perpetrators of violence (Sağiroğlu,72).

The measures in the Law No. 6284 are regulated in two different varieties as protective and preventive measures. Protective measure decisions are the decisions made by the civilian

authority, the judge or in case a delay is detrimental, by the law enforcement chief in order to protect the victim of violence or the person in danger of being subject to violence; preventive measure decisions are the decisions made by the judge or in case a delay is detrimental, by the law enforcement chief in order to prevent the severity of perpetrators of violence or the repetition of violence. Recognizing the authority of the civilian authority and the law enforcement chief to make measure decisions as well as the judge is very important for the protection of victims of violence who are in life threatening danger.

2. The Protective Cautionary Decisions To Be Taken By The Civilian Authority

The protective cautionary decisions to be taken by the civilian authority aim to prevent, in particular, the violence of victims from undergoing it once again urgently and effectively and persons who are in danger of being subject to violence from exposure to violence (Emiroğlu, 106). These measures are not limited and depending on the features of the present case, the civilian authority shall decide on one or some of these measures or similar measures deemed appropriate. In accordance with the third article of the Law, following measures may be decided by the civilian authority upon the request of the relevant person, the Ministry, law enforcement officers or ex officio.

*** To Provide an appropriate shelter to the person and if necessary to the person's children in the vicinity or in some other location:**

Detailed regulations have been made on the subject in the Application Regulations Regarding Law on the Protection of the Family and the Prevention of Violence. According to this; the people for whom cautionary decisions have been taken will be sheltered temporarily at locations of the Ministry or locations under the control and supervision of the Ministry or at social facilities, dormitories or similar places of public institutions and organizations in cases where the shelter is inadequate upon the request of the the civilian authority and in urgent cases upon the request of the law enforcement officer or the Ministry (7/I). The protected person, together with the accompanying children, if there are any, will be sheltered temporarily at social facilities, dormitories or similar places ensuring the security of the person by the law enforcement of the temporary shelter for a fee until safe transfer to locations of the Ministry or locations under the control and supervision of the Ministry by the Violence Prevention and Monitoring Centers (VPMC) and accommodation and food expenses will be paid by VPMC. Also when information about the shelter of the protected person is given to VPMC, taking into account the person's request, VPMC will determine the first acceptance unit and the location where guest house service will be given and provide settlement of the protected person in this place (7/II). It is specified that, in case the protected person and the accompanying children are in a life-threatening danger, settlement into the first acceptance unit or other facilities in a secure way will be escorted by law enforcement; vehicle will be allocated for transfers inside and outside the province and expenses of transportation and necessary expenses of the protected person will be paid by VPMC (7/III). In cases where the provision of shelter measures are implemented by the law enforcement chief or where the protected person is in the law enforcement; if the person is not transferred to VPMC urgently by the law enforcement, temporary shelter will be provided to her and the accompanying and accommodation and at the same time food costs will be covered from the Ministry's related budget (7/IV). According to the results of a study conducted by the General Directorate on the Status of Women under the supervision of the Ministry, the number of people receiving service from Violence Prevention and Monitoring Centers between dates of 01.01.2013-28.08.2015 is 64 798 people across Turkey, 97% of which were female and 3% male.

*** To provide financial aid to the person, without prejudice to other assistances provided within the scope of other laws.**

In the regulation, it is regulated based on the identity number and bank account number declaration of the protected person that, temporary financial assistance will be paid by payroll following the the notification of the decision to VPMC; the amount accrued will be put into the bank account of the relevant by arranging the payroll on every month's fifteenth and thirtieth; in the case of a decision made in the same cautionary decision on the temporary financial assistance for more than one person, these people will be shown in the same payroll and payments will be made to the same bank account number; the decision sample will be added to the payment documents; temporary financial assistance payments will be continued during the validity of the decision; in the event of a decision to abolish or change the temporary financial assistance, the payment will be made calculating over the day on which the judgment is valid and protected person will not be paid in person (8/IV). The cautionary decisions taken on temporary financial assistance must be sent to VPMC in order to be announced and notified to the concerned person and be fulfilled (8/II).

*** To provide psychological, professional, legal and social guidance and counseling services:**

In this measure, by taking the psychological and socio-economic situation of the protected person into consideration and including her rights, institutions she may receive support, and also the activities related to participation in vocational courses, it is aimed to give the necessary services in cooperation with related public institutions and organizations for development and adaptation to employment and similar subjects, acquisition of knowledge and skills that will help her make the necessary choices, reviews, decision plans and provision of psychological support (Sağiroğlu, 79; Ceylan, 34). Again in accordance with the regulations, in case the protected person is in need of legal guidance, necessary support and consultancy services will be given including being involved in the case (9/II). In the fulfilment of these service, task of providing coordination belongs to VPMC (9/III).

*** To provide a temporary protection upon a request of the relevant person or ex officio if there is a life threatening danger for the person:**

With this measure, if there is a life threatening danger for the person taken under protection of the law, the civilian authority or in case delay is detrimental, law enforcement officer, may take the victim of violence under temporary protection, upon request of the concerned or ex officio, considering che nature of the event, complaints and denouncements. In the fulfilment of cautionary decision on the temporary protection, law enforcement in the settlement of the persons for whom cautionary decision is taken or in the vicinity or the place where the cautionary decision is taken, is assigned and authorized. The protected person must inform the authorized law enforcement official about the place to go immediately in case of an emergency and in other cases, twenty- four hours before. In this case, the law enforcement at the destination is informed without delay and the cautionary decision continues to be implemented (Sağiroğlu, 79; Ceylan, 35).

*** If deemed necessary; four months of day care, maximum two months for those who have a job, is provided to children of the protected persons to support the person's integration into worklife; the amount which cannot exceed the half of the net minimum wage paid to those older than 16 years of age with the condition of documenting, is covered from the Ministry's related budget:** With this measure, it is aimed to provide day care opportunity, for four months in order to support the integration to work life in case the protected person who has children does not work, maximum two months for those who have a job; in

condition that the amount cannot exceed the half of the net minimum wage paid to those older than 16 years of age and it is documented by covering from the Ministry's related budget. This facility is not provided for the child of every victim taken under protection; but it is provided if necessary. Thus, in accordance with the provision of the regulation, in case of violation of the measure related with day care opportunity providing, the amount paid will be collected from the protected person (11/IV).

3. The Protective Cautionary Decision To Be Taken By The Law Enforcement Chief

With this newly introduced regulation, in cases where delay is detrimental, the law enforcement chief can make some of the protective and preventive measure judgements of the civilian authority or the judge. Among the protective measures that can be taken by civil authority, measures regarding the provision of shelter and taking under temporary protection, will also be taken by the the law enforcement chief in cases where delay is detrimental (Nuhoğlu,75; Tosun, 98). But, he can not decide on measures like providing day care for children, temporary financial assistance, giving guidance or counseling services. Law enforcement chief must submit the documents related to measures that he has taken for the civilian authority's approval on the first working day at the latest following the date on which the measures has been taken. If the civilian authority does not confirm it within forty-eight hours, measures will automatically be cancelled. Again, in the preventive measures that can be taken by the judge, he will just be able to take some of them. According to this, he can warn the perpetrator of the violence about the speech and behavior containing threats of violence, insult and humiliation intended for the victim; and take cautionary decisions concerning immediate removal from the shared dwelling and the vicinity and allocation of the shared dwelling to the protected person or not approaching to the dwelling or workplace of the protected persons and if deemed necessary, not approaching relatives, witnesses or and children of the protected person even if they have not been subject to violence (Tosun, 98; Bölükbaşı, 128). But the decision is automatically cancelled unless it is submitted for the approval of the judge on the first following working day. The concept of "cases where delay is detrimental" imposed as a prerequisite to use the authority; is described, as a result of investigation and risk assessment made by law enforcement, as emergence of probabilities in the absence of immediate action such as failure to prevent the violence, putting the protection of the person's safety, rights and freedoms at risk, damage to the protected person, disappearance of trace and signs of violent action, escape af the the perpetrator of violence or failure in detecting the identity and inability to find enough time for the civilian authority or the judge to decide upon request of the relevant or ex officio (Ceylan, 42; Sağıroğlu, 819). However, since the Law No. 6284 does not bring legal regulations on the risk assessment and risk management issues which set the preventive law enforcement into motion, it has been criticized justifiably on the grounds that implementation of these provisions are open to arbitrariness (Sağıroğlu, 81; Ceylan, 42).

4. The Protective Cautionary Decision To Be Taken By The Judge

Decisions to be taken by the judge in order to protect the people who have been subject to or in danger of violence are arranged in two ways as protective and preventive cautionary decisions. Protective cautionary decisions are regulated in article 4 of the Law, Article 12 of the regulation; and the preventive measure decisions Article 5 of the Law, article 17 of the regulation. While evidence research is not necessary in order to take a protective cautionary decision about the person who has been subject to or in danger of violence; in preventive cautionary decisions, it is required that evidence is required to be available and the judge is

required to be more precise since it can bring significant restrictions on individual rights and freedoms by perpetrators of violence and is prone to abuse (Erdem, 59; Sağıroğlu, 93).

A. Protective Cautionary Decisions

In accordance with the provision of Article 4 of Law No. 6284, if the judge, upon a request of the relevant person, upon application of Ministry or law enforcement officers or public prosecutor or ex officio, decides that one or some of the following protective measures listed in the law are insufficient, regardless of evidence or document in respect of the implementation of violence or according to the character of event, he may apply to other measures not listed in the article. These measures are not considered as restrictive. The judge can apply to protective measures given by the civilian authorities but he can also apply to completely different measures according to the character of the specific event.

*** To change the work place:** The judge, in accordance with the relevant legislation that the protected person is subject, may decide to change the workplace in the present province or outside the province in case of her request or with her approval. Cautionary decisions regarding workplace change must be notified to the employer and this decision must be fulfilled by the competent institution or person and in the event of removal of the decision, the removal decision will be notified to the employer.

*** To decide a house settlement different from the shared one if the person is married:**

Implementation of this measure can only be in question if the person is married and sharing the same dwelling with the other spouse. The judge, upon the request of the protected person, may decide a house settlement different from the shared one if the person is married. Operations related with the address are fulfilled upon the application of the person, for whom the cautionary decision is taken, to Directorate of Population.

*** To put an annotation to the title deed as a family house:** A family house is described as the constant place which is designated for the spouses, their children or other family members, if any, and constitutes the center of familial activities (Akıntürk/Ateş/ Karaman, 122; Başpınar,89; Acar,17). The judge may decide to put an annotation to the title deed as a family house, in the existence of the conditions in the Turkish Civil Code and upon the request of the protected person. By putting annotation as a family house, the legislator protects the other spouse who is not the owner of the real property designated as family house, as well and thus this spouse will have prevented the goodwill claims of third parties who will take legal actions related to the family house in advance. In order for the decision taken by the judge to be fulfilled immediately, it must be sent to the relevant Land Registry Directorate.

*** To change the identification and other related information and documents:**

In the event of a life-threatening danger of the protected person and if it is understood that other measures will not suffice for the prevention of the danger, the judge may decide to change the identification and other related information and documents according to the provisions of the Witness Protection Law based on the informed consent of the relevant person. In accordance with the provisions of the regulation, this decision is sent to the Chief Public Prosecutor for the requirements to be fulfilled by the Ministry of Internal Affairs. The Chief Public Prosecutor sends this decision to the Ministry of Internal Affairs immediately. Upon the decision, the Ministry orders the necessary changes to be made on identification and other documents and results of the transaction is reported to the Chief Public Prosecutor (16/III).

B. The preventive cautionary decisions

The preventive cautionary decisions to be taken by the judge regarding the perpetrators of violence are regulated in article 17 of the regulation, article 5 of the Law. The preventive

cautionary decisions are not considered as restrictive, as well. The judge may decide on one or some of the protective measures or other measures to be deemed appropriate (Akin, 135).

One or some of the following protective measures or other measures to be deemed appropriate may be decided by the judge regarding the perpetrators of violence.

*** Not to exhibit an attitude and behaviors including the threats of violence, insult and humiliation against the victim of violence:**

The order of the judge to the perpetrator as not to exhibit an attitudes and behaviors listed in the Law against the victim of violence is cautionary and he must be reminded that these actions would constitute a criminal offense (Bölükbaşı, 137).

*** To move from the shared dwelling or the vicinity immediately and to allocate the shared dwelling to the protected person:**

The judge may decide on removal of the perpetrator of violence from the shared dwelling and the vicinity and allocation of the shared dwelling to the protected person. The type of violence is not important in order for this measure to be taken. These measures can be adopted in case of physical, sexual, psychological and also economic violence (Erdem, 62; Bölükbaşı, 138). Also, if requested, the civilian authority or the judge may decide that personal belongings and documents belonging to the victim of violence, the perpetrator of violence or relatives of these people will be delivered to them by law enforcement. Personal belongings and documents to be delivered are indicated in the cautionary decision. The implementation of this measure does not constitute an obstacle for the perpetrator of violence to continue to meet rent, electricity, water, telephone, natural gas and similar expenses of the dwelling he is removed from. The judge may decide, during protection decision, that the perpetrator of violence will not terminate the lease contract of the family house, request for the abolition of the allocation of public housing and on other measures deemed appropriate by the continuation of such obligations (Ceylan, 39). In accordance with the provisions of regulation, the judge informs the tenant in case of a decision on the lease contract and the relevant public institution in case of a decision on not abolishing the allocation of public housing (19/IV).

*** Not to approach to the protected persons and their residences, schools and workplaces:**

With this measure, it is intended to prevent the perpetrator of violence from threatening the safety of the person entering the living space of the victim of violence.

*** To restrict having the personal connection with the children:**

If there is a previous decision on establishment of personal relationship concerning children, the judge may take a cautionary decision of establishment of personal relationship accompanied by a companion, restriction or complete abolishment of personal relationship. Thus, the mother and father will be prevented from using children to take revenge on each other or to hurt each other (Bölükbaşı, 140).

*** Not to approach the friends or relatives and children of the protected person who witnessed violence:**

If deemed necessary, measures may be taken by the judge about not approaching relatives, witnesses or and children of the protected person even if they have not been subject to violence without prejudice to the case for establishing a personal relationship with the children. With this provision, neighbours and relatives who have witnessed the violence and even the doctor who has reported the evidence of the nature of violence can be protected.

*** Not to damage the personal belongings and household goods of the protected person:**

With this cautionary decision taken by the judge, it is intended to prevent the damage of the personal belongings and household goods of the protected person by the perpetrator of violence.

*** Not to cause distress to the protected person by means of communication instruments or alternative channels:**

With this cautionary decision taken by the judge, in order for the protection of the victim of violence, it is intended that the perpetrator of violence will not cause distress to the protected person by visual, audio, written, Internet and similar communication tools or alternative channels. But, while taking the cautionary decision, the judge must act quite sensitively and must decide in case of a real disturbance of the peace of the protected person. Otherwise, the danger of violation of the fundamental rights and freedoms of the perpetrator of violence might arise.

*** To hand over the weapons to the law enforcement officials:** Through the preventive measure taken by the judge, it is decided that the perpetrator is required to hand over the officially permitted and authorized weapons to the law enforcement officials and keep there until the end of measure. With this decision, the perpetrator is required to hand over the weapon to the employing institution, even if the person is in a profession of public service that requires carrying a weapon.

*** Not to use alcohol, drugs or stimulants in places where the protected people are present to ensure to have a medical examination and treatment in case of the addiction.**

The aim of this preventive cautionary decision is to make the perpetrator not to use alcohol, drugs or stimulants in places where the protected people are present or not to approach the protected people and whereabouts while under the influence of these substances and to ensure to have a medical examination and treatment including in-patient treatment in case of the addiction.

*** To apply to the health centre for examination or treatment and to ensure having a treatment:** This measure, taken by the judge, enables the perpetrators to apply to health care center for the examination and treatment to prevent the behaviors that lead to violent tendencies. The purpose of this measure is to determine whether the perpetrator has any kind of disorder and to provide a treatment if he has one. Thus, it is aimed to stop domestic violence and violence against women permanently (Mertoğlu, 52; Karınca, 87; Moroğlu, 39 and more).

*** Other measures:** With the measures identified within this Law, the judge is authorized to take a decision on protective and preventive measures as contained within the Child Protection Law No. 5395 dated 3/7/2005 and on the issues of guardianship, custody, alimony and personal connection as per the provisions of Turkish Civil Code.

CONCLUSION

In line with the combat against gender violence and discrimination against women, it can be seen that there is necessary legislation to support and protect the victims and punish the perpetrators. In this regard, the crucial issue here is to eliminate the challenges and the insufficiency in the implementation. It is worth noting that taking social measures to prevent violence is insufficient since the legislation is mostly limited to measures to be taken after the violence is conducted.

The first step in preventing violence is to identify the possible causes of gender discrimination and domestic violence in particular. Domestic violence against women is a fact for many women regardless of their status, and many social factors cause, legitimize and strengthen domestic violence against women. In addition, women are held responsible for the violence

they suffer, and the belief that the women deserve violence continues to exist widely in society. It can be suggested that domestic violence against women is the most widespread, yet the most neglected violation of human rights. When the underlying causes of suicide and honor killings in some parts of the society are analysed, it is seen that the lack of education plays an important role. Therefore, social awareness and mental transformation should be immediately promoted to eliminate the causes that give rise to domestic violence.

Combating violence against women can not be limited to legal aspects. Firstly, it is necessary for the fight in this issue to aim a social transformation within a versatile and comprehensive plan by identifying the underlying causes of violence. To create public awareness to help combat violence against women, it is important to change the public opinion allowing violence and educate people to solve and prevent problems. Promoting the notion of gender equality will also eliminate the inequality reflected in socio-economic and political indicators. Conducting national and international studies by all parties responsible, including the government, to improve social and economic status of women in our country is the most important step to be taken to stop the escalating violence in the society. Today, the main point of all activities conducted by the United Nations reveals that the solution of all social, economic and political problems threatening communities is through the full participation of all women in the world and the strengthening of women all over the world.

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