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Violence Against Women in Turkey and the Impact of Civil Society¹

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Abstract

In recent years, gender equality and women's rights have been in the spotlight of international policymaking. However, in many cases, those efforts are not met with equal results. Women internationally continue to face discriminatory behavior and violence in all forms, both in socio-economic and political life. In Turkey, this issue remains largely unsanctioned, encouraging this type of violation of women's basic human rights. Civil society organizations in Turkey play a very important part in applying pressure on the government and raising awareness on the importance of protecting women's rights and eradicating gender-based violence. This policy brief examines the current situation of women rights in Turkey as well as the impact of civil society in the protection and empowerment of women.

Keywords: women's rights; Turkey; gender equality; civil society; Istanbul Convention.

Introduction

Women's rights and empowerment in Turkey were elevated as a result of the prevalence of secularism and modernization that took place during the Kemalist Republic (1923). The "Justice and Development Party (*Adalet ve Kalkınma Partisi*, AKP)" with President Recep Tayyip Erdogan, ever since its rise into power in 2002, has established a new wave of conservatism, Islamism and abolishment of Western influence which has reshaped the perception of human rights, and in particular gender equality. While women's rights are guaranteed by international legislation, in Turkey they are questioned by laws that encourage discrimination as well as patriarchal traditions and practices. The sudden abolishment of the Istanbul Convention in March 2021, despite the ever-increasing rate of gender-based violence and femicides, triggered backlash not only from women organizations and supporters nationwide but also from international actors, such as the United Nations and the Council of Europe.

Trampling on the self-determination of women's bodies

Women's rights, in terms of the self-determination of their bodies, are being trampled increasingly day by day. For more than a decade, the AKP has made outrageous statements about how many

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children a woman should have, abortions by rape, and even about childbirth by cesarean section, trying to further increase its influence on women's bodies.

Even though abortion in Turkey has been legalized since 1983 (Gürsoy, 1996), in a statement during the Fifth International Congress of Parliamentarians on the Implementation of the ICPD (International Conference on Population and Development), the President of Turkey still condemns abortions (Tolunay, 2014). In any case, abortion is limited in practice, despite the legality of the procedure. Most public hospitals carry this procedure out within the first eight weeks of pregnancy, even though the law stipulates that they can be carried out up until the tenth week (Tolunay, 2014). Moreover, to prevent women from going through with it, doctors refrain from using general anesthesia during the operation (Tolunay, 2014), which makes it inhumane and vindictive. From the age of 18, women are entitled to abortion. However, doctors who operate within a system of premiums, choose not to conduct them (Tolunay, 2014), as the bonus for these operations is low. They also require the presentation of marriage certificates, thus significantly limiting this practice for unmarried women. At the same time, they subject them to a form of psychological "warfare" by submitting them to listening to the baby's heartbeat and giving them a period of 2 to 3 days to think again about their choice (Tolunay, 2014).

Eventually, at every opportunity, the government tries to control women's bodies through the reproductive process, while strengthening the already existing patriarchy. Specifically, the Ministry of Health sends circulars to all laboratories (Tolunay, 2014) that provide pregnancy tests, requiring the names and mobile phone numbers of women whose test is positive. This information is passed on to their family doctors and, afterward, either to their husbands, if they are married, or to their fathers, if they are celibate; this process violates not only women's personal data and their rights but blatantly encourages violence and honor killings (Tolunay, 2014).

Violence and femicides

Violence against women is still a major problem in many parts of Europe. In Turkey, on March 8, 2012, the "*Law on the Protection of the Family and the Prevention of Violence against Women*" was enacted by the AKP, while in 2020 a "*National Action Plan to combat violence against women*" was drawn up. Nevertheless, the government and the courts have concealed cases of rape and violence against women, thus tacitly encouraging these human rights violations. There are many cases in which government officials and even the President himself have made statements directly blaming rape or murder victims and their families (Tolunay, 2014).

At the same time, many girls in Turkey, especially those that come from vulnerable groups or low socioeconomic status, continue to face pressure to fulfill traditional gender roles and are at particular risk of entering into a child, early or forced marriage. Despite the rising average age of marriage, where the legal threshold is 18 years, child marriage remains a challenge for Turkey and reflects a model of gender inequality that enhances stereotypical roles for girls, limits their education, endangers their health, and exposes them to the risk of violence (UNICEF, 2021). According to National Survey on violence against women, 4 out of 10 women in Turkey have been subjected to physical or sexual violence since 2014, 48% of girls in Turkey who marry from the age of 18 are exposed to physical violence, while only 1 in 10 women in Turkey that are exposed to violence are applying to an institution for help (UN Women, 2021). The outbreak of COVID-19 promptly made matters worse in domestic violence cases. Throughout Turkey, there has been a 40-80% increase in domestic violence from March 2019 to March 2020 (UN Women, 2020).

Nonetheless, the phenomenon of femicide is increasing, as a "natural" follow-up to the existing violence. The Turkish government admitted that it does not keep detailed records of violence against women, but the Turkish feminist organization "We Will Stop Femicide" reported that 474 women were murdered in Turkey in 2019, mostly by their relatives or associates (Thelwell, 2020). Misogynistic feelings are deeply etched in Turkish culture and society and are further reinforced by the attitude of government representatives and President Recep Tayyip Erdoğan himself (Thelwell, 2020).

Council of Europe Convention on preventing and combating violence against women and domestic violence ("Istanbul Convention")

"Violence against women is a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women" (Council of Europe, 2011: 5). The State must address all forms of violence against women and take action to prevent it, protect the victims and prosecute the perpetrators (Council of Europe, 2011). The convention makes it clear that violence against women can no longer be considered a private matter for states. Once the convention has been ratified, governments must amend their internal legislation, take measures, and allocate resources to eliminate violence against women in its entirety. Once signed, the document becomes a legally binding obligation for the state. (Council of Europe, 2011).

Turkey was the first country to sign (2011) and ratify (2012) the Istanbul Convention (United Nations, 2021). On March 20, 2021, the President announced the country's withdrawal from the Convention,

despite the ever-increasing rate of femicides taking place. According to many Turkish officials and the Minister of Family, Labor and Social Policies, Zehra Zumruth Selcuk, internal regulations and the judicial system are sufficient to ensure protection from gender-based violence and implement new regulations (Deutsche Welle, 2021). In addition, they claim that the Istanbul Convention undermines the family institution and encourages divorce and is also being exploited by the LGBT+ community to achieve greater social acceptance, which goes against the traditional values, social and family, of Turkey (Karakas, 2021).

Why the withdrawal from the Istanbul Convention is unconstitutional based on national and international law?

President Erdogan's move to announce Turkey's withdrawal from the Istanbul Convention is not only morally wrong but also legally and constitutionally. First and foremost, it defies the fundamental principle of the Turkish Constitution, according to which the Executive cannot usurp the powers of the Legislature. According to Article 90 of the Constitution, two important legal points are mentioned. Firstly, ratification of international agreements is always performed by the Grand National Assembly of Turkey (The Parliament). Secondly, in the event of a conflict between international and domestic law, as far as fundamental rights are concerned, international law prevails. Under Article 104 of the Constitution, a Presidential Decree cannot disregard procedures and override what is provided for in the Constitution. Therefore, the withdrawal from the Istanbul Convention with a Presidential Decree is unconstitutional. President Erdogan did not have the power to issue such a decree, as it obstructs the exclusive powers conferred on the Legislature.

At the same time, the Vienna Convention on the Law of Treaties does not provide for a mechanism for the entire withdrawal from a treaty or its termination. Specifically, Article 54 of the Vienna Convention states that a treaty may be revoked or terminated by the relevant withdrawal provision provided for in the treaty in question. Regarding the Istanbul Convention, Article 80 states that a contracting party may renounce it by notifying the Secretary-General of the Council of Europe. It shall enter into force on the first day of the month after the expiry of a three-month period, following the date of receipt of the notification by the Secretary-General. Therefore, the withdrawal from the Istanbul Convention by Presidential Decree, and not by official notification, is not legally acceptable under the Vienna Convention on the Law of Treaties (Singh, 2021).

Civil society

In 1934, the women's movement under the Kemalist narrative in Turkey achieved a very important victory in terms of women's rights, through the amendment of the civil code. Specifically, they

managed to guarantee the right to vote and to be elected and 17 women managed to gain a parliamentary position (Ragias, 2020). Moreover, from the 1980s and after the political coup that took place in Turkey, a second phase of the feminist movement begins, during which they are trying to restore the power vacuum and the male-dominated political space. They aim to combat discrimination and inequalities in the political, religious, and social fields as well as to improve their living conditions, professional rehabilitation, and spiritual development (Ünay, 2015).

Some of the most prominent civil society organizations are KADAV (Kadınlarla Dayanışma Vakfı – Women's Solidarity Foundation) and Kadınlar Cinayetlerini Durduracağız Platformu (We will stop femicides). In particular, KADAV is fighting for the rights and claims of women in Turkey, for the change of the Civil and Penal Code in their favor, but also the improvement of working conditions. “We will stop femicides” aims at the proper legal representation of women as well as the reform of the already existing procedures. It helped to create "Law 6282" for the protection of the family and the prevention of violence against women. Through this, they managed to implement 35 amendments of which the most important was for women to be considered the sole holder of their bodies, free from the patriarchal remnants of conservative Turkish society (Ragias, 2020).

At the international level, the United Nations, in its efforts to promote gender equality and women empowerment, established the UN Women body in 2010. This entity is responsible for supporting policymaking, providing knowledge and expertise to member states, and coordinating with other civil society organizations with common objectives (UN Women, 2021). Other international stakeholders operating in Turkey for women's rights include Human Rights Watch, Amnesty International, Global Fund for Women, and more.

The importance of civil society's presence in Turkey can be measured not only by its tangible contribution to the challenges women face due to gender inequality but also by its action as a unifying factor. Undoubtedly, many segregations exist within Turkish society, from the political polarization to religion and secularism, which inhibit the consolidation of women's rights. Given that the state still needs to pick up the pace regarding the protection of women against inequality and violence, civil society's part in enhancing social cohesion and supporting women in all aspects of their lives is crucial.

Conclusions and Recommendations

In conclusion, gender equality should not be perceived as a simple concept or a slogan, but as a complex socio-economic and political situation. Women's rights are fundamental human rights. Although significant progress has been reported, not only in Turkey but throughout the world, the

unanticipated abolishment of the Istanbul Convention causes new concerns about the protection and empowerment of women. In addition to that, challenges that inhibit women's journey towards achieving equality still lingers, both officially, that is, by law, and unofficially, by the patriarchal and conservative society. If Turkey hopes to be incorporated into the European Union, the protection of human rights is at least a critical step towards that direction. Thus, based on the above, we suggest that the appropriate recommendations are the following;

1. Institutional consolidation of women's rights and reinforcement of domestic law
2. Avoid secondary victimization
3. The state should encourage women to get educated, stay in the labor market and engage in economic activity by providing affordable childcare, flexible work arrangements and parental leave. Financial independence is key for women's emancipation and a prerequisite for minimizing the possibility of being subjected to violence.
4. Collection of data on the cases of violence, domestic abuse and femicides plays an important part in keeping track of the situation and finding ways to mitigate it.
5. Establishment of an effective support system for the victims (support hotline, counseling centers and temporary accommodation centers)
6. Awareness-raising in coordination with civil society in order to spread the ideal of gender equality among the deeply conservative and patriarchal society.
7. The UN Women entity should focus on empowering women directly through educational programs and psychosocial support for the victims of gender-based violence.
8. The UN, as an international organization and through the Sustainable Development Goals, should enforce stricter measures and set more optimistic goals, in order to achieve wider participation in socio-political life and gender parity.

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