

GENDER-SENSITIVE WOMEN LAWYERS' PERCEPTIONS AND  
POSITIONS IN HANDLING CASES OF VIOLENCE AGAINST WOMEN IN  
ANKARA

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## ABSTRACT

### GENDER-SENSITIVE WOMEN LAWYERS' PERCEPTIONS AND POSITIONS IN HANDLING CASES OF VIOLENCE AGAINST WOMEN IN ANKARA

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This thesis explores how the issue of violence against women appear in the discourses in general and perceptions and positions in particular, of gender-sensitive women lawyers who handle cases of violence against women on the case of women lawyers in Ankara Bar Association. The aim of this thesis is to understand how the daily life experiences and the gender identities of women lawyers are related to their professional experiences and how these experiences shape their approach to the issue of violence against women. Based on the interviews and courtroom observations, this thesis elaborates on how gender-sensitive women lawyers define their own positions, both professionally and personally, within the legal boundaries that they have to work in. This thesis argues that the women lawyers who were interviewed in this study, by adapting a feminist perspective and as defenders of women's rights, perceive law as an instrument for carrying out their struggle. With their mediatory positions between the law and the individuals who seek legal guidance, they criticize and attempt to transform the existing legal procedures, regulations, attitudes of other professionals and legal parlance.

**Keywords:** women lawyers, violence against women, experience, feminist standpoint

## ÖZ

### ANKARA'DA TOPLUMSAL CİNSİYETE DUYARLI KADIN AVUKATLARIN KADINA KARŞI ŞİDDET DAVALARIYLA İLGİLENMEKTEKİ ALGI VE KONUMLARI

Okan, Cansu

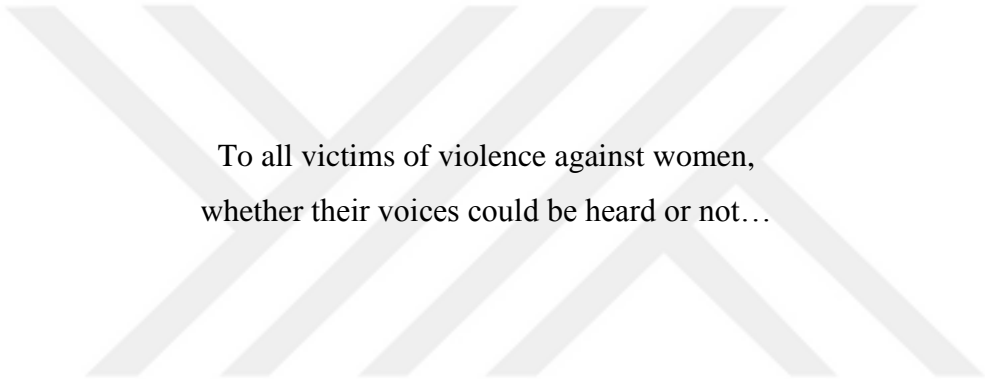
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Bu tez Ankara Barosu'na kayıtlı kadın avukatlar örneğinde kadına karşı şiddet davalarıyla ilgilenen, toplumsal cinsiyete duyarlı kadın avukatların genel olarak söylemlerinde ve özel olarak algı ve konumlarında kadına karşı şiddetin nasıl yer aldığını araştırmaktadır. Tezin amacı, kadın avukatların günlük yaşamlarının ve toplumsal cinsiyet deneyimlerinin mesleki deneyimleriyle nasıl ilişkilendiğini ve bu deneyimlerin kadına karşı şiddet meselesine yaklaşımlarını nasıl şekillendirdiğini anlamaktır. Mülakat ve duruşma gözlemlerine dayanan bu çalışma kadın avukatların kendilerini, hem mesleki hem kişisel olarak, hukukun çelişkili yapısında nasıl konumlandıklarını irdelemektedir. Bu tez, görüşülen toplumsal cinsiyete duyarlı kadın avukatların feminist bir bakış açısıyla ve kadın hakları savunucuları olarak hukuku bu bağlamda bir mücadele aracı olarak gördüklerini iddia etmektedir. Kadın avukatlar, hukuk ve hukuki yollara başvurmak isteyen bireyler arasında aracı bir konuma sahiptir ve bu konumlarıyla mevcut yasal süreçleri, düzenlemeleri ve diğer hukukçuların yaklaşımlarını eleştirmekte ve dönüştürmeye çalışmaktadır.

**Anahtar Kelimeler:** kadın avukatlar, kadına karşı şiddet, deneyim, feminist duruş



To all victims of violence against women,  
whether their voices could be heard or not...

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## CHAPTER 1

### INTRODUCTION

Violence against women, a type of violence based on gender inequality, cannot be taken separately from the law as there is an inseparable relation between violence and law. The law, as it describes the form of execution, opens an area for preventing violence against women as well as providing punishment for it. It is lawyers who provide individuals with the access to law in necessary situations. Thus, lawyers' mediatory position makes them important actors of the system who claim to defend the rights of individuals and also have a possibility to participate in the lawmaking process, therefore it is significant to understand their positions in approaching the issue of violence against women and bring it into discussion.

Assuming that it is inconceivable to study violence against women without focusing on the aspect of law and that lawyers constitute a crucial part of the legal system, this thesis aims to examine lawyers' how they develop their discourses on the issue of violence against women in relation to their perceptions and positions in handling these cases. At the same time, acknowledging the fact that violence against women is a gender-based form of violence, the following question arose: how do *women* lawyers in Turkey who are dealing with violence against women interpret the issue which is currently considered to be a social problem all over the world? As women lawyers are part of this legal system with their gender identities of being a "woman" besides their identities of being a "lawyer", how do they approach the issue of violence against women in general? How do they define their own positions, both professionally and personally, within the contradictory structure of the law? How do they interpret the laws and the practices of these laws in reference to violence against women? How do they evaluate the recent changes and reforms in the legal system of Turkey on the issue of violence against women? How do they interpret the existing legal parlance? Deriving from such query, the major question of this

thesis is; *how does the issue of violence against women appear in the discourses, approaches and perceptions of women lawyers in Turkey?*

The definition of violence against women as a crime, and the legal recognition of domestic violence was achieved through feminist activists and lawyers. According to Schneider, this has developed as follows:

In the late 1960s a movement of feminist activists and lawyers began to bring the problem of woman abuse to public attention. At that time, there was no legal recognition of a harm of violence against women by intimates—today known as domestic violence. It simply didn't exist in the legal vocabulary (Schneider, 2008: 3).

However, today, not only the topic of domestic violence but also the role of women lawyers in highlighting this issue in the public discourse became a significant part of women's struggle against violence. Therefore, in order to understand the struggle against violence against women, it is important to concentrate on the existing discussions on women lawyers, and especially activist feminist lawyers who have been concerned with violence against women. I argue that women lawyers' entrance to the legal profession is an important point to understand their personal attitude towards their profession in which they also had to fight against discrimination, sexism and gender inequality. When we look at that specific literature on women lawyers it becomes evident that these discussions focus on four main areas of interest. Firstly, there are studies on the process of how and why women began to enter the legal profession. Secondly, there are arguments about the difficulties which women experience(d) within the legal profession. Thirdly, we observe a literature which focuses on women lawyers' feminist activism and the internationalization of women's rights issues. Debates on the difficulty of women lawyers' transformations of the laws constitute the other important discussion point related to this thesis.

## **1.2. Major Debates on Women Lawyers**

It has been discussed that the entrance of women into the legal profession was not an easy process and the number of women lawyers was very few at the beginning. This late and difficult entry of women into the legal profession is a result of various social, cultural and economic factors; and it has effects on how women

experience(d) the profession. For instance, Drachman (2001) explains that in the nineteenth century, women lawyers referred to each other as “sisters in law”; signalling their awareness of being “part of a distinct group of women, a community of women lawyers” (Drachman, 2001: 1). She distinguishes the history of women lawyers from the history of other professions, because “law was the most engendered and closed to women ... [and also] ... because sexual discrimination was rooted in the legal system” (2001: 2). It could be argued that viewing each other as “sisters in law” was actually a way to overcome such sexual discrimination which they faced in their profession. Drachman (2001: 3) also touches upon the concept of “double consciousness”; a concept much related to this thesis as it refers to the “burden” of women lawyers experiencing a tension between their gender identities and professional identities. This tension could stem from the awareness of entering a male-dominated profession, and could show itself from the decision of clothing in courtrooms to choosing the type of practice (Drachman, 2001: 84). How each women lawyer experiences this “double consciousness” may of course change from one woman to another and from time to time as well as the legal and social contexts they work in.

The number of women lawyers, as Menkel-Meadow (1986: 897) asserts, increased in most nations “radically in 1970s with the expansion of university education to include women and the simultaneous development of an increased role for the university in training legal professions in many countries”. However, as she also points out, the legal education which is available to women is only one side of the story because “the entrance to the profession is controlled at later stages” as well (Menkel-Meadow, 1986: 904). During the time of her article, written in 1986, Menkel-Meadow indicates that although the number of women who undergo legal training has increased, the number of women lawyers who are admitted to the bar or those who actually participate in the profession is lower mainly due to women’s child-bearing plans or fear of being rejected or unsuccessful, and this fact is valid in most nations (1986: 905). However, it is also argued by Menkel-Meadow that the increasing number of women in legal professions co-occurred with legal reforms

and transformations with regard to issues affecting women such as abortion, divorce reform and civil rights (1986: 917). This demonstrates that women lawyers have been sensitive towards issues related to women's rights from the start of their involvement into the legal profession.

Though the increase in the number of women in the legal profession is important, the way they enter in and exist from this profession is also significant. Literature focused on this point touches upon how women experience difficulties and face obstacles after entering the legal profession. In the case of Turkey, Berk (2013: 85) asserts that despite the increase in the numbers of women students in departments of law, women are still in a disadvantaged position compared to men in terms of their numbers in the professional occupations, division of labour, possibility of promotion, and payment. Berk (2013: 91) points out that even though the number of women lawyers is almost equal to men lawyers, the number of women prosecutors and heads of the Bar is extremely low. This signals that even though women's contribution to the legal profession is rapidly increasing, professionalization is still a male-dominant phenomenon. That is, if they choose to stay in the legal profession, because it has been discussed that women lawyers tend to quit their jobs as they face obstacles. Krauker and Chen (2003) point out that even though the number of women entering the legal profession is increasing rapidly, "women continue to face gender-based barriers once they enter the profession, and partly as a result, they are leaving the profession at significantly higher rates than their male peers are leaving it" (Krauker & Chen, 2003: 66). Thus, it can be suggested that the number of women entering the legal profession is increasing; though they may experience inequality throughout their professional lives that prevent them from gaining higher positions, which may in turn result in their leaving the job. Moreover, Berk (2013: 94) argues that although the increasing involvement of women into the legal profession itself will not be enough to overcome gender-based inequalities in this professional domain, it will in any case accompany the questioning of the dominant patterns of mentality which locates woman into the household and views her wage-labour outside the home as temporary or secondary.

Contributing to the above-given literature on the number of women in legal professions, Epstein (1993) focuses on the notion of “why” women choose the legal profession. From the case of US, he emphasizes that women lawyers’ parents tend to be well-educated (somewhat better educated than those compared to men lawyers’ parents), and encourage their daughters to receive education of law (Epstein, 1993: 24-32). Another factor influencing women to choose legal professions is, as argued by Epstein (1993: 32-34), their husbands; in this case, some women are argued to be following the footsteps of their husbands who have careers in the area of law. There were also, of course, women who “were inspired to become advocates for justice [and] who always wanted to be lawyers and who held on to their fantasies despite often harsh reality” (Epstein, 1993: 37). The harsh reality which Epstein refers to is the notion that law was a male profession as discussed above. Although Epstein has defined the above-given factors as reasons for women’s contribution to the legal profession, this study demonstrates that more reasons could be added to the above-given reasons, and further research could reveal other reasons. This thesis will elaborate on the reasons of why interviewees joined the legal profession and decided to handle cases of violence against women under Chapter 2, in the section titled “Choosing to Be a Part of the Search for Justice”.

In addition to the discussions concentrating on the increasing number of women lawyers and the reasons for this increase, there are other discussions which focus on these women’s struggle for women’s rights. The 1960s were seen to be years of considerable efforts to change laws related to women’s rights, especially in the USA. According to Bowman and Schneider (1998), a “‘wave’ of an active women's rights movement developed from the civil rights struggle, leading to renewed efforts both to change the law so as to abolish sex discrimination and to reshape the legal profession so as to integrate women within it” (1998: 250). As mentioned before, education is an important aspect in this process and throughout time, women start to be a part of the teaching side of law. Bowman and Schneider also draw attention to this participation, but they suggest that “although the presence of women teachers in the law schools had a huge impact in mobilizing, energizing, and supporting a

younger generation of women entering the legal profession to do this work, the theories of equality and the federal Equal Rights Amendment emerged primarily from the practical demands of activist efforts at lawmaking” (1998: 251). This statement underlines the importance of activist efforts, and thus the role of activist lawyers, in dealing with issues related to women’s rights. Regarding these discussions, it can be also suggested that women activist lawyers viewed law as a tool for change.

Babcock (1998: 1705) suggests that one major theme in women’s legal history is “the necessity of feminism”. Her following quote points to the significance of feminism for lawyers, especially women lawyers “need” to approach issues through feminism:

For the movement to progress beyond self-interested promotion and even beyond a quest for formal equality, it must place women at the centre of thought and action. Feminism can transform the professional lives of most lawyers by making the resolution of ‘this conflict between gender and professional identity’ a group, rather than an individual, effort. No less sweeping an ideology will suffice because of the conservative nature of the legal profession (Babcock, 1998: 1705).

Feminist women lawyers’ struggle against violence against women were supported by international agreements and conferences. Copelon (2003) mentions the “Vienna Conference” (1993) as an important step in the feminist movement by contending that

a burgeoning and irrepressible international feminist women’s human rights movement coalesced and identified violence against women, by intimates and officials alike, as a priority issue of human rights in its preparations for the 1993 World Conference on Human Rights in Vienna (“Vienna Conference”) (2003: 866).

According to Copelon (2003: 866-7), the Vienna Conference was an important turning point, not only because it defined violence against women as a human rights issue, but also because it brought the issue of violence against women to an international degree which meant taking the problem from being a personal/private issue and turning it into a public/political issue.

Although it is possible to see the efforts of women lawyers in employing law as a tool for fighting against violence against women, this was not an easy task.

Kannabiran (2013: xviii) dwells on the vulnerability of the issue of laws related to women's rights. She argues that transforming laws to include women's rights "clearly sit[s] at the intersection of two hegemonic superstructures: patriarchy and the law and it is, therefore, predictably a vulnerable space" (2013: xviii). Based upon the case of India, she contends that applying constitutional principles to the private domain, the family and the home, is an important step which "has often been resisted by lawmakers and the judiciary" (2013: 1). It can be argued that this is not only valid for the case of India. On the contrary, it has always been difficult to enter the private domain the family and the home; especially when it meant that the state could interfere into the family with the claim of women's rights. It would not be incorrect to argue that this has been a major obstacle in the way of activist lawyers who wanted to create laws and make reforms.

The above-given discussions show that women's entrance to the legal profession took place slowly and perhaps cautiously at the beginning and as the number of women lawyers increased, they started making changes in the legal domain with regard to women's rights, and became insistent and decisive in their struggle. According to Michelson's (2013) latest study it is observed that:

[D]ata from eighty-six countries confirm that, from a global comparative perspective, a country's population of lawyers relative to its population—what I refer to as lawyer density— fundamentally conditions women's representation in its legal profession. Many countries around the world have achieved neither high lawyer densities nor high levels of lawyer feminization. They tend to be less developed and less urbanized (Michelson, 2013: 1101).

Therefore, it is important to underline that this process of women's entrance to the legal profession did not take place in the same speed and same way in different countries, related to the social dynamics in those places.

Strategies and tactics for dealing with the issue of violence against women value a struggle for reforms and transformations in the legal domain. As Lombard and McMillan (2013) indicate, women's protection from violence can be partially achieved through "criminal and civil laws and agents of the criminal justice system" (2013: 241). Regarding this necessity many studies have also started focusing on

legislative dimensions of the issue of violence against women. Such a focus of interest is important for this thesis as well, because, in Turkey too women lawyers are seen to have a central role in struggling against violence against women in the legal domain.

Feminist women lawyers aiming to transform the existing laws related to violence against women point to the importance of law and the ways law affects violence against women and how this social problem is perceived in the society. Schneider elaborates on this point by suggesting that

Exploration of the role of feminist lawmaking must take account of the many dimensions of law. First there is its concrete and material impact—the actual effect it has on people’s lives. Then there is its symbolic level—the role that law plays in expressing, embodying, and shaping social messages. Law must also be understood as having a role in constructing social and cultural life and producing cultural meanings and identities (2008: 57).

The relation between lawmaking and feminist lawyers is crucial for my study as well as women lawyers are accepted to have mediatory role between the issue of violence against women and the legal domain. Therefore, suggesting that laws construct social and cultural life highlights the importance of lawyers due to their access to the lawmaking mechanisms.

Women lawyers’ contributions to employ law as a tool for fighting violence against women are not limited to the lawmaking process or the transformation of the legal regulations. It is also important to note that women’s participation into the legal domain and their involvement into the legal profession also have positive changes in the outcomes of trials. Askin (2004) provides good proof of this when she uses example cases in international courts which “demonstrate that female judges, investigators, prosecutors, and translators, particularly those with expertise in gender crimes, are extremely useful in the prosecution of gender crimes” (2004: 19).

Studies reviewing and criticizing the reforms in the legal systems also exist in the literature. For instance, Caringella (2009) examines the rape law reforms in the US and suggests that there is a lack of improvement with regard to treating sexual

assault cases. “In fact, resistance, corroboration, and sexual history – which are outdated concepts that have no bearing on whether and assault actually occurred – have still not been completely prohibited from case files and courtroom testimony” (as cited in Miller, Iovanni & Walden, 2011: 279).

Studies conducted in Turkey, similar to these studies conducted elsewhere, emphasize the importance of laws and legal regulations in attempting to reduce/overcome violence against women. For instance, Öden (2012) suggests that:

The state is responsible for taking precautions which will protect women from violence, that is to say setting up executive and judicatory protection mechanisms by making laws, and making sure that these foreseen precautions are enforced accordingly in concrete cases (2012: 83)<sup>1</sup>.

A major discussion point for the case of Turkey is based on reviewing the recent changes in the laws in relation to violence against women. For instance, the law on the protection of the family which was accepted in 1998 is important due to its direct adscription to the phenomenon of domestic violence and bringing protective measures towards women who are subject to acts of violence (Uluocak et al., 2014: 60). As Karınca states (2011: 36-37), constitutional amendments being added, such as the one who states “Nobody can be tortured or tormented; nobody can be subjected to a punishment or treatment that does not comply with human dignity”<sup>2</sup> draws attention to the fact that violence against women will not be legitimate. One of the more recent legal regulations was the law accepted on 8th of March, international women’s day, 2012; the law no. 6284, the Law Related to the Protection of the Family and the Prevention of Violence Against Women. “This law was aimed at bringing reformations in the processes of reporting, revealing,

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<sup>1</sup> My translation from the Turkish translation: “Devlet, kadınları şiddete karşı koruyacak önlemleri almak, yani kanunlar çıkararak idarî ve yargısal koruma düzeneklerini kurmak ve öngördüğü önlemlerin somut olaylarda gereğince uygulanmasını sağlamakla yükümlüdür.” Öden, M. (2012). “Türk Anayasa Hukukunda Devletin Kadınları Ev-içi Şiddete Karşı Koruma Ödevi”, *Kadınların ve kız çocuklarının insan hakları: Kadına yönelik şiddet ve ev-içi şiddet*. (haz.) Kaya, F., Özdemir, N. & Uygur, G. (2014): 83. Ankara: Savaş Yayınevi

<sup>2</sup> My translation from Turkish: “Kimseye işkence ve eziyet yapılamaz; kimse insan haysiyetiyle bağdaşmayan bir cezaya veya muameleye tâbi tutulamaz” – 17. Maddenin üçüncü fıkrası.

preventing, protecting victims and punishment of violence against women. It was expanded to include the situations other than ‘civil marriage/living under the same roof/being in an intimate relationship’” (Özkara & Can, as cited in Uluocak et. al. 2014: 61).

Oktay (2015: 96) views the recent changes and reforms in Turkey related to women’s rights to be the result of the independent women’s movement. These changes and reforms refers to laws as well as services provided to victims of violence such as call centres or women’s shelters. She touches upon the Commission of Women Men Opportunity Equality which was formed under the Great National Assembly of Turkey (TBMM) in 2009 and argues that this was an important step in putting women-men equality to practice and developing solutions to problems which implied that women-men equality was approached by the highest level of state in a serious manner (Oktay, 2015: 97).

The literature on Turkey also tends to focus on international agreements such as the “Declaration on the Elimination of Violence against Women” which was declared in 1993 and “The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)” which was approved by Turkey in 1985 and went into effect in 1986, or the Istanbul Convention. I will discuss the details of these international agreements further in this thesis under the title of “Legal Framework”.

Despite the efforts of feminist lawyers in dealing with the issue of violence against women in the legal arena, it is discussed that there are still necessary alterations to be made in the legal systems. Marmion (2006) has offered a wide range of advice on needed legislative, legal and criminal justice system reforms with the aim of eliminating violence against women such as:

Screens and closed-circuit television should be available and considered for women complainants in sexual assault cases, when they give evidence in court. Cross-examination of rape and sexual assault complainants must be strictly regulated so as to minimize the trauma of giving evidence. It is unacceptable for any women to be left feeling as if she has been “raped” again by lengthy, confusing, embarrassing, or intimidating questioning by counsel or defendants (Marmion, 2006: 160).

Marmion's quote points to the fact that the struggle given in the legal area for dealing with violence against women is not a finished one. There are still many improvements and changes needed to be done, not only in defining the laws, but also in the carrying out of these laws and the whole process of carrying experiences of the violence victims to the legal domain. Women lawyers' role therefore remains crucial.

It can be seen from the existing discussions that researchers have explored the legal system and suggested ways to improve the laws and practices in relation to violence against women. The role of activist feminist lawyers cannot be denied in this process. However, there are also many who note that violence against women is composed of complex dynamics and it is rooted in the society's structured gender inequality which means that "the criminal justice system alone will not solve the problem" (Miller, et al. 2011: 281). As Copelon suggests, "Dealing only with violence rather than with the broader underlying social, economic, cultural and racial discrimination, as well as poverty, all of which perpetuate the conditions for gender violence, is to focus on the tip of the iceberg" (2003: 876). Still, as argued before, violence is an issue that cannot be separated from the aspect of law and this thesis will contribute to the literature by examining women lawyers' discourses related to violence against women by taking into consideration their positioning and approach towards this issue in Turkey which will provide insight on the practical aspect of the legal system.

## **1.2. Design of the Research and the Narrative Structure of the Study**

A major assumption in this thesis is that women lawyers experience gender inequality in many aspects of their private lives; and this thesis seeks to explore whether the experiences of their gender identities and daily lives affect their approach the issue of violence against women. Additionally, it is an attempt to examine whether women lawyers' evaluations towards violence against women alter in relation to the related cases which they handle. The main aim of this thesis can therefore be specified as an inquiry into whether/how women lawyers' daily life experiences outside the legal domain and their experiences within the legal domain

when handling cases of violence against women affect their approaches to violence against women.

In order to explore how women lawyers approach cases of violence against women that they handle, I conducted semi-structured in-depth interviews with fifteen women lawyers who deal with violence against women. Johnson (2002: 206) argues that in-depth interviewing “begins with common-sense perceptions, explanations and understandings of cultural experience” and he goes on to argue that “[it] aims to explore the contextual boundaries of that experience or perception, to uncover what is usually hidden from ordinary view or reflection or to penetrate to more reflective understandings about the nature of that experience” (Johnson, 2002: 106). Following Johnson’s contention about in-depth interviewing I also asked open-ended questions to understand how the interviewee’s personal and professional experiences affect their approaches the issue of violence against women, how they interpret the laws and practices of these laws, and how they comment the recent changes and transformations in the legal system of Turkey in relation to violence against women (for the pre-structured questions of interview, See Appendix 2).

I have also attended to five courtrooms where cases of violence against women took place in order to observe the lawyers’ discourses within the courtrooms as well. I chose the trials according to the suggestions of the interviewed lawyers who had trials involving violence against women within the time period of my study. All of these cases were the ones which had been handled by some of the interviewed lawyers. During these trials, as well as the contents of the cases I also tried to observe the gestures, body languages, used language (whether it is masculine or feminine), clothing, tone of voice of the lawyers and their relations with their attorneys. Starting from September 2015 to April 2016, I have carried out my research. Although the time-span of the field was intended to be shorter, developments such as the Ankara Bombings which happened on the 10<sup>th</sup> of October 2015 led to changes in lawyers’ schedules and the time-span expanded accordingly.

The lawyers who volunteered took part in this study were contacted personally by myself. I resorted to four organisations which deal violence against women cases. These are *Gelincik Centre (Gelincik Merkezi)*, a centre which was constituted in 2011 as a voluntary project for providing women victims of violence with legal, social and psychological assistance; HRA (Human Rights Association – *İnsan Hakları Derneği*); The Foundation of Women Solidarity (*Kadın Dayanışma Vakfı*); Turkish Women’s Association (*Türk Kadınlar Birliği*). I also contacted lawyers whom my friends and colleagues personally knew, and these were women lawyers who are also working with ICC (International Children’s Centre) and other lawyers who give courses in Centres of Family Counselling (these are private centres which provide education for graduates of psychology, sociology, medicine etc. and the possibility to achieve a certificate of “Family Counsellor” to those who succeed in the related exam of the Ministry of National Education). In the above-mentioned places which I visited and the lawyers that I contacted, I made interviews with the lawyers who (contacted me back and) voluntarily accepted to take part in this study. The lawyers whom I interviewed also suggested other lawyers dealing with violence against women who would possibly like to take part in the study, thus the sample expanded through such networks with a kind of reference system. The interviews usually took place in locations in which the lawyers preferred, generally in their office or a coffee shop near the Ankara Courthouse where they felt themselves more comfortable.

The women lawyers who were interviewed for this study were working as lawyers for at least seven, and at most thirty-four years. I indicated the profile of the lawyers that I have interviewed in a table in the Appendix 2, by using pseudonyms in order to maintain anonymity, by also indicating the dates of interviews.

The second part of the fieldwork in this study, as previously mentioned, consists of the observation of courtrooms in which open trials involving violence against women took place. The courtrooms were randomly selected by the lawyers’ cases. I asked the lawyers whom I interviewed whether they had any cases which had trials during the time span of the study and was able to observe 5 courtrooms relatedly.

One of these cases was in a Criminal Court and the other four were in Family Courts, all of them taking place in the Ankara Courthouse.

Including the interviews and courtroom observations into the analysis, I aimed to combine spoken and non-spoken dynamics both during the interviews and courtrooms in trying to understand women lawyers' experiences. By focusing on how women lawyers evaluate their own experiences particularly in handling cases of violence against women, I tried to understand their discourses about, and approach to violence against women and how they position themselves when they are handling these cases. I tried to grasp how they approach the issue, how they evaluate this issue in a broad sense both as women themselves and as legal professionals.

A feminist standpoint perspective was adapted in analysing the data conducted from the interviews and the courtroom observations. Three major themes in standpoint theory constitute the reasons for adopting a feminist standpoint approach. These are; (1) the claim that in order to understand social relations, the knowledge of the oppressed must be grasped; (2) making woman the subject of knowledge through a focus on experience; and (3) an awareness of the differences among women's experiences and intersectionality. Standpoint theorists, acknowledging the diversity among women, aim to use this partial and situational knowledge to understand the larger social dynamics. As Lenz explains, even though standpoint theory starts from the perspectives of the oppressed or marginalized peoples, it accepts the diversity of individual experiences and the interpretations of those experiences between any social group; and these variations "rather than mitigating the possibility for wider application, in fact deepen and strengthen our understanding of the positions at which various forms of oppression intersect" (2004: 100). Thus, being aware of the possible differences among the women due to their multiple identities and multiple experiences, a feminist standpoint approach requires putting women's experiences forth for reaching situated knowledges.

When analysing the experiences of women lawyers handling cases of violence against women, it is assumed that women lawyers are actually more aware of their gender identity and their experiences of gender inequality in performing their legal profession because, as Martin, Reynolds, and Keith (2002) suggest, “they occupy a devalued gender status and, as a result, have more negative experiences [and] these experiences impel women, more than men, to develop a feminist consciousness and that this gender difference has implications for the legal institution” (2002: 666). I will analyse whether women lawyers handling cases of violence against women develop a feminist consciousness and whether this has any consequences on the legal institution through a feminist standpoint, because adapting a feminist standpoint would claim that the discrimination which women lawyers experience will make them more sensitive to gender-based, unequal dynamics of the legal system where the struggle against violence against women takes place.

I organized the narrative structure of this study according to the imperatives of the findings of the research. Chapter 2 focuses on women’s process of becoming lawyers who handle cases of violence against women. I tried to elaborate this process in terms of why they chose this profession, how they define “being a lawyer” and why they decided to take on cases of violence against women. I also tried to examine their opinions on the concepts of “violence” and “violence against women”. In Chapter 3, I aimed to explore women lawyers’ interpretations of how other legal professionals approach cases of violence against women and their evaluations on the legal reforms and regulations related to violence against women. In Chapter 4, I tried to analyse women lawyers’ professional experiences of dealing with violence against women in relation to their women identities. How women feel the effects of being a woman in dealing with violence against women in their legal profession is discussed taking the concept of “double consciousness” into consideration. Moreover, their relationships with their clients are elaborated through the concept of “trust”. Finally, in the part of Conclusion, I tried to evaluate the answers of the main questions of this study by also providing a short summary of the study. I mainly focused on the major arguments of the thesis such as how the daily lives and

professional lives of women lawyers shape their discourses on violence against women, and tried to suggest a further debate on whether/how women lawyers' existence in the legal profession changes the legal profession and vice versa, and whether/how women lawyers (will) change the masculinist traditions of the legal profession.



## CHAPTER 2

### BECOMING A WOMAN LAWYER: MOTIVATIONS, EXPECTATIONS AND FRUSTRATIONS

Understanding why women choose to become lawyers, how they define “being a lawyer” and why they decide on handling cases of violence against is important, because it reflects how they approach the issue violence against women, how they view law in the point of dealing with violence against women, their motivations and even how they perform their profession. In this part of the thesis, I will analyse women’s reasons for entering the legal profession and handling cases of violence based on the answers they have given to questions such of “when, how and why did you become a lawyer”, “what does it mean to ‘be a lawyer’” and “what are the reasons behind your handling cases of violence against women”. However, in order to understand the process of how women lawyers achieve the title of “lawyer”, I will first provide a background on the education of law in Turkey.

#### **2.1. Education of Law in Turkey**

I think that to understand how women lawyers have completed their training to become lawyers is significant to explore their standpoints and how they approach the issue of violence against women. Instead of giving a historical account of how the education system related to law has evolved from the Ottoman Empire to contemporary Turkey, this part of the thesis will provide information on the contemporary education of law and how one acquires the legal profession in Turkey.

The compulsory education in Turkey lasts for twelve years, from ages six to eighteen. Once their compulsory education is complete and they graduate from high school, students can take the national university-entrance exam – ÖSYS (Öğrenci Seçme ve Yerleştirme Sınavı – *Student Selection and Placement Exam*). Students can then make a list of their enrolment choices (department and university)

depending on their scores from ÖSYS, and are placed according to their nationwide ranks. The faculty of law, regardless of the university, requires high achievement rates. As Lonbay and Toprak (2014) have explained,

the ÖSYM [Öğrenci Seçme ve Yerleştirme Merkezi – Student Selection and Placement Centre] handles all examination and placement issues. In accordance with the numbers of students that YÖK [Yüksek Öğretim Kurumu – Higher Education Council] has assigned to faculties, the ÖSYM asks students for a preference form and places students depending their success ratings. For example, last student placed to Ankara University Law Faculty was in 5,360th place from among 1,920,000 students. The best law faculties accept only the candidates with the highest grades (2014: 48).

There are currently 193 universities in Turkey. 109 of these universities are public state universities and 84 are private (foundational) universities. Among all the universities in Turkey, 64 of the public state universities and 44 of the private universities have departments of “law”<sup>3</sup>. The basic education period in these departments is four years. Depending on the university, students may study one extra year of preparation where they take courses related to the English language before they start the law department. The education given in law departments are not regulated by state institutions such as YÖK or the Ministry of Education, and courses taught in departments of law may vary from one university to another.

After students graduate with a degree in law, they are required to complete an apprenticeship to be able to become a lawyer and this lasts for one year. The first half of this apprenticeship is carried out in the courtrooms, and the second half is carried out in the law office of a lawyer who has been working professionally for at least five years. During the apprenticeship, the trainees are expected to carry out tasks, assignments and participate in seminars. At the end of their apprenticeship, graduates of law apply to the Bar Association, notifying that they have finished their internship, and if the Bar Association finds the application satisfactory, they provide a “lawyer certificate”. They are then free to choose the domain that they want to work in, or the cases which they want to handle. The latest statistics related to the rates of women who study in the Faculty of Law nationwide was provided by ÖSYM

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<sup>3</sup> Retrieved from <https://istatistik.yok.gov.tr/> on 20.05.2016

based on the year 2012. According to these data<sup>4</sup>, the number of women enrolled in Law Faculties is 48%, and the number of women who graduated from Law Faculties is 53%. Although these rates show that there is an approximate equality between men and women students of law, statistics show that this equality is not conserved in the professional domain.

The latest statistics of the Union of Turkish Bar Associations (*Türkiye Barolar Birliği*) in December 2014<sup>5</sup>, demonstrate that the number of women lawyers is significantly lower than men lawyers. To specify, 40% (35216) of the lawyers in Turkey are women and 60% (86981) are men. For Ankara, this gap decreases only a little. Among 5407 of the 12299 lawyers in Ankara, which makes 43%, are women<sup>6</sup>. When compared to the statistics of the previous year<sup>7</sup>, the number of women lawyers in Turkey increased 10% whereas the number of men lawyers increased only 4% within the last year. Therefore, it is seen that even though the percentage of women lawyers is increasing with time, their numbers remain at a lower rate compared to men.

The rates of women legal professionals who occupy higher positions as prosecutors and judges is much lower compared to men and also women lawyers. According to the data from the Ministry of Justice in 2015<sup>8</sup>, women constitute only 7,1% of the public prosecutors, and 35% of the judges. These statistics indicate that professionalization in the legal arena is still male-dominant in Turkey. Although the number of women lawyers is increasing and is now above 40% nationwide, higher positions are still occupied by men with rates up to 94%.

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<sup>4</sup> Retrieved from: <http://www.osym.gov.tr/dosya/1-69402/h/13ogretimalanlisansogrencisay.pdf>

<sup>5</sup> Retrieved from: <http://www.barobirlik.org.tr/Detay.aspx?ID=39218>

<sup>6</sup> See Appendix-1 for a table on the numbers of women and men lawyers in Turkish Bar Associations conducted with the data from <http://www.barobirlik.org.tr/Detay.aspx?ID=39218>

<sup>7</sup> Retrieved from: <http://www.barobirlik.org.tr/Detay.aspx?ID=22793>

<sup>8</sup> Retrieved from:  
[http://www.adliscil.adalet.gov.tr/istatistik\\_2015/PERSONEL%20SAYILARI/3.pdf](http://www.adliscil.adalet.gov.tr/istatistik_2015/PERSONEL%20SAYILARI/3.pdf)

## 2.2. Choosing to Be a Part of the Search for Justice

Three common points emerged in the answers which the respondents gave to the question of why they chose to become lawyers. The first common point was that being a lawyer was their “dream job” ever since they were little, mainly with the motive of defending rights. Secondly, despite being happy with their occupation in the general sense, most of them also touched upon their disappointment in practicing the job, suggesting that it is not the same as they imagined it would be. Thirdly, regardless of this disappointment, the women lawyers expressed that they recommended, and would still recommend their profession to their daughters and their friends’ daughters. Yasemin’s quote is a representative of how the interviewed women lawyers explain their will to choose the legal profession:

It was my ideal to become a lawyer since I was a child. I made only one enrolment choice as I was going to university. I graduated from Ankara University, Faculty of Law and I had never thought of another profession. I started so willingly, so fondly, so excitedly. I still love my job. I forced all of my friends’ daughters to take the education of law, because I think law is a very important education especially for girls. But, the judicial system in the country is unfortunately so bad and decadent, so I cannot perform my occupation in the way that I love and think\*<sup>9</sup> (Yasemin).

To start with, 12 of the 15 women whom I interviewed pointed out that they “always” wanted to become a lawyer. Despite their will to become attorneys from an early age, none of them suggested that there was a lawyer in their family who they took as a role model. When asked “why” they always wanted to become a lawyer, their answers were centred around the notion of “defending the rights of others”. They explained that they found it “honourful” and important. This implies that they value the attributed social meanings of the occupation. For that matter,

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\* I have provided the original Turkish quotes from the interviewees’ responses in the footnotes throughout the thesis in order to prevent any meaning lost in the translation. From this point on, all the translations of the quotes in the footnotes belong to me.

<sup>9</sup> “Çocukluğumdan beri idealimdi benim avukat olmak. Üniversiteye girerken tek tercih yaptım. Ankara Hukuk Fakültesi mezunuyum ve başka hiçbir mesleği zaten hiç düşünmemiştim, aklıma bile gelmemişti. Çok severek, çok isteyerek, çok heyecanla başladım. Mesleğimi hala seviyorum. Bütün arkadaşlarımla kız çocukları için hukuk tahsili yapınlar diye çok zorladım, çünkü ben özellikle kız çocukları için çok önemli bir tahsis olduğunu düşünüyorum hukukun. Ama ülkede yargı sistemi ne yazık ki çok kötü ve çökmüş durumda olduğu için avukatlık mesleğimi sevdiğim ve düşündüğüm gibi icra edemiyorum.”

none of the respondents touched upon the economic income aspects of the occupation. Hasret was the only one who suggested that she could follow different paths after taking a legal education:

The reason for my wanting to become a lawyer ever since I knew myself was that it would open many doors. After graduating from the law faculty, I could become a diplomat, a journalist, a banker, a lot of things. But the reason I chose to be a lawyer was because of that. But I am so happy with this now, I'm so glad I chose it. My spiritual emotions are really being satisfied as justice is being served.<sup>10</sup>

Therefore, it can be suggested that the women lawyers who were interviewed chose this occupation with the aims of helping others, helping justice to be prevailed. and due the positive meanings attached to the occupation of attorneyship. Kay and Gorman's (2008) argument shows us that such a motivation is common among women who study law. Their literature survey shows that "[W]omen are more likely than men to begin law school with a motivation to serve others or bring about social justice and are more likely to plan to work in a government or public-interest setting, rather than a private firm" (cited in Kay and Gorman, 2008: Carroll & Brayfield 2007, Garrison et al. 1996, Guinier et al. 1994, Homer & Schwartz 1989, Krauskopf 1994, Mattessich & Heilman 1990, Schleef 2000, Teitelbaum et al. 1991). They also show that "Women also appear to be more likely than men to report a sense of subjective alienation from law school cited (cited in Kay and Gorman, 2008: Granfield 1992, Homer & Schwartz 1989, Weiss & Melling 1988) (2008: 301-2).

However, I have observed that just after explaining their motivations for deciding to become lawyers, the respondents tended to express their disappointment with the actual experience of the profession, as Kay and Gorman have also signalled in their above-given argumentation. 10 of the 15 women respondents clarified that working as a lawyer was indeed "not what they expected". This disappointment did not stem from their personal experiences or their gender identities. Rather, they all criticized the existing legal system and how it failed to serve justice as they had expected. The

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<sup>10</sup> "Kendimi bildikten sonra avukat olmayı istememin sebebi birçok kapıyı açacak olması. Hukuk fakültesini bitirdikten sonra diplomat, gazeteci, bankacı, birçok şey olabilirdim. Hani seçmemdeki neden buydu. Ama şu anda da çok mutluyum, iyi ki bunu seçmişim. Hak yerini buldukça gerçekten manevi duygularım çok tatmin oluyor."

following quote, from a respondent with 19 years of experience as a lawyer, summarizes the common argument of the interviewee's in this sense:

When I chose the faculty of law, I entered with the idealism that I could really be a part, a mediator of a search for justice. There is a big difference between what I imagined and what I found. Right now, in the present conditions, I do not think being a lawyer is useful for anything, to tell the truth; because when you see what it serves from the inside, your motivation is affected in a very negative way. I mean it doesn't seem to really help serve justice, to really help defenceless, fragile groups whose rights have been violated to reach justice. But still, it is a tool for us. I try to use the potentials which it offers to the full extent (Öykü).<sup>11</sup>

Other respondents also stated their mistrust in the legal system. While one of them suggested this was because it was "a law of capitalism, a law of the bourgeoisie" (Damla), another respondent suggested that "the law in Turkey is still unsettled" (Nevin). Even though they used different words to express it, these women lawyers claimed that being a lawyer was not how they expected it, due to the problems in the existing legal system itself.

Women's disappointment after choosing the path to become a lawyer is also explored by others. The study of Jack and Jack (1988), for instance, shows that it was likewise the case for American women who were studying in the Yale Law School.

As women experience a clash between their values and those of the legal game, they are beginning to express discomfort ... a number of female and minority law students documented their "dissatisfaction and alienation" in an open letter to the law school community. ... they identified alienation as the opposite of feeling "connectedness, belonging, engagement." Noting their success as law students, the women asserted that "for many this success comes at a price, paid gradually and often silently, of alienation and disillusionment." (1988: 938).

Thus, it can be suggested that women experience a clash between what they hope to become a part of and what they were faced with when actually practicing the

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<sup>11</sup> Okulu seçerken gerçekten bir adalet arayışının parçası olabileceğimi, aracı olabileceğimi düşünerek bir idealizmle girmiştım. Hayal ettiğimle fiilen bulduğum avukatlık arasında büyük bir fark var. Şu an mevcut halde avukatlığın çok işe yarar bir şey olduğunu düşünmüyorum gerçeği söylemek gerekirse. Çünkü neye hizmet ettiğini içinde de bulunup daha yakından görünce insanın motivasyonu çok olumsuz yönde etkileniyor. Yani gerçekten adalet dağıtmaya, gerçekten savunmasız, kırılğan, hakları ihlal edilmiş grupların haklarına kavuşmasına yaramıyor gibi görünüyor yani sonuç olarak bu böyle. Ama yine de bu bizim için işte dediğim gibi bir araç. Onun verdiği olanakları sonuna kadar kullanmaya çalışıyorum.

profession of law. However, this clash, or this disappointment, does not lead to their disliking the job, or regretting their choices to become lawyers. Epstein (1993: xii) also opens up this discussion about how women in the legal profession feel dejection about the legal system. He goes on to say that still, law remains to be a high-priority choice for women and “women who entered legal careers found they were unhappy with the law, or that the profession demanded more commitment than they wished to give, but many young male attorneys shared these attitudes (1993: xii)”. This argument implies that women’s dissatisfaction with the legal profession is embedded in the dynamics of the legal system rather than their personal experiences related to their gender identities. However, it might be important to suggest that individuals’ expectations from the legal profession might also alter in relation to their gender, and further research could elaborate on the differences between women and men lawyers’ expectations from the legal profession.

The last common point in the respondents’ answers to why they chose the legal profession demonstrates that women value their profession even though they accept its deficiencies. This point is that they recommend it to the next generation’s women. Here, it is possible to see a gendered perspective in their approach to being a lawyer. After explaining their reasons for becoming a lawyer, the respondents stated that they encourage their daughters or young girls whom they know to become lawyers as well. Nesrin expresses this in the following way;

No matter what, knowing law is a very good thing. Because sooner or later, that information tells you “*Ya*<sup>12</sup>, I can fly with these wings”. Hence, I have always been glad to be a lawyer. I also told my own daughter, this is a good education, take it. My daughter has just become a lawyer.<sup>13</sup>

Other lawyers who were interviewed also said they recommend the legal profession to the girls they know. The reason for this is that they see the legal arena as a platform to defend the rights of the oppressed and the discriminated groups. They

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<sup>12</sup> An exclamation in Turkish which intensifies the meaning.

<sup>13</sup> Ama ne olursa olsun hukuk bilmek çok iyi bir şey. Çünkü er ya da kaç o bilgilerin sana diyor ki “ya ben bu kanatlarla uçarım”. Dolayısıyla avukat olmaktan hep memnun oldum. Kendi kızıma da dedim ki iyi bir eğitimidir bu, al. Kızım da yeni avukat oldu.

suggest that women need to have knowledge of the law, in order to be able to defend their *own* rights. They view it as a tool in women's struggle.

From the answers that women lawyers gave to the questions of “why, when, and how did you become a lawyer”, it can be suggested that being a lawyer was a future they planned for long years. Although when they accomplished their will to become a lawyer, they experienced some disappointments as to how the legal arena was not indeed helping justice to be served as they had hoped. Still, women's dissatisfaction with their experiences in the profession does not mean they give up on it. Instead, women try to transform and change what they view to be the negative sides of the profession. I will discuss these struggles of women lawyers in the following chapters. To sum up, these women accept the importance of the profession and view it as a crucial tool for struggling for women's rights, and suggest it to the women of the next generation. In a sense, women are willing to become a part of the legal system which they criticize in order to help carry out their ideals of defending the rights of the oppressed.

### **2.3. Meaning of Being a Lawyer**

In the Legal Profession Act<sup>14</sup>, the profession of advocacy is defined as “a public service and a self-employment profession”<sup>15</sup>. However, how lawyers define their work is important in order to understand how they perceive their profession and their position in the legal arena, and it will also provide insight about the motives behind their carrying out the profession. From the answers of the interviewed women lawyers to the question of “what does it mean to be a lawyer?”, it can be suggested that their definition of being a lawyer centre around two major aspects. The first is “defending of rights”, and the second is the “mediatory position” of the lawyers between the law and the individuals who need legal guidance.

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<sup>14</sup> Retrieved from : [http://www.barobirlik.org.tr/mevzuat/avukata\\_ozel/avukatlik\\_kanunu/1136sayiliAvukatlikKanunu.pdf](http://www.barobirlik.org.tr/mevzuat/avukata_ozel/avukatlik_kanunu/1136sayiliAvukatlikKanunu.pdf)

<sup>15</sup> My translation from: “Avukatlık, kamu hizmeti ve serbest bir meslektir.”

Women lawyers tend to define being a lawyer in relation to its right-defending aspect. This was actually the reason for their choosing the legal profession, as discussed in the previous part of the thesis. To illustrate, for Gülfidan, “being a lawyer is being a rights-defender. I also define myself someone who gives a struggle for rights, who defends rights”<sup>16</sup>. However, this right-defending takes place within the defined sets of “rights”; and law is connected to the political in that sense. What is defined to be a right and therefore has the possibility to be defended is connected to the relations of power. As Waldron (2004) suggests, the jurisdiction, legal reasoning and the practice of law are connected to the political culture of a certain society (2004: 352). In a way, transforming the laws means transforming the embedded social meaning in a society. The respondents assert that they feel limited in that sense, suggesting that they do what they can within the framework of what is offered by the law. The following quote from one of the respondents clarifies this point:

We only try to make the existing laws be enforced better. Actually, being a lawyer should be related to the task of creating new law, not just defending; this is what we aim and what we want. However, the cases are so drastic and the circumstances are so heavy that we cannot spare much labour and time in the areas which we mostly want to. We only struggle to defend rights in the existing legal regulations. It is the same whether you are a lawyer, or an activist. The aim of being a lawyer here is just that it is easier to reach certain places, it brings the right to examine documents and files. Other than that, we face the similar obstacles that other activists face, especially in the domain of women’s struggle. Perhaps we are one step ahead of them (Nevin).<sup>17</sup>

It can be seen from Nevin’s assertion that women lawyers cannot focus on transforming the laws, which should actually be part of being a lawyer. The

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<sup>16</sup> “Avukat olmak, hak savucusu olmak. Kendimi de hak mücadelesi veren, hak savunuculuğu yapan biri olarak tanımlıyorum”.

<sup>17</sup> “Biz sadece mevcut yasaları daha iyi uygulamaya çalışıyoruz. Aslında avukatlık sadece savunmak değil, yeni hukuk yaratmakla da görevli bir meslek olmalı, bunu da amaçlıyoruz, bunu da istiyoruz; ama davalar o kadar zorlayıcı ve koşullar o kadar ağır ki bu asıl yapmak istediğimiz alanda çok fazla emek ve zaman ayıramıyoruz. Sadece mevcut hukuksal düzenlemeler içerisinde hak arama mücadelesi veriyoruz. Bu avukat olsanız da, herhangi bir aktivist olsanız da aynı. Avukat olmanın amacı burada sadece bazı yerlere daha kolay ulaşmak, belgeleri ve dosyaları inceleme hakkına sahip olmayı getiriyor. İşte itirazlarımızı yapma hakkı getiriyor. Onun ötesinde, özellikle kadın mücadelesinde diğer aktivistler hangi engellerle karşılaşıyorsa avukat olarak biz de aslında benzer engellerle karşılaşıyoruz. Onlardan bir adım önde oluyoruz belki.”

participation in the lawmaking process is actually what makes the roles of lawyers in overcoming issues related to women's rights, including the struggle violence against women. Schneider also mentions feminist lawmaking, women lawyers who struggle to make changes in the legal definitions with the aim of overcoming violence against women. According to Schneider,

assertion of rights can move a political struggle forward by revealing theoretical contradictions and dilemmas in political vision. Feminist lawmaking on battering has revealed fundamental issues of definition, identity, and strategy concerning the problem of woman abuse. It has exposed the complexity of cultural and legal descriptions of battered women's experiences, and has highlighted tensions in the concepts of public and private. The assertion of rights claims may assist in the growth of legal and political consciousness and simultaneously reveal the limitations of legal change (2008: 34).

To connect Schneider's argument with the interviewed lawyers' answers, it could be seen that women lawyers describe lawmaking as a feature of being a lawyer and a tool for struggling for women's rights. They are aware that law can be used as a tool to struggle against violence against women and defining laws is significant in this sense. However, they also express the difficulty of carrying out this side of their profession. Therefore, when defining what it is to be a lawyer, they explain what *they* are doing is limited to "defending rights" even though it should include more participation into the lawmaking process.

The aspect of defending rights, surely, is associated with the mediatory position of lawyers. The Legal Profession Act itself states that "Lawyer allocates his/her<sup>18</sup> legal knowledge and experience to service of justice and utilization of persons"<sup>19</sup>. Lawyers provide individuals' access to law. Women lawyers also touch upon this point when defining what being a lawyer is. For instance, Emine expressed her opinion on this by suggesting;

We live in a society and there are certain rules. Not everybody has to know these rules and they realize these rules only when they come across them. However, we

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<sup>18</sup> In Turkish, personal pronouns do not clarify any gender.

<sup>19</sup> "Avukat ... hukuki bilgi ve tecrübelerini adalet hizmetine ve kişilerin yararlanmasına tahsis eder". Retrieved from: [http://www.barobirlik.org.tr/mevzuat/avukata\\_ozel/avukatlik\\_kanunu/1136sayiliAvukatlikKanunu.pdf](http://www.barobirlik.org.tr/mevzuat/avukata_ozel/avukatlik_kanunu/1136sayiliAvukatlikKanunu.pdf)

are at the point of knowing these rules beforehand and asking how we can help them, how we can show them the way. I think this is being a lawyer.<sup>20</sup>

What Emine suggests is also supported by the KSGM report<sup>21</sup> on domestic violence against women, as it suggests that women might even choose not to take their experience of violence to the legal arena because they do not *know* how it works, they do not know their rights. Women lawyers therefore provide guidance to the women who seek a legal struggle.

Thus, it can be argued that women lawyers define being a lawyer as “defence of rights” and while doing this, they claim that they have the role of providing individuals, those who are in need, with access to legal knowledge and therefore being a lawyer means having a mediatory position between the legal system and the individuals. This mediatory position also brings certain responsibilities to the women lawyers. They claim that they take on the troubles of other women, offer them a way out and a way to fight against their oppression this is what they wish to do. However, while handling these cases, they mention that their work requires empathising with their clients and often this exceeds the “professional” level. Respondents have stated that they sometimes cannot sleep because of the cases they deal with, or that they regularly visit their psychologist in order not to be depressed.

#### **2.4. Deciding to Handle the Cases of Violence Against Women**

With the aim of understanding how women lawyers approach the issue of violence against women, I found it important to understand *why* they choose to handle cases of violence against women. When asked this question, two patterns appeared in the answers of the respondents. Firstly, they claimed that as lawyers, they wanted to be on the side of the groups in the society which are oppressed, discriminated, victimized; and women constitute one of those groups. Secondly, the women

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<sup>20</sup> “Bir toplum içerisinde yaşıyoruz ve birtakım kurallar var. Bu kuralları herkes bilmek zorunda değil ve bu kurallarla karşılaştıkları zaman ancak o kuralların farkına varıyorlar. Ama biz bu kuralları önceden bilerek insanlar karşılaştıklarında onlara nasıl yardımcı olabiliriz ve nasıl ыл gösterebiliriz noktasındayız. Bence avukatlık bu.

<sup>21</sup> Türkiye'de kadına yönelik aile içi şiddet araştırması. TC Başbakanlık Kadının Statüsü Genel Müdürlüğü, 2014. Retrieved from: <http://www.hips.hacettepe.edu.tr/KKSA-TRAnaRaporKitap26Mart.pdf> : 169.

lawyers asserted that they themselves were women, and they experienced discrimination, oppression, and were victims of violence throughout their own lives which make them feel connected to other women with similar experiences.

Similar to their reasons for choosing to become a lawyer, women lawyers explained that they decided to handle cases of violence against women in the legal domain, because they wanted to defend the rights of those in need and focusing on violence against women was one of the means to do this. Violence against women is viewed to be an “obstacle before equality” (Yasemin), and therefore “fighting against violence against women *with* the victims of violence makes one feel like she is doing what she is meant to do in this profession” (Havva). One of the respondents’ answer to why she chose to handle this issue sums up the majority of women lawyers’ reasons for dealing with violence against women with the aim of helping a discriminated group in the society;

We are lawyers. We have to help those who are discriminated in the society. Women appear to be one of the most visible group in the society which are being victims, which are put in a secondary position. Therefore, I chose to stand side by side with that group. As I said before, my aim in choosing this profession was already to help those who are discriminated <sup>22</sup> (Eda).

The second pattern which appeared in women lawyers’ explanations with regard to the reasons for their choosing to handle cases of violence against women lies within their personal experiences of being a woman. They claim that they “experience this violence every day in [their] personal and professional lives” (Ayşe) and therefore their reason for dealing with this issue is “both social and gendered” (Yıldız). Some of the respondents also narrated their reason for handling cases of violence against women through the course of their personal lives. Emine was one of them. She explained that she was the thirteenth daughter of his father, and the whole family was disappointed when she, again, was born as a girl. As his father passed away a year after she was born, Emine described how “guilty” she was made to feel by her

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<sup>22</sup> “Biz avukatız. Bizler, toplum tarafından ayrımcılığa uğrayan gruplara yardım etmek zorundayız. Kadınlar, toplumda mağdur olan, ikincil konuma konulan en görünür grup. Bu yüzden ben de bu grupla yan yana olmayı seçtim. Daha önce dediğim gibi, benim zaten bu mesleği seçmemin nedeni ayrımcılığa uğrayanlara yardım etmektir.”

relatives for even being born a girl. From this experience, Emine shared her reason for legally handling cases of violence against women in the following way:

It is my own choice. It was not in my power that I met violence on the day that I was born, or that I lived with my mother and four other women as I was shaping my life, or that I experienced the difficulties of that time period as a woman; it happened on its own and without realizing it I found myself inside this. It was not such a conscious choice. When I took the education, I said “oh, I am a person who has experienced this personally!” and at that point I had to develop an advocacy.<sup>23</sup>

From Emine’s story, it can be seen that women’s daily lives and their gendered experiences define their choosing to handle cases related to violence against women without even their realizing it. After they take on more cases and participate in provided trainings and lecture, they realize the amount of violence that they themselves have actually been experiencing throughout their lives. This shows how intertwined their daily lives and professional lives can be.

Another respondent, though she did not give details from her personal experience, explained her reason for focusing on violence against women cases by saying

The primary reason is that I am a woman. Because we are not free from anything. It is not as if some women are experiencing violence and I am helping them. I am also the subject of this violence at any moment. Therefore, it is actually an existential matter. I mean I have to fight against the discrimination which my gender faces and which I face due to my gender. Because I am also a lawyer, I make a choice in the legal arena which is one means of the struggle. Because I am a woman, because I am a feminist, and because fighting violence actually means defending my own existence, I am a lawyer in this area (Çilem)<sup>24</sup>.

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<sup>23</sup> “Kendi seçimim. Doğduğum gün şiddetle tanışmış olmam ve yaşamımı şekillendirirken annem ve dört kadınla aynı evde yaşamış olmak, ve toplumun o dönemki koşullardaki zorluklarını kadın olarak yaşamış olmak benim elimde olan bir şey değildi, kendiliğinden gelişen bir şeydi ve ben hiç farkında olmadan bir şekilde bunun içinde buldum kendimi. Çok da bilinçli bir tercih değildi. Bu eğitimi aldığımda “a ben bunları bire bir yaşamış bir insanım” dedim ve bu noktada da savunma geliştirmek zorundaydım.”

<sup>24</sup> “Öncelikle kadın olmam birincil neden. Çünkü hiçbir şeyden azade değiliz. Yani bazı kadınlar şiddet görüyor, ben onlara yardım ediyordum filan değilim. Ben de bu şiddetin her an öznesiyim (*nesnesiyim* demek istedi). Dolayısıyla aslında varoluşsal bir mesele. Yani kendi cinsiyetim ve cinsiyetim sebebiyle maruz kaldığım ayrımcılığa karşı mücadele etmek durumundayım. Avukat olduğum için de mücadelenin bir ayağı olan hukuk alanında bir tercihte bulunuyorum. Feminist olduğum için, kadın olduğum için ve benim açımdan da şiddetle mücadele etmek aslında kendi varoluşumu savunmak anlamına geldiği için bu alanda avukatlık yapıyorum.”

From these expressions, it is possible to conclude that women choose to handle cases of violence against women for two main reasons. First, they view the purpose of their occupation as “defending rights of the oppressed” and women happen to be a group which is oppressed and discriminated in the society. Second, they identify themselves with the women victims of violence, suggesting that they themselves are subjects of this violence and aim to struggle against this phenomenon in the legal arena with their lawyer identities. These women lawyers themselves have been subject to, and still are subject to violence in their daily lives at any moment and they want to defend the women who are willing to take their struggle onto the legal domain. I will analyse what they experience in their struggle, and how their personal experience and their professional experience affect their approach to violence against women in the following parts of the thesis.

## **2.5. Women Lawyers’ Approaches to Cases of Violence against Women**

While the previous parts of this thesis dealt with the reasons for women choosing to become lawyers and handle cases of violence against women, this part will focus on their professional and personal experiences to violence against women. The first part of this section will focus on women lawyer’s professional experiences when dealing with violence against women with the aim of grasping whether and how the cases which they handle affect their approach to the issue. In the second part, I will analyse how women lawyers’ personal experiences, especially their gender identities, affect their approach to violence against women. From the interviewed women, I was unable to grasp any difference on their approaches depending on the number of years that they have worked as a lawyer, and therefore their approaches will be analysed regardless of their experience time in the legal profession.

### **2.5.1. Dealing with Violence against Women in the Legal Domain**

This section of the thesis elaborates on how handling cases of violence against women has impacts on women lawyers’ own personal lives, their psychology and even their professional lives, how they approach the issue in general. Bedriye’s words exemplify how the respondents feel affected by the cases that they handle:

I have learnt so much. I have learnt so much also after entering the profession. I mean, I thought of myself as a warrior of justice or something. I saw such injustice that there were times when I couldn't sleep, when I wanted to leave the profession. Believe me, I have been taking psychological guidance on a regular basis since I started this occupation and concerned myself with violence against women cases. It is so hard for me to preserve my sanity. ... From the moment that woman gives you procuratorship, the whole responsibility is yours and from that moment on she will sleep with a clear conscience, but you won't. I panic for instance, any time I get a call from a violence case, I pick up, even if I'm at a trial at that moment. I mean I say "this can be very urgent, and I have to pick up", and I leave the trial and pick up the phone<sup>25</sup> (Bedriye).

In order to understand their experiences in the legal domain when dealing with violence against women cases, and how these cases affect their discourses on violence against women, this part of the thesis will inquire firstly into how women define violence and violence against women. Secondly, I will analyse the respondents' answers about which forms of violence against women are reflected onto the legal domain. Thirdly, I will explore the women lawyer' interpretations on how other legal professionals approach cases violence against women. Lastly, I will examine the interviewees' evaluations on the legal reforms and transformations related to violence against women. In addition, I will present my observations in the courtrooms where trials related to violence against women took place in relation to what the interviewees explain.

### **2.5.2. Women Lawyers' Interpretations of "Violence" and "Violence Against Women"**

In order to serve understand how women lawyers dealing with this issue approach violence against women, I asked them the questions of "what is violence" and "what is violence against women". The concepts of "violence" and "violence against women" are, of course, interwoven. However, how women lawyers define violence, and how they place the definition of violence against women within it is important.

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<sup>25</sup> "Çok fazla şey öğrendim. Meslekte de çok şey öğrendim. Yani ben kendimi adaletin savaşçısı falan zannediyordum. O kadar ciddi adaletsizlikler gördüm ki uyuyamadığım zamanlar oldu, mesleği bırakmak istediğim zamanlar oldu. İnanın mesleğe başladığımdan ve kadına karşı şiddet davalarıyla ilgilenmeye başladıktan beri düzenli olarak psikolojik danışmanlık alıyorum. Akıl sağlığını korumam çok zor. ... Şey paniği yaşıyorum mesela, şiddet davalardan bir telefon geldiğinde duruşmada bile olsam çıkıp açıyorum. Yani diyorum ki 'çok acil bir durum olabilir, açmak zorundayım bu telefonu' ve duruşmadan çıkıp açıyorum."

I will analyse how they defined the two concepts in this chapter in relation to one another.

Three common points emerged in the respondents' opinions on what "violence" is. Firstly, they mentioned different forms of violence and stressed that violence did not consist of physical violence alone. Secondly, they emphasized that violence can exist in all domains of life and thirdly, they tended to define violence as a phenomenon which damages individuals' physical and psychological "integrity". For instance, according to Hasret, "anything that makes a person feel bad is violence. All kinds of pressure; this can be psychological, economic, physical; is in my opinion violence"<sup>26</sup>. Another example is Gülfidan's definition, which explains violence as "all kinds of assaults directed at our personality, our bodily integrity and our moral integrity".<sup>27</sup> A significant exception was the opinion of Yıldız. In her words:

Violence is a way of oppression stemming from power differences or the differences of positions in the society. It is a route taken to pursue the power; to take power or to pursue domination.<sup>28</sup>

Thus, it can be suggested that Yıldız was the only respondent who defined violence in relation to power relations. This is an important point in my opinion, because describing violence in this way takes the issue from being a personal issue and takes it to become a more political, societal issue. As the next step, the question of "who is powerful in the society" arises, and this creates the ground for struggling *against* the violence which is performed with respect to the achieving or maintaining power in the society.

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<sup>26</sup> "İnsana kendini kötü hissettiren her şey şiddettir. Her tür baskı; psikolojik, maddi, fiziksel baskı olabilir, hepsi şiddettir bence."

<sup>27</sup> "Bizim kişiliğimize, bedensel bütünlüğümüze, manevi bütünlüğümüze yönelik her türlü saldırı şiddettir."

<sup>28</sup> "Şiddet, güç farklılığından kaynaklanan ya da toplumsal konumların farklılığından kaynaklanan bir zor yoludur. İktidarı yürütebilmek için kullanılan bir yol; iktidarı elde etmek ya da egemenliği sürdürebilmek için kullanılan bir yol."

Although the interviewed women lawyers, except one, did not mention power relations when they were asked “what is violence”, to present an example from the respondents’ answers, Öykü has suggested that

Violence against women originates from women’s attributed status, so the source of violence is the society, because women are perceived to be second class. That patriarchal system, that unequal status, those power relations make violence against women ordinary, and this has been ongoing. It is sexist and an assault due to the woman’s sex.<sup>29</sup>

Describing violence against women with regard to power relations is a common act from a feminist standpoint. Unlike other theories approaching the issue such as psychological, evolutionary, and social learning theories, feminist perspectives, according to DeKeseredy and Schwartz (2011), “focus on how broader social forces such as patriarchy contribute to violence against women ... [and] reject narrow, legalistic definitions of violence” (2011: 12). Merlo and Pullock (2006) also touch upon a feminist standpoint’s approach to violence against women with regard to power relations. They assert, for instance, that

[Feminists view sexual violence as] an extreme form of sexual exploitation violently keeping women in their place. From the feminist perspective, male dominance in the form of rape is merely aggressive behavior toward women – an inevitable part of maintaining their position of power within the culture (Merlo & Pullock, 2006: 162).

Thus, from the above-given discussions, it could be put forth that the interviewed women who handle cases of violence against women adapt a feminist approach to defining violence against women. They claim that it is a form of violence based on gender inequality, resulting from the patriarchal system; rather than providing individual-based explanations for violent acts.

Another exceptional, but noteworthy definition of violence against women was made by Damla. When asked “what is violence against women?”, Damla was the

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<sup>29</sup> “Kadına yönelik şiddet, kadınlara atfedilen statüden kaynaklı, yani şiddetin kaynağı toplum, çünkü kadınlar ikinci sınıf olarak görülüyor. O ataerkil system, o eşitsiz statü, o güç ilişkileri kadına yönelik şiddet uygulamayı olağanlaştırıyor ve bu süregelmiş. Cinsiyetçi ve kadının cinsiyetten dolayı uğradığı bir saldırı.”

only respondent who adapted a class perspective when defining violence against women. She replied;

I never keep violence against women separate from class struggle, maybe due to my own ideology. I think this has started to be a woman-man issue after feudal relations. In history, you see man and woman as pieces of nature's supplementary wholes. Turning one of them into superior, and the other into the oppressed happened after the separation of powers. And this is after all related to the ongoing process of the entrance of labour process into the human life. I have argued for years that the struggle of women's liberation should not be separate from class struggle. I have never been against feminism, but I have perseveringly argued that feminism should stand side by side with class struggle. However, it is not possible to ignore that woman is less powerful than man in this capitalist system.<sup>30</sup>

As can be seen from the example of Damla, women lawyers who handle cases of violence against women have different opinions on defining violence and violence against women. It is apparently dependent on their political views. Although they did not mention any political or social factors when defining violence, it was different when they defined violence against women. Their answers to "what is violence against women" altered in relation to their own political views. They seem to adapt a feminist approach when describing violence against women by taking power relations into consideration, they all touched upon the patriarchal system, and one respondent considered class struggle as an important aspect of violence against women.

### **2.5.3. The Most Common Forms of Violence against Women Handled by Women Lawyers**

In order to help understand their experiences of handling cases related to violence against women, I asked the interviewees which form of violence against women were most brought to trial. As might be predicted from their definitions of violence,

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<sup>30</sup> "Kadına karşı şiddeti, belki de taşıdığım ideoloji gereği, hiçbir zaman sınıf mücadelesinden ayrı tutmuyorum. Bu bir kadın-erkek meselesi olmaya feodal ilişkilerden sonra başlamıştır diye düşünüyorum. Çünkü tarihte kadın ve erkeği doğanın tamamlayıcı bütünlerinden birer parça olarak görürsünüz. Bunun zamanla birinin üstün, diğerinin ezilen tarafların olması, güçlerin ayrılmasından sonra ortaya çıkmış bir şey. Bu da zaten emek sürecinin insan hayatına var olageldiği süreçle ilgili. Kadının özgürlük mücadelesinin sınıf mücadelesinden ayrılmaması gerektiğini savundum yıllarca. Feminizme asla karşı çıkmadım, ama feminizmin ısrarla sınıf mücadelesiyle yan yana yürümesi gerektiğini savundum. Hala da savunuyorum. Ama kadının bu kapitalist sistemde erkekten daha güçsüz olduğunu görmemek mümkün değil."

the respondents mentioned once more that the forms of violence were intertwined. However, they all argued that physical violence was the most visible form which is carried to the legal domain.

Presumably the physical form is carried to court the most. Because the others are harder to describe, or... For a while I was so affected, I always told others about this; somebody came through an acquaintance, which is generally the case especially because we are trying to do achieve women's solidarity. She came, her husband ... there was sexual violence. She told this in a shy way, and I asked "did he beat you?". She said "there are no broken bones". I said "what does 'there are no broken bones' mean?". I mean, you see this: it means these women, after bearing it for 10, 20 years, a point comes – and that point is usually when it is no longer bearable or their child has grown up or when they feel safe – and only at that point they can carry this violence to the judicial procedures. There is a breaking point. Until then, some part is legitimized. In a meeting that lasted one hour, she said "there are no broken bones" three times and for her, this was the criterion. There were no bones, so it didn't really matter. It was bearable. And sometimes, I see that they file a report when they know that there is no salvation, when they feel a bit safer, when they have found a place where they can take shelter in <sup>31</sup> (Gülfidan).

In a way, the respondents have suggested that the forms of violence are interwoven, and one usually accompanies another. They have also claimed that though women victims of violence choose to file reports on a certain type of violence – most commonly physical violence – that they are exposed to, but there is/are usually other form(s) of violence that she has been subjected to, and which is/are revealed during the attorney-client meetings. In Gülfidan's remarks, it can be seen that women choose to tolerate a degree of violence that they exposed to. Other respondents have put forth that their clients are not even *aware* of the other forms of violence they are exposed to, when they come willing to file report for cases of physical violence. According to Nevin,

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<sup>31</sup> "Herhalde fiziksel boyutu taşıyor en çok mahkemeye. Çünkü diğerleri açısından tarif etmek daha zor oluyor, veya... Ben bir süre çok etkilendim, hep başkalarına anlattım; tanıdık aracılığıyla biri geldi, genelde de zaten hep öyle olur. Özellikle kadın dayanışması sağlamaya çalıştığımız için. Geldi, kocası, cinsel şiddet vardı. Bunu böyle çekinerek anlattı. Ben de "seni dövüyor muydu" diye sordum. "Kemik kırığı yok" dedi. "Kemik kırığı yok ne demek" dedim yani, oradan şeyi görüyorsunuz; demek ki bu kadınlar 10 yıl, 20 yıl çektikten sonra bir yerde, bu genelde onlar için ya çok artık katlanılmaz, artık çocuk büyüdüğü zaman, kendini güvende hissettiği zaman bunu adli süreçlere taşıyabiliyor. Bir kopma noktası oluyor. Oraya kadar bir kısmı sürekli meşrulaştırılıyor. Bir saatlik bir görüşmede 3 kere "kemik kırığı yok" dedi ve onun için mesela ölçü oydu. Kemik kırığı yoktu, doğal olarak bu çok önemli bir şey değildi. Katlanılabilir bir şeydi. Ama kimi zaman da artık kurtuluş olmadığını gördüklerinde, biraz da daha güçlü hissettikleri zaman, sığınabilecekleri bir yer buldukları zaman şikayet ettiklerini düşünüyorum."

Mainly physical and sexual violence. The classic “tip of the iceberg” idiom is true in this case; what is not reflected, what is left behind is much more. Due to socio-economic conditions, women do not apply to the jurisdiction, to legal ways until push comes to shove. Until then, they live without even realizing other forms of violence.<sup>32</sup>

The fact that the respondents mention their women clients not even recognizing different forms of violence other than physical violence implies that women lawyers feel the duty to bring forth other underlying types of violence. To elaborate, women lawyers’ mediatory position to defend their clients’ rights through legal means also necessitates their enquiry into the experiences of their clients in order to find out, and make their clients realize, the different forms of violence that their clients have been subject to. Nonetheless, the interviewed women lawyers have stated that things are starting to “improve”; women are now beginning to accept different forms of violence. This is associated with the women’s movement and ongoing women’s struggle in Turkey. As Yıldız suggests,

Physical violence is more commonly expressed. Verbal violence was not expressed until now, but since about 20 years, as a result of the struggles, awareness has been created in the society and the existence of verbal violence has also been seen. Now people, especially women, have started to recognize themselves, they have started to look out for their identities, their woman identities. They have started to realize that they are individuals. This has resulted in almost all types of psychological and physical violence to be voiced. It has also resulted in these types to reflect to the trials.<sup>33</sup>

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<sup>32</sup> “Ağırlıklı olarak fiziksel ve cinsel şiddet. Yansıyan kısmı, buzdağı klasik deyimini bunun için doğru, yansımayan, geride kalan kısım çok daha fazla. Sosyo-ekonomik koşullar nedeniyle kadınlar zaten bıçak kemiğe dayanmadan yargıya, ya da hukuksal yollara başvuruyorlar. Bıçak kemiğe dayanana kadar da diğer şiddet türlerinin farkında bile olmadan yaşıyorlar.”

<sup>33</sup> “Daha çok fiziksel şiddet dillendiriliyor. Sözel şiddet çok dillendirilmiyordu bu zamana kadar ama yaklaşık 20 yıldır, yapılan mücadeleler sonucu, toplumda farkındalıklar yaratarak, sözel şiddetin de var olduğu görüldü. Artık insanlar, özellikle kadınlar, kendilerini tanımaya başladılar, kimliklerine sahip çıkmaya başladılar, kadın kimliklerine. Birey olduklarının bilincine varmaya başladılar. Bu da hemen hemen her tür, psikolojik ve fiziksel şiddetin dillendirilmesine yol açtı. Davalara da yansımaya yol açtı”.

## CHAPTER 3

### WOMEN LAWYERS' PERCEPTIONS OF THE LEGAL STRUCTURE

In this chapter, I will analyse the professional experiences of women lawyers in relation to how they interpret other legal professionals' approach to violence against women cases and how they evaluate the existing legal regulations and transformations. In order to understand their evaluations, I will present a short description of the legal framework related to violence against women.

#### **3.1. Women Lawyers' Critiques to Other Legal Professionals' Approach to the Cases of Violence Against Women**

Women lawyers experience "discrimination, disparagement and harassment" (Rosenberg, Perlstadt & Philips, 1993: 416) within the legal profession and this has been muchly debated within the existing literature. Many, such as Kay and Gorman have argued that "the experiences of practicing law appear to be highly gendered" (2008: 205). In this part of the thesis, the aim is to grasp whether women lawyers feel this discrimination or harassment from their colleagues because/when they are handling cases of violence against women. To do this, I will offer an analysis of women lawyers' interpretations on how other legal professionals approach cases of violence against women. Their opinions on how other legal professionals approach the issue is also significant for demonstrating whether and/or how they view their gender identities to affect their professional experiences of dealing with violence against women.

When asked the question "How do you evaluate the approach of other legal professionals towards cases of violence against women?", three themes appeared in the respondents' answers. First, they suggested that it is mostly women lawyers who deal with this issue, and expressed their opinions on whether or not men should also be attorneys for women victims of violence against women. Secondly, many women

respondents suggested that education related to dealing with violence against women should be provided, and legal professionals should participate in these education programmes, because they need to change their perspectives. Thirdly, they narrated some of their experiences to provide insight on their experiences while handling cases of violence against women, and evaluated other legal professionals' attitudes in these cases.

To start with, the interviewed women lawyers suggested that the majority of the attorneys who handle cases of violence against women are, indeed, women. In fact, according to Damla, men tend not to reject these cases because of the economic aspect. She claims that "violence cases have almost 100% chance that you will be able to gain solicitor's fee"<sup>34</sup>. However, after this information, they expressed opposing views on whether men *should* be involved. For some respondents, "women handle these cases, and for good reason! Men are not conscious about this issue; they do not have the perspective. It should be women defending women"<sup>35</sup> (Ayşe). For some other respondents, however, some men also have what it takes to defend women, who also "take part in women's struggle and really sincerely defend it"<sup>36</sup> (Yıldız)". Some argued that this was the *aim*: to include men into this struggle. Bedriye explained, for instance:

we actually want men to defend these cases. Because it is so important to change the mentality. We can already defend women as women. But we should come to the point where men should be able to object to this mentality, they should be able to face and object other men<sup>37</sup>.

For the majority of the interviewed women lawyers, irrelevant of the attorneys' gender, what matters is "the type of lawyer" he or she is. They have argued that legal

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<sup>34</sup> "Şiddet davaları, vekalet ücreti kazanmanızın %100'e yakın olduğu davalar."

<sup>35</sup> "Bu davalara kadınlar bakıyor, haklı olarak! Erkekler bu konuda bilinçli değil; bakış açıları yok. Kadınları savunanların da kadın olması gerekiyor."

<sup>36</sup> "Kadın hareketi içine yer alıp da hakikaten buna samimiyetle sahip çıkan".

<sup>37</sup> "Biz aslında erkeklerin bunu savunmasını istiyoruz. Çünkü bu zihniyetin değişmesi o kadar önemli ki. Biz kadın olarak kadınları zaten savunabiliriz. Ama öyle bir noktaya gelmeliyiz ki, bizim savunmamıza bile gerek kalmadan, diğer erkekler bu erkeklere itiraz edebilmeli, bu erkeklere karşı çıkabilmeli."

professionals do not constitute a homogenous group and their approach to cases of violence against women alter from one to another. To demonstrate, one interviewee has said:

Now here, “what type of lawyer” definition must be made. In one category there are lawyers who are a part of women’s struggle and have a woman’s perspective, and the other category consisting of lawyers who participate in these cases just as a lawyer. We see this division even in divorce cases. Especially lawyers who undertake the procuratorship of the opposite side, the side of the husband; even if they are women, if they do not view life through a woman’s perspective, they form their plea through gendered division of labour. These are of course very disturbing. “She wasn’t performing her duty as a wife” is a sentence which is used so often. What is the duty of the wife, or the duty of husband is defined very clearly in their heads, and they carry out their defences according to those. Therefore, there are very serious differences also in the sense of practicing the jurisdiction between the lawyers who have a women’s perspective and those who only view the cases as lawyers<sup>38</sup> (Nevin).

As Nevin has suggested, lawyers perform their profession according to their worldviews, their perspectives related to the issues which they handle. They develop their pleas accordingly which in turn affects the judicial process. With an emphasis on the lawyers’ perspectives having significans, the interviewed women expressed the need to *change* those perspectives.

The second theme which thus appeared when the respondents evaluated other legal professionals’ approach to violence against women cases were the necessity for “education” related to this issue. They stress that during their education of law, in university, they were not provided with any education related to violence against women, and if legal professionals do not wish to improve themselves on this issue, they lack a woman’s perspective when dealing with cases of violence against

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<sup>38</sup> “Şimdi ‘hangi tür avukat’ tanımı yapmak lazım burada. Bir kadın mücadelesinin içinde olan ve kadın bakış açısına sahip avukatlar ayrı bir kategoride, sadece avukat olarak bu dosyalarda görev alanlar ayrı bir kategoride. Boşanma davalarında bile bu ayrımı görüyoruz aslında. Özellikle erkek tarafın, kocanın müvekkilliğini üstlenen avukatlar kadın da olsa eğer kadın bakış açısıyla bakmıyorlarsa hayata, savunmaları toplumsal cinsiyet rollerinden kuruyorlar. ‘kadınlık görevini yerine getirmiyordu’ cümlesi çok sık kurulan bir cümledir. Kadınlık görevleri nelerdir, erkeklik görevleri nelerdir, çok net tanımlanmıştır ve bunlar üzerinden savunma yapıyorlar. O yüzden kadın bakış açısına sahip avukatlar ile bundan uzak, sadece avukat olarak bakan avukatlar arasında yargılama pratiği açısından da çok ciddi farklılıklar var.”

women. Çilem's remarks can be given as a representative of the views which women respondents have presented. In her words;

I have to divide legal professionals into two. I mean, as there cannot be immaculate profession, neither is the legal profession. One of the most important reasons for this is that the education we took had no gender perspective whatsoever. I mean in our education in the faculty of law, our subject was "person" and this person, of course as we all think when somebody says "person" represents a "male person". Therefore, the profession they perform is up to everyone's own political stand and political perceptions<sup>39</sup> (Çilem).

In addition to stressing the absence of a gender perspective in their education of law in university, women lawyers suggested that training related to violence against women should be provided to legal professionals so that their perspectives can be altered. In Havva's opinion, "Education should never be limited to university education. These people need to learn this issue, they need to take more training with regard to violence against women. Only then, they can approach the issue with the necessary sensitivity"<sup>40</sup>.

The last theme which appeared in the respondents' interpretations of how other legal professionals approach the cases of violence against women was the tendency to narrate their own experiences in these cases to provide insight on the level of discrimination or harassment they experience. Bedriye shared her memories in the following way:

For instance, in a criminal suit, the judge can "speak with lans and luns"<sup>41</sup>! To your woman client, they can often call out by saying "get over here *lan*", or "did I ask *you*?" or "lady, I'm talking to you, answer me" and so on. I mean it is unbelievably derogatory, irritating. And I seriously react to this. Your authorisation to react to such things is limited. When you react to everything, you start not being taken

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<sup>39</sup> "Hukukçuları ikiye ayırmak zorundayım. Yani pirüpak bir meslek grubu olamayacağına göre, hukukta da yok. Bunun en önemli nedenlerinden biri, aldığımız eğitimin hiçbir biçimde cinsiyet perspektifine sahip olmaması. Yani hukuk fakültesinde eğitimimizde öznemiz "kişi"dir ve bu kişi, tabii kişi denildiğinde hepimizin aklına geldiği gibi "erkek kişi"yi temsil eder. Ve biz böyle bir eğitim alıyoruz, dolayısıyla hukuk fakültesinde toplumsal cinsiyet bakış açısıyla eğitim verilmediği için herkesin kendi politik duruşuna ve politik algısına bağlı oluyor yaptığı avukatlık da."

<sup>40</sup> "Eğitim asla üniversitedeki eğitimle kısıtlı almamalı. İnsanların bu meseleyi öğrenmesi gerekiyor, kadına karşı şiddetle ilgili daha fazla eğitim almaları gerekiyor. Anca o zaman bu meseleye gereken hassasiyetle yaklaşabilirler."

<sup>41</sup> To speak with "lans and luns": it refers to an exclamation in Turkish which is informal, often rude.

seriously. Anyways, the reactions I give are usually ignored, and the attitudes of the judges do not change.<sup>42</sup>

Bedriye is not alone in expressing her irritation of other legal professionals' approach in violence-related cases. Öykü, for instance, suggests that many legal professionals have an approach insisting that there are enough sentences in the criminal code and in the civil code, asking them why they are bothered, why they look for other factors in it and pointing out that men are also victims of violence. In Çilem's experience,

Especially if you are young and you are a woman, they [other legal professionals] can come to such a frivolous point that they can almost call you by your name. Thereby, you also give a struggle to exist in that courtroom. They can behave to you in a manner that they could not behave to a man. What is worse is that you can experience this power conflict with women judges too. I mean, if she is so carelessness to view herself as salvaged, that judge can show prejudice in what you voice.<sup>43</sup>

There was constant reference to the division among women, as can be seen in Çilem's quote. The interviewed women stress that *not all* women legal professionals are conscious of the women's struggle in the legal domain. They experience discrimination by other men, and by other women due to their causes of defending women. They relate this approach of others to the under-organization of women. Eda claims that it would not have been like this if women were more organized, instead they are weak.

Previous studies conducted about this point support the above-given experiences of women lawyers. According to Rosenberg, Perlstadt and Phillips (1993),

Lawyers, like other professional women, are subject to a range of deprecating and harassing behaviours that affect their morale and the degree to which they have

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<sup>42</sup> “Örneğin bir ceza davası. Hakim lan'lı lun'lu konuşuyor! "geç lan şuraya, sana mı sordum, hanfendi sana diyorum cevap ver” falan. Yani inanılmaz derecede aşağılayıcı, irite edici. Ve ben buna ciddi bir tepki gösteriyorum. Buna tepki verme yetkiniz sınırlı. Her şeye tepki gösterdiğinizde dikkate alınmamaya başlıyorsunuz. Zaten gösterdiğim tepkiler de genelde yokmuş gibi davranılıyor, ve hakimlerin tavırları değişmiyor.”

<sup>43</sup> Hele gençseniz ve kadınsanız neredeyse isminizle hitap edecek kadar ciddiyetsiz bir yaklaşıma gelebiliyorlar. Dolayısıyla aslında o duruşma salonunda sizin de bir varoluş mücadelesiniz oluyor. Bir erkek avukata göstermeyeceği davranışları kadın avukat olduğunuz için size gösterebiliyorlar. Daha acısı bazen kadın hakimlerle de bir iktidar çatışması yaşayabiliyorsunuz. Yani kendini kurtarılmış görme ayımsızlığındaysa o hakim size dile getirdiğiniz şeyler sebebiyle bir önyargı gösterebiliyor.

power in professional arenas. Anecdotal accounts from women lawyers suggest that these events are related and indicative of gender stratification, which may be sharper and more durable in the legal profession than in many others (1993: 416).

If it is accepted that violence is not limited to physical violence, and it can be verbal, psychological also; we could claim that these “irritating” and pejorative attitudes of other legal professionals can be considered as a form of violence as well. For Dobash and Dobash (2004), “gender inequality, or patriarchy, is both ideological (the beliefs, norms, and values about the status and roles of women in a society) and structural (women’s access to and positions within social institutions)” (as cited in Yodanis: 2004: 656). According to Yodanis, these dimensions of inequality can be linked to violence against women in two ways. First, the domination (both numerically and with respect to power) of men in social institutions recreate and legitimate their domination over women in the society in general. Second, “in male-dominated institutions, violence is a tool that men can use to keep women out or subordinate and thereby maintain male power and control” (2004: 657). In that sense, what women lawyers feel to be the approach of other legal professionals could actually be seen as a power struggle. What the respondents feel to be the approaches of other professionals is rather shaped by their will to sustain their power. Despite this struggle, Emine draws a rather hopeful picture. She says that “even if judges do not have an awareness, they have reached the point of ‘ya these women’s organisations are going to be a trouble, let’s give them what they want’. That pressure is felt. This is something achieved with women’s organizing”<sup>44</sup>.

The trials which I was able to attend and observe within the scope of the study did not provide the possibility to support the above-given evaluations of other legal professionals’ approach. One of these cases was carried out in a Criminal Court. In this case, the defendant had murdered his wife. His lawyer was, as expected, a man. The judge was a man, the district attorney was a man; and for the petitioner, there were

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<sup>44</sup> “Hakimde bu farkındalık gelişmese bile ‘ya bu kadın örgütleri başımıza bela olacak, lanet olsun, istediklerini verelim’ şekline gelmiş durumlar. Öyle bir baskı hissediliyor. Bu, kadının örgütlenmesiyle başarılan bir şey.”

5 lawyers among which one was a man (who I found out later was a “family friend”<sup>45</sup> to the family of the murdered women). In this trial, there were no disturbing or irritating looks or behaviour towards the women attorneys. However, this could be related to the severity of the case; murder. Or, and in my opinion more possibly, it could be related to the fact that it was not just one woman attorney, but a *group* of attorneys. The interviewed women stress that carrying out their pleas as a group of attorneys create a pressure, and I will discuss this in the next parts of the thesis.

In the cases which I observed in the Family Courts, I could say that I came across an exceptional situation: all of the judges in these cases were women. When I expressed my surprise to one of the lawyers, Bedriye, who suggested me to observe that trial, she said “yes, they have started to do this consciously. It is a very positive development<sup>46</sup>”. The women judges in these trials did not abstain from making satirical remarks. For instance, in one of the divorce suits where the attorney of the husband said his client was currently unemployed, the judge commented “just as alimony will be requested, all these men appear suddenly to be unemployed!”<sup>47</sup>. Interestingly, the attorney of the man was also a woman. When the judge made such an ironic comment, all the women; the orator, the lawyers, the judge, and myself, smiled, nodded and exchanged looks in a confirmative way. The decisions given in these courts were all in favour of the women orators. This actually demonstrates how powerful a judge’s attitude can be on the courtroom and in the course of the cases. Therefore, although I could not get a chance to observe divorce suits where the judge was a man, I can assume that a negative attitude could affect the process of the cases and result in negative experiences of women lawyers.

I would like to finish this part of the thesis with a quote from Abrams (1991). He suggests that “Over time, if feminist advocates remain persistent and grow

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<sup>45</sup> “Family friend” is the translation of “aile dostu” in Turkish. It refers to anyone who is an acquaintance, preferably a relative; someone who is trusted.

<sup>46</sup> “Evet, bunu bilerek yapıyorlar, bu çok olumlu bir gelişme.”

<sup>47</sup> “Tam da nafaka isteneceği aman bu adamlar birden bire işsiz oluyor!”

numerous, they may transform not only lawyers' views of gender justice, but their views of how to use law to persuade and produce social change” (1991: 375). Thus, women lawyers have a large task at hand; being aware of other legal professionals’ attitudes to violence against women is one thing, transforming those views and employing law to produce social change is another. After all as one of the interviewees stated, “The judge sitting on that bench could have beaten up his wife half an hour ago, or he could be perpetrating psychological violence to his wife. Or he could be carrying her emolument card. It is difficult to understand what is visible to the eye”<sup>48</sup> (Yasemin).

### **3.2. Legal Framework**

In order to better grasp the argumentations and evaluations of the interviewed women lawyers on the legal reforms and regulations, in this part of the thesis, I will explore the legal regulations and transformations in Turkey related to violence against women in a chronological order.

Universal Declaration of Human Rights, adopted in 1948, underpins the many international agreements and movements related to women’s rights today. As Ünlü (2013) suggests, especially Article 2 emphasizes universal human rights regardless of sex (2013: 2). The Article 2 states that

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or -under any other limitation of sovereignty.

Furthermore, as Peters and Wolper (1995) argue, “when read from the perspective of women’s lives, many violations of women’s rights such as rape and battering can readily be interpreted as forbidden under existing clauses such as ‘No one shall be

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<sup>48</sup> “O kürsüde oturan hakim de yarım saat önce karısını dövüp gelmiş olabilir, ya da karısına psikolojik şiddet uyguluyor olabilir, ya da karısının maaş kartını taşıyor olabilir. Gözle görünenlerden öteyi anlatmak çok zor.”

subject to torture or cruel, inhuman or degrading treatment or punishment” (1995: 13). Women’s movement worldwide has since transformed these concepts and definitions related to human rights.

In the case of Turkey, international conventions and declarations have played a significant role in the involvement of concepts related to violence against women into the legal domain. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979 by the United Nations Great Assembly and approved by Turkey in 1985. The aim of this convention was to entitle women with the fundamental rights and freedoms in all areas of life which are based on the equality of men and women, and eliminate all forms of discrimination between men and women by the states which are parties to the convention (Ceylan, 2013: 15). With the help of this convention, as Londono (2009) states, violence against women was not only viewed in connection with a human rights issue, but it was also considered to be "an issue of inequality" (2009: 658). The approval of CEDAW by Turkey was indeed a crucial step for women's movement. As Arat (2011) argues, "the pact [...] sparked the public visibility of women demanding their rights and helped improve feminist consciousness, which in turn reflected upon women's feminist activism" (2001: 30). However, as Kardam suggests, "Most observers agree that enforcement of CEDAW has not been adequate. The reports that governments submit to the Committee on CEDAW do not always comply with CEDAW guidelines. They are sometimes quite short, sometimes overdue, and rarely self-critical" (2011: 12). The main implication is that there exists a gap in the process of implementation. This points to the necessity of developing monitoring mechanisms to ensure the enforcement of the decisions taken by the Committee.

Women’s movement in Turkey gained momentum especially in the 1980s. After the adoption of CEDAW in Turkey, KSGM (*Kadının Statüsü Genel Müdürlüğü* – Directorate General on the Status of Women) was established in 1990. Kaplan (2011) argues that it was established “in order to stop all kinds of discrimination against women, improve human rights, help women to be effective on economic,

social and cultural fields, give support to all kinds of studies to raise up the educational level of women, develop strategies about this topic, constitute plans and programs, contribute to determination of basic policies, etc.” (2011: 39). An important point is that KSGM was the first official organization and played a primary role in institutionalizing women’s movement in Turkey. As Karal and Aydemir (2012: 58) suggest, KSGM was established with the aim of developing women policies as a national mechanism, and it serves as a means to take women-related issues to the parliament and strives to make decisions in favour of women.

1982 Constitution<sup>49</sup> includes articles in relation to gender equality as part of reforms undertaken for the European Union accession process. One of these is Article 10, which asserts that “Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds”. As Ünlü has also pointed out, this article led to many discussions on positive discrimination; criticized by women’s associations for disregarding affirmative action and therefore the inadequacy of the phenomenon of equality of men and women (2013: 6).

On the issue of violence against women, Article 17, with the title of “Personal inviolability, corporeal and spiritual existence of the individual”, of the 1982 Constitution is as below:

Everyone has the right to life and the right to protect and improve his/her corporeal and spiritual existence.

The corporeal integrity of the individual shall not be violated except under medical necessity and in cases prescribed by law; and shall not be subjected to scientific or medical experiments without his/her consent.

No one shall be subjected to torture or mal-treatment; no one shall be subjected to penalties or treatment incompatible with human dignity.

An important point in the above-given article is its emphasis on the *individual* and protection of *individual* existence regardless of the person’s sex. It is, in fact, in a

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<sup>49</sup> Retrieved from: [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf)

contradictory position with Article 41, titled “Protection of the Turkish family and children’s rights” which states that

Family is the foundation of the Turkish society and based on the equality between the spouses. The State shall take the necessary measures and establish the necessary organization to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice.

Article 41, adhering to the traditional and patriarchal characteristics of the society, puts women in a position *inside* the family institution as a being who should be protected within the family. This has been a major critique of the women’s organizations and feminist movement in Turkey who advocate that women’s individual existence should not be confined to the institution of family. The main reason for this critique is that as long as protecting the “family” instead of the “woman” lies at the basis of state policies, marriages will be encouraged and preventing divorces will be crucial. This will mean that women will be under pressure to tolerate to any abuse for the sake of “saving the family”.

The first special legal regulation related to preventing domestic violence in Turkey was Law no. 4320, the Family Protection Law, which came into effect in January 17, 1998. It was the first time that domestic violence was defined in a legal text. With this law, it was provided that the police and the justice mechanisms would take action with the declaration of a third party regardless of the request of the victim. Moreover, laws were defined for removing violence-inflictors from the house to protect women. Additionally, the Ministry of Internal Affairs and the Ministry of Justice put up notices and carried out education programs to ensure the practice of the law (Karal & Aydemir: 50). However, the implementation of Law 4320 was argued to be poor, mainly due to reasons which Rodriguez (2009) defines as “the social and economic pressures women face to stay with husbands, despite abuse” (2009: 36). To elaborate, women are put under pressure by the society, and by the police officers to return to their spouses and children. Kardam (2005: 130) construes that this lack of confidence in the security and police forces limits women’s encouragement to benefit from Law no. 4320.

Istanbul Convention is an important recent convention related to violence against women which was signed by thirteen countries including Turkey on May 11, 2011. It aims to cover the gaps in the existing system when struggling with violence against women, and one of the most significant focus points on the convention is the to intervene to violence cases without the necessity of proof (in order to ease the process for the victims) (Karal & Aydemir: 59). It was also decided that all related institutions and establishments shall effectively collaborate, civil society shall be involved in the precaution-taking process and adequate financial and human resources shall be assigned to the issue of violence against women (Moroğlu, 2012: 367).

The most recent and relevant law on the issue of violence against women in Turkey is Law no. 6284 with the title of “Law to protect family and prevent violence against women” which defined its aim 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”<sup>50</sup>. This law was passed on March 8, 2012, after the coming together of over 230 women’s organizations under the platform of “End to Violence” (“*Şiddete Son*”) who shared their suggestions and demands with the Ministry of Family and Social Policies (Moroğlu, 2012: 374). Law no. 6284 can be considered as an important step against violence, as it offers protection not only to victims of violence, but also to those who *face the danger of* being victims of violence by providing services such as shelters, legal and psychological assistance in cases of potential violence victimization. However, as Ceylan (2013) stresses, the definitions of violence risk assessment or danger of violence infliction are not given, and this may result in the violation and the arbitrariness of the practice of the law (2013: 51).

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<sup>50</sup> Retrieved from: <http://www.evicesiddet.adalet.gov.tr/en/dosya/up/icerik/1-6284-sayili-kanun.pdf>

Law no. 6284 gives separate definitions for violence, domestic violence and violence against women. The definition related to this thesis is “violence against women” and it is described in the following way:

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.

The definition of “violence” in Law 6284 itself is also important, because it includes the factors of “physical, sexual, psychological and financial sufferings or pain and any physical, sexual, psychological, verbal or economical attitude”. Unlike previous definitions, this definition includes an economic factor meaning that women legally have the right to take action against economic violence.

Taking the above-given legal definitions of “violence” and “violence against women”, this thesis will seek to explore lawyers’ own definitions of what they accept to be “violence against women”, which types of violence are most commonly carried to the legal domain. Furthermore, on how women lawyers interpret the above-discussed legal developments and regulations related to violence against women will also be significant for this study, as it is assumed to be affecting whether or not they view the legal domain as a site for struggle against violence against women.

### **3.3. Evaluations on Legal Reforms and Transformations related to Violence Against Women**

Women lawyers are obliged to handle cases of violence against women within a certain framework which is defined by the legal regulations. However, this framework is not a very strict one and it can be re-shaped through reforms and it can undergo transformations. Çilem emphasizes that the legal regulations are gender-biased and need to be transformed by explaining

I swap the subjects; a woman has killed a man and she says in her defence “I forbid him from working, I forbid him to use a mobile phone; but he didn’t listen to me. He came home at very late hours, I warned him many times, he didn’t listen to me. I suspected that he cheated on me, in the end I have a womanhood honour, I cannot accept that he behaves like this. If I tell him he can’t work, he will sit at home!” and she kills a man. Do you think she will have unjust provocation remission? But when

a man says this, he does. And that is exactly where the sexism of the jurisdiction stems from<sup>51</sup>(Çilem).

Çilem's words also demonstrate that these women lawyers have strategies when they are handling cases of violence against women. They swap the subjects, they aim to question the practice of the legal regulations and try to prevent decisions that will be given based on expected gender norms and roles within the society. As I will discuss further in the following sections, these women lawyers also develop strategies when they are handling cases of violence against women. For instance, they seek psychological guidance in order to preserve their psychological being, they participate in trials with more than one lawyer in order to create pressure on the judge, and they work with voluntary women's organisations in order to provide necessary services for their clients who are victims of violence against women.

Women's movement in Turkey has aimed at transforming these legal regulations in their struggle against violence against women. This section of the thesis will explore the interviewed women lawyers' evaluations of these legal reforms and transformations.

The main point which presented itself in the respondents' evaluations of the legal regulations was that the legal framework was fine, and this was achieved by the active women's movement and the efforts of women's organisations. However, it needed to be better implemented. In other words, they all claimed that the problem was about implementing these legal regulations, not making reforms. They gave different reasons to why the implementation process was problematic. For instance, according to Hasret;

With us, yes some reforms are made, but we meet very large gaps when we come to the point of implementation. For example, there is a law on the prevention of domestic violence. Yes, here we can take restraining orders even if the couple is married; the precautions are listed there. However, when we come to the practice;

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<sup>51</sup> Ben özneleri deđiřtiriyorum; bir kadın adamı öldürmüş, diyor ki savunmasında “ben onun çalışmasını yasakladım, cep telefonu kullanmasını da yasakladım, ama beni dinlemedi. Eve çok geç saatlerde geldi, defalarca uyardım, beni dinlemedi, beni aldattığından şüphelendim, benim de sonuçta bir kadınlık gururum var, ben böyle davranılmasını kabul edemem, ben çalışma diyorsam evde oturacak” deyip bir adam öldürse sizce haksız tahrik indirimi uygulanır mı? Ama bir erkek bunu söylediğinde uygulanıyor. İşte tam da yargılamanın cinsiyetçiliđi buradan kaynaklanıyor.

unfortunately, we cannot carry out the job together with the police stations, prosecution offices. So yes, some things are done, like new laws pass, laws are transformed, drafts are prepared etcetera, but when it comes to practice, there are hold-ups. I think *these* should be solved.<sup>52</sup>

Other respondents touched upon the existing demands on severe penal sanctions as a common issue in present-day discussions about fighting against violence against women. For the women lawyers whom I interviewed within the framework of this thesis, this is found to be an unnecessary demand. Çilem's view explicates on this idea:

Severe penal punishment does not prevent crime. On the contrary, I believe it produces crimelessness. I support the transition to a system which is able to *penalize* crimes. If we surpass the problems in executions, our penal codes are already sufficient. As a matter of fact, they include serious sanctions, there is no need for greater ones. So, I suggest that the main issue is the practical execution. I mean that punishment can be given at the end of trials. Because when you make the punishment more severe, the judge will not give this punishment if he/she has even little doubt regarding the suspect's guilt; personal conviction necessitates this. Secondly, we have problems related to "providing evidence". This is where the sentence "The declaration of the woman is principal" comes into the picture.<sup>53</sup>

As Abrams (1991) claims, "Feminist lawyers are law reformers: they seek not simply to secure sound outcomes under the existing law, but to correct the law in favor of its own incompletely expressed aspirations or a set of externally generated norms" (1991: 376). However, from the interviews carried out within the scope of this thesis, the women lawyers are not dissatisfied with the existing legal regulations. They are aware, and they emphasize that it took the valuable efforts of women's

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<sup>52</sup> Bizde evet birtakım reformlar yapılıyor, ama uygulama alanına geldiğimizde çok büyük boşluklarla karşılaşıyoruz. İşte bir kanun var aile içi şiddetin önlenmesine dair. Evet burada evliyenin dahi uzaklaştırma kararları alabiliyoruz, tedbirler sıralanmış orada. Ama bunu uygulamaya geldiğimizde maalesef karakollarla, savcılıklarla birlikte götüremiyoruz işi. Yani evet birtakım şeyler yapılıyor, işte yasalar çıkıyor, yasalar değişiyor, tasarılar hazırlanıyor, görüşülüyor vs ama uygulama alanına gelindiğinde tıkanıklıklar yaşanabiliyor. Bunların çözülmesi gerekiyor bence.

<sup>53</sup> "Ağır ceza suçu önlemez. Aksine, ağır cezanın cezasızlığı doğurduğunu düşünüyorum. Ceza verilebilir bir sisteme geçilmesini savunuyorum. Mevcut yasalardaki infaz sorununu aşarsak zaten ceza yasalarımız çok elverişli. Hatta çok da ciddi biçimde yaptırımlar içeriyor, daha ağıra gerek yok. O yüzden şunu söylüyorum, birincisi, asıl mesele belirlenen yaptırımların fiilen uygulanması. Yani yargılamaların sonunda ceza verilebilir olması. Siz cezayı ağırlaştırdığınızda suçun işlendiği konusunda asgari düzeyde bir tereddütü olan bir hakim ceza vermemeyi tercih edecektir; vicdani kanaati onu gerektirir. İkincisi, delillendirme meselesinin ciddi aşmazlıkları, sorunlarımız var. Kadının beyanı esastır cümlesi burada işin içine girmektedir.

movement and struggle to come to this point in the legal sense. However, this achievement is not taken to its potential in the practical sense. Hence, what the women lawyers demand is that the implementation of existing legal regulations is carried out effectively.

Even if the legal regulations were to be carried out efficaciously, women lawyers feel that it would not be enough to solve the problem of violence against women. In their explanations, women contended that the main aim should be to change the mentality, the perspective. As Çilem argues,

the existing regulations must be put to use with a gendered perspective and the implementation should involve a perspective for overcoming gender inequality within the society. These people should undergo a rehabilitation process. The man stays in prison for three years, and murders his wife on the first day that he is out.<sup>54</sup>

Thus, what the women lawyers suggest is basically education. Both for the legal professionals and for those who commit the crimes. Only with this education can the mentality can change.

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<sup>54</sup> Bu yargılamalar değerlendirilirken elimizdeki hukuk maddelerini cinsiyetlendirilmiş bir perspektifle değerlendirmek ve uygulamayı toplumsal cinsiyet eşitsizliğini aşındırmaya yönelik bir bakış açısıyla uygulamamız lazım. Rehabilitasyon sürecinden geçmeli bu insanlar. 3 yıl hapiste kalıyor, çıktığı gün gidip eski eşini öldürüyor.

## CHAPTER 4

### FEELING THE EFFECTS OF BEING A “WOMAN” IN THE LEGAL STRUCTURE

Women’s experience in the legal profession, since their entrance, has not been considered separately from their gender identities within the existing literature. For instance, Jack and Jack suggest that

Not only must care-oriented lawyers face the puzzle of integrating their moral perspective into a rights-oriented system, but women attorneys have the additional task of accomplishing this in an atmosphere of discriminatory attitudes and structures. Beginning in law school, women learn that feminine ways of participating are not always welcome. [...] The safest way to success is emulation of males, even to the extent of learning to "speak louder and lower," and "actively becoming an intimidator." Even clothes, a worldwide symbol of gender difference, are to be homogenized to the male mode. "Dress and talk in a conservative and professional style. Avoid wrap-around skirts, casual shoes or hair color changes. Dress like a lawyer, in a conservative suit. Don't chew gum." [...]. Particularly in the legal profession, which prides itself on objectivity, professionalism, and combativeness, traditional feminine traits are unacceptable. For many women, this results in an internal tension of "me/not me" when they define themselves as feminine yet try to negate within themselves the stereotypes that discount them in the legal world (Jack & Jack, 1988: 935-6).

It is apparent also from this study, as discussed in the previous sections, that even their reasons for becoming a lawyer and for dealing with violence against women is related to their woman identities. However, once they are in the profession, they feel the effects of their gender identity as they are performing their occupation. This can show itself, as Jack and Jack have stated in the above given quote, in the way that the women feel they need to change the way they act, dress or speak. Or it can be apparent in the experiences they have while carrying out their profession. It is also suggested by some that the decisions themselves that are given in court are biased against women attorneys. According to Schneider, for instance, “many courts have now accepted that there is gender bias in the law of self-defence” (2008: 33)

From such a discussion, this part of the thesis seeks to analyse the effects of their woman identities on their professional experiences of handling cases of violence against women in the legal domain. With this aim, I asked the respondents; “as a woman lawyer, how do you position yourself when handling cases of violence against women?”, “Does your identity of being a woman affect your clients’ decisions in choosing you as their attorney? If yes, how?” and “Does your identity of being a woman affect the given decisions in court? If yes, how?”. Lastly, with the assumption that the legal parlance itself was masculine, I asked “What do you think about the legal parlance?”.

#### **4.1. Impacts of Lawyers’ “Woman” Identities to the Decision-making Process of Cases**

The respondents of this study participated in it primarily due to their professional identities of being a lawyer. Therefore, trying to grasp whether they view their gender identities to play a role in how they perform their professions was not an easy task as it could seem to imply that they were “unprofessional” if they mix their gender into the work they do. Still, to understand whether and how women lawyers experience “double-consciousness” when they handle cases of violence against women, the interviewees were asked two major questions, first regarding how they position themselves as a woman and as a lawyer when approaching this issue, and second regarding their opinions on whether their woman identity affects the given decisions in these cases. Although some of the respondents were strict in expressing that they approach these cases with their “lawyer” identities and do not reflect their gender identities to their professional lives such as Emine, Havva and Damla (who suggested that her being a woman does not have any effect on the case because the judges - at least in Ankara - are professional enough to avoid this); some others, like Nesrin indicate that being a “woman” does indeed have effects on the way they perform their profession and the way that these cases result:

Of course I believe that women lawyers’ “woman” identity affects these cases. Because it is only natural that she can make better advocacy if she really believes. I mean, lots of men say “I understand”. They try to understand, our thanks to them, but to understand, they have to be in this body; because for me, it is not possible to

understand otherwise. In that sense, a woman who believes better makes a better defence, and that can reflect in the given decisions of the court<sup>55</sup> (Nesrin).

To start with, I asked the interviewees how they position themselves when handling cases of violence against women; did they feel like they were present at that courtroom with their lawyer identities alone, or did they carry their woman identities to their professional environment? Three of the respondents replied that they approached the issue only with their lawyer identities; their professionalization required so. I do not know whether they really believe this or they said it in order to give the impression that they are professional. However, the rest of the respondents all suggested that they were either present at that courtroom primarily with their woman identities, or that their woman identities were combined with their lawyer identities and one could not be separated from the other.

In my opinion, asserting that their woman identities affect both their positioning in these cases and the outcomes of the courts is related to how they personally struggle against violence against women outside of the legal domain as well. Gülfidan's views can clarify this point. For Gülfidan, being a lawyer who handles violence against women cases is *because of* her woman identity, and she is present in these cases with her woman identity first. She explains that she would follow these legal cases even before she was a lawyer, she would go to the trials and sit in the audience section as an observer for support. After she became a lawyer, her political views did not change and she is still "a woman first". Öykü is another example who claims that she puts her woman identity first:

In the classic discourse, you are a lawyer and you should be handling these cases with your lawyer identity. But actually it is not like that for us. Just because our gender, we are on one side. I mean, it is not even possible for me to defend a case if it is not fit to my perspective. Therefore, I can't say that I am present in these trials with my lawyer identity. Maybe what is more influential, more important is

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<sup>55</sup> Elbette bu davalarda kadın avukatların kadın kimliklerinin bir etkisi olduğunu düşünüyorum. Çünkü bir kadın doğaldır ki gerçekten inanıyorsa daha iyi bir savunma yapabilir. Yani bir sürü erkek diyor "anlıyorum". Anlamaya çalışıyorlar, sağolsunlar, ama anlamak için bu bedende olmanız lazım, yani o hissi yaşamak çünkü başka türlü pek mümkün bir şey değil bana göre. O anlamda savunma yaparken daha iyi inanmış bir kadın daha iyi savunur, e bu da bu anlamda alınan karara yansiyabilir.

my feminist woman identity. I follow cases through those criteria. And *that* is my law! (laughingly)<sup>56</sup>.

Apart from the women who suggested that their woman identities come before their lawyer identities, there were also those who assert that these two identities cannot be separated; they are intertwined. For Nevin, this can be explained in the following way:

My “woman lawyer” identity is important (smiling). Because these two are inseparable. If I wasn’t a woman, I wouldn’t have this advocacy practice. To tell the truth, the fact that I am a woman is never out of my mind. Because in those trials, even as a woman, we are subjected to violence. We are exposed to psychological violence; as a matter of fact, we would be exposed to physical violence if they could help it! We become a target easier because we are women. In fact, the discourses of the politicians are reflected in a very concrete way; there are defendants who yell at us “be quiet with your woman self!” even though we are lawyers. Therefore, in these cases, we never forget that we are women, even if we want to.<sup>57</sup>

The interviewed women who accepted the effects of their gender on the violence against women cases they handle mentioned a positive effect. Nevin, for instance, claimed that the *struggle* they give *because* of their woman identity positively affects the results in the cases. However, what they all also underlined was that being “crowded” has the most effect on the case rather than the genders of the lawyers. To quote from Bedriye,

It is very effective to be five lawyers in a courtroom instead of one lawyer. When you go to a courtroom as a crowded group rather than just one woman lawyer, you create psychological pressure. We have seen, experienced this, every time. Every single time. As a matter of fact, the judge wants to take these people out. They throw threats such as “don’t listen, go, I will take you out” because he/she

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<sup>56</sup> “ söylemde; siz avukatsınızdır ve o kimliğinizle bulunmanız gerekir. Ama bizim için böyle değil aslında. Çünkü sadece cinsiyetimizden ötürü bile biz tarafız. Yani benim kendi bakış açım uymayan bir davayı zaten savunabilmem mümkün değil. Dolayısıyla sadece avukat kimliğimle yer aldığımı söyleyemem. Belki ondan daha etkili, önemli de olan benim feminist kadın kimliğim. O kriterden geçerek davaları takip ediyorum. *Bu da* benim hukukum aslında! (gülerek).”

<sup>57</sup> (Gülerek) Kadın avukat kimliğim diyim; çünkü ikisi birbirinden ayrılmaz bir şey. Kadın olmasaydım bu avukatlık pratiğim olmazdı. Doğrusu kadın olduğum hiçbir zaman aklımdan çıkmıyor. Çünkü o duruşmalarda avukat olarak bile biz kadın olduğumuz için şiddet görüyoruz. Psikolojik şiddet görüyoruz, hatta ellerinde olsa fiziksel şiddet de göreceğiz. Kadın olduğumuz için daha kolay hedef haline geliyoruz. Hatta işte politikacıların dili topluma zaten çok somut yansıyor; avukat olarak bile bize “kadın halinle sus” diye bağırın sanıklar oluyor. O yüzden kadın olduğumuz, biz istesek de, hiçbir zaman aklımızdan çıkmıyor o davalarda.

feels under pressure. And we *want* them to feel pressure. Because when you leave the decision up to a person's conscience, there is absolutely nothing to be done if that person doesn't have a conscience.<sup>58</sup>

In the trial taking place in the Criminal Court which I was able to observe, the petitioner's lawyers consisted of five lawyers whereas the suspect's lawyer was just one man. There was also a crowd in the audience section, including myself. This crowd consisted mainly of the murdered woman's relatives and members of the community centre (Mamak Halkevi) of the neighbourhood where she lived. From my observation, I could tell that this crowd had a positive effect for the petitioner's side. The lawyers would exchange approving or encouraging looks among one another and towards the crowd. The suspect's lawyer, on the other hand, looked only down at his plead and the papers he had in front of him. The judge did not make any positive or negative remarks about the crowd, which could imply that this is a commonly experienced situation. However, the fact that he did not insult or make derogatory remarks might have been the result of the pressure which he felt. Additionally, as I have later found out from the lawyer which suggested me to attend that trial, the suspect was sentenced to life imprisonment, which the lawyers evaluated to be a positive outcome. Whether or not the number of lawyers or audience had any effect on this decision is unknown; but, based upon the comments of the interviewed women lawyers who have a chance to compare different cases, it could be right to argue that it probably did.

Other lawyers also mentioned that it was good to create this pressure as it actually affects the given decisions. One respondent, on the other hand, mentioned a negative side to having a woman's perspective when handling these cases. According to Öykü, "it is not always positive; it can sometimes be negative. From the opposite side, the judge can be in a punishing attitude by saying "you are standing here with

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<sup>58</sup> Bir duruşma salonunda tek bir avukat olmak yerine beş avukat olmak çok etkilidir. Bir kadın avukat girecekken kalabalık bir grup olarak gidildiği zaman psikolojik bir baskı oluyor. Yani biz bunu her seferinde deneyimledik, gördük. Her seferinde. Hatta hakim dışarı çıkarmak istiyor. "Dinlemeyin, gidin, dışarı çıkaracağım" gibi tehditler savuruyor çünkü kendini çok büyük baskı altında hissediyor. Biz de zaten baskı altında hissetmesini istiyoruz. Çünkü kararı bir insanın vicdanına bıraktığımız zaman bu insan vicdansızsa yapılacak hiçbir şey yok.

a political standpoint”. This also affects your defence, the others’ defences and attitudes.”<sup>59</sup>

To sum up, it could be argued that the majority of the interviewed women lawyers feel that their woman identities affect their experiences in the legal domain. Most of them assert that they feel both their identities of being a woman besides a lawyer. In this sense, we could say that women have a double-consciousness. The term, for Drachman refers to women’s consciousness of their gender identities as well as professional identities (2001: 63). However, she also mentions that women lawyers may experience a tension between these two identities. In this study, the interviewed women have not expressed such a tension. They acknowledge both of their identities and accept the fact that they are intertwined and one may affect their perspectives about the other. Additionally, none of the women have expressed that they could not carry out their profession in the way that they want due to their woman identities. They have suggested that there may be obstacles, but they perform their profession in the way that is fitting to their own perspectives.

#### **4.2. Guiding Women Clients through Legal Procedures**

A main emphasis of this thesis is that lawyers hold a mediatory position between the law and the individuals who are in need of accessing the law. The reports of KSGM, carried out in 2009<sup>60</sup> and<sup>61</sup> 2014 are important for showing whether women are aware of their rights; as this affects women’s struggle against violence in the legal arena. Relatedly, the report suggests that 30% of women have not heard of the attainment stating that it is a crime for husbands to force women into sexual intercourse. 13% of the women do not know that they can get a restraining order for

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<sup>59</sup> “Olumsuz da olabiliyor, olumlu olmayabilir. Tersinden, mahkemede ‘siz burada siyasi bir tavırla bulunuyorsunuz’ diye sizi cezalandırıcı tutum içinde olabiliyor. Bu şeyi de etkiliyor, sizin savunmanızı etkiliyor. Karşı taraf avukatlarının savunmalarını, tutumlarını da etkiliyor.”

<sup>60</sup> T.B.K.S.G.M. (2009). Türkiye’de Kadına Yönelik Aile İçi Şiddet. Ankara: Elma Teknik Basım Matbaacılık

<sup>61</sup> Türkiye’de kadına yönelik aile içi şiddet araştırması. TC Başbakanlık Kadının Statüsü Genel Müdürlüğü, 2014. Retrieved from: <http://www.hips.hacettepe.edu.tr/KKSA-TRAnaRaporKitap26Mart.pdf>

their husbands if they inflict violence on them. 50% of the women do not know that they can get financial aid if they are victims of domestic violence. These percentages imply that women are actually not fully aware of their rights and they do not totally know how legal procedures work. This information is significant because it affects the struggle of women lawyers and how they approach the issue when they are dealing with cases of violence against women. It creates a responsibility on the women lawyers of guiding the women through the legal procedure, starting with explaining them their rights, their options and the possible outcomes of these options. It is also something which women use to earn the trust of their clients, and I will discuss this point further in the following chapters.

In this part of the thesis, I will analyse how women lawyers view their mediatory positions in legally handling cases of violence against women considering the gender dynamics of their relationship with their clients. The interviewed women, after all, are handling cases of violence against women *as a woman*; and their clients are women victims of violence. To quote from Emine:

Attorney-client relationships are very humane relations. This is actually one of the factors which I like the most about this job. Your client comes, you meet, you listen to very private points of her life in a way. Every day, new people, new lives, new cases may enter your life. Every day is a new beginning<sup>62</sup> (Emine).

Therefore, the aim is to understand whether/how their gender identities reflect onto the attorney-client relationship. With this aim, I asked the interviewees “What are your criteria for choosing clients in cases related to violence against women?” followed by two related questions; “What do you discuss on the first meeting with your clients?” and “How do you discuss private, sexual matters with your clients?”.

#### **4.2.1. Being on the Side of “Women” Clients as Women Lawyers**

When women lawyers were asked their criteria for choosing clients in cases of violence against women, they were certain about one thing: they would not turn back

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<sup>62</sup> Avukat-müvekkil ilişkileri çok insani ilişkilerdir. Avukatlığın en sevdiğim yönlerinden biridir aslında bu benim. Müvekkilin geliyor, tanışyorsun, bir şekilde O'nun hayatının çok önemli noktalarını dinliyorsun. Hayatınıza her gün yeni insanlar, yeni hayatlar, yeni olaylar gelebilir. Her gün yeni bir başlangıçtır.

any woman who came to them looking for help. In other words, they expressed that they would not turn down any woman victims of violence seeking for legal guidance. Even if a woman had no economic means, the women lawyers stated that they would help her, either by directing them to women's organizations such as "Gelincik" or they would voluntarily take on the case themselves. Only one respondent, Öykü mentioned exceptional situations by saying

Sometimes, the person does not come, a relative of hers comes; her family, for instance. Or her friend. They say "talk to her, help her in so and so ways please". We do not accept this. Of course, we do not accept it if the person is not in a hospital or prison, if she *can't* come herself. Because what she wants is important for us. It is about whether they want to reach justice themselves.<sup>63</sup>

Other than the point which Öykü draws attention to where women do not come themselves, women lawyers insisted that they do not turn down women who knock on their door seeking help. However, again, all of the interviewees explained that this was seldom the case. Women who did not know them often did not come and ask for their help. Instead, the women lawyers explicated that their clients reach them through acquaintances. And, as they come with a "reference", the women lawyers accept these women's cases. I found Nesrin's comments very significant at this point. In her words:

I usually receive a phone call that says "I have a friend who is in a really difficult position, I suggested you to her, please help her". When that person walks through the door, she is firstly a friend of my friend as she came with a strong reference. It is obvious that they require such intimacy, such affection. Besides, if we do not show that trust and intimacy, she won't tell everything up to her bedroom affairs. And this is not a fake trust, believe me. Of course, we have to protect ourselves. We have to protect ourselves from our clients. We are often stuck in difficult situations because of their false pretences.<sup>64</sup>

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<sup>63</sup> "Bazen kişi kendi gelmiyor, bir yakını geliyor. Ailesi geliyor mesela. Ya da arkadaşı geliyor. Diyor ki işte "gidin onla görüşün. Şöyle bir destek verin" diyorlar mesela. Onu kabul etmiyoruz. Eğer tabii kişi hastanede, hapisanede, yani kendisi gelemeyecek durumda değilse. Çünkü O'nun kendisinin ne istediği bizim için önemlidir."

<sup>64</sup> "Bana genelde telefon açılır 'bir arkadaşım var çok zor durumda, seni önerdim, lütfen yardımcı ol'. O kişi kapıdan girdiğinde kuvvetli bir referansla geldiği için öncelikle arkadaşımın arkadaşıdır. Öyle bir yaklaşılmaya, öyle bir şefkate ihtiyaç duydukları bellidir. O güveni ve o yakınlığı göstermezsek zaten yatak odasına kadar her şeyi anlatamaz. Ve bu sahte bir güven değildir, inanın. Tabii ki kendimizi korumak zorundayız, biz önce kendimizi müvekkillerimizden korumak zorundayız. Onların yalan beyanlarından dolayı çok yerde çok zor durumda kaldığımız olur."

The concept of “trust” occupies a large place when defining the relationship between women attorneys and their clients. As seen from Nesrin’s remarks, this trust is a double-sided phenomenon and must be established both by the client as well as lawyer. In the existing literature, the conceptualization of the concept “trust” has been defined from the perspective of the clients. As Nolan-Hayley (1997) argues, “Clients must be able to trust lawyers to guide them through decisionmaking; clients *qua* disputants must be able to trust the mediator to guide them in decisionmaking” (1997: 1385). In cases of violence against women, the concept of trust occupies a significant place due to the sensitivity of the issue. As the respondents have suggested, their clients are women who have been betrayed by others, mostly from the men in their family or men who they know; and trusting someone else, narrating their traumatic experiences requires a special form of trust. Women lawyers whom I interviewed within the scope of this study underline their need to establish such trust with these clients which is often harder to establish compared to their other clients. It is a trust based on intimate privacy which includes sexuality, a trust which makes the client feel that she is not “judged” by her own lawyer.

What is somewhat ignored in the literature when focusing on clients “trusting” their lawyers is the lawyers’ need for trusting their clients. Women lawyers whom I interviewed for this thesis expressed their negative experiences after trusting their clients similar to what Nesrin has mentioned above. Bedriye narrated an example case where one of her clients lost her trust. A woman came to her, saying she was subjected to violence from her husband and she ran from Istanbul to Ankara with her five-year-old child, and she wanted a divorce and alimony from her husband. She came to meet Bedriye a few times with a man, and when Bedriye asked who that man was, she said “he is my relative”. After speaking with the woman’s son privately, Bedriye found out that the woman and her boyfriend was in fact making her son sell drugs, and the man who came with her to meet Bedriye was her boyfriend. What they wanted was more money from the woman’s husband who had recently began to suspect that his son was being forced to sell drugs.

From experiences alike, the interviewed women lawyers argued that they needed to defend themselves from women who should not be trusted, and the main way of doing this is to take cases from the women that their acquaintances suggest. Nonetheless, they do add that they are inclined to help women that they do not know even if it means that they might be put in a difficult position afterwards. They say that they cannot risk not helping a woman in need simply because she *might* be lying.

When the topic was choosing clients, the majority of the respondents underlined that they would not defend anyone who is suspected to have inflicted violence on a woman. They have touched upon the idea that everybody has the right to be defended, and they respect that; but they simply wish for *someone else* to defend those suspects. To justify, women added that even if they wanted to defend them, they could not, because it was something against their political beliefs. So it is better for the accused if he is defended by someone else. To provide examples from the given statements, Gülfidan stressed; “I would not be on the side of the man. I mean, yes, it is a profession, we gain money, everybody has the right to defence yes correct, but lawyers also have the right to choose. I am selective in that way”<sup>65</sup>. Nevin put it this way:

The latest point we have arrived at is not accepting the attorneyship of men. If it is not a case of uncontested divorce, if both sides have not accepted each other’s terms, I do not accept to be the lawyer of the man, I mean the husband. Because when we tell them “you will surely ask us to make a defence based on gender roles, and we will not do this. If you still want us to be your lawyers, we can be”, they do not want it either.<sup>66</sup>

From the above-given discussions, it is clear to see that women lawyers choose their clients with respect to how they approach the issue of violence against women. They

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<sup>65</sup> “Erkeğin tarafında olmam. Hani mesleki, biz buradan para da kazanıyoruz, herkesin savunma hakkı var evet doğru, ama avukatların da dava seçme hakkı var. O şekilde seçiciliğim var”

<sup>66</sup> Son zamanlarda geldiğimiz nokta da artık erkeklerin vekilliğini almama sınırına dayandı. Eğer anlaşmalı boşanma değilse, karşılıklı birbirlerinin koşullarını kabul etmiş değilse erkek, yani kocanın vekili olmayı kabul etmiyorum; çünkü “mutlaka toplumsal cinsiyet rollerine dayanan bir savunma isteyeceksiniz bizden ve biz bunu yapmayacağız. Buna rağmen vekiliniz olmamızı istiyorsanız oluruz” dediğimizde tabii istemiyorlar onlar da.

have pointed out that they would not defend men in these cases, because they would not build up their defences through gender roles. The opposite is true for women who ask for their legal procuratorship. Women lawyers have stated that even if there is a risk that women sometimes betray their trust, they would accept to help the victims of violence. I will further elaborate the phenomenon of “trust” in the relationship between lawyers and their clients in the next section of the thesis.

#### **4.2.2. Bonding with Clients and Discussing Sensitive Issues “Woman-to-Woman”**

In order to understand how women lawyers develop their relationship with their clients, this part of the thesis aims to analyse how their first meetings take place, how they create mutual “trust” and how they discuss sensitive, sexual issues. It will include a focus on how being a woman affects the lawyers’ relationship with their women clients. Here, I take only their relationship with women clients, because as I have noted in the previous section, women lawyers mostly take the side of – and defend – the *victims* of violence against women.

The interviewed women lawyers have all explained that in their first meetings with their clients, they aim to understand what the problem is. They have presented some examples of women who decide to take their victimization to the legal arena, but are not even aware of the other types of violence and mistreatment that they experience. Therefore, the women lawyers suggest that they try to grasp the underlying problems. After this, the women lawyers offer the routes to follow, the steps to take to their clients. If their clients need psychological guidance, they direct them to professionals in that area. This is the common procedure which women lawyers express that they follow in their first meetings.

The respondents have also touched upon the fact that they aim to establish their relationship with their clients on the basis of mutual “trust.” In their opinion, if their clients *trust* them, they will share even the most personal and private issues with them. Nolan-Hayley touches upon this point by suggesting:

Despite the self-evident necessity of trust, lawyers should not assume that it is a given in the mediation counseling relationship. In view of the negative public

persona of the legal profession, lawyers must consciously seek to earn "active trust" (1997: 1385).

As can be implied by Nolan-Hayley's quote, establishing this trust is important but also difficult, therefore lawyers must try to earn this trust despite its difficulty. It is difficult, because – in Bedriye's words – “Frankly, those women usually do not trust anyone. I mean, when a woman is subjected to violence from the man who is closest to her, from the man who she puts her head on the same pillow with, this woman is psychologically depressed and cannot trust anyone”<sup>67</sup>.

To overcome this obstacle, women lawyers have mentioned their ways to ensure the trust in their relationships with their clients. Çilem, for instance, has described the process she creates with her clients in the following way:

If my clients have come especially by the reason of violence, I give a speech at the beginning of the meeting. I tell my client that she can tell me everything she wants, that what she tells me will stay only between us, that what amount of those is carried to the judicial process is up to her, that I need to know at least the nature of the events without violating her privacy in order to establish the trust relation between us and for me to have a grasp of the details of the events. When I make such an introduction and emphasize “I explain the choices and the alternative outcomes of these choices. What you decide after that is up to you”, and also because I am also a woman, they trust me more. They can tell me most things by adding “I couldn't tell these to anyone, I am only telling you”<sup>68</sup>.

Other lawyers have also implied that they show affection to their clients who are victims of violence, even though they agree that this may not be the professional thing to do. However, they insist on doing this because they have observed that it is

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<sup>67</sup> “Açıkçası o durumdaki kadınların genelde kimseye güvenleri kalmıyor. Yani bir kadın evinde en yakını, aynı yastığa baş koyduğu adamdan bile şiddet gördüğü zaman bu kadının çok psikolojisi bozuluyor ve kimseye güvenemiyor.”

<sup>68</sup> Müvekkillerim, özellikle şiddet nedeniyle gelmişlerse, öncelikle görüşmenin başında bir konuşma yapıyorum. Müvekkilime, bana istediği her şeyi anlatabileceğini, bu anlatılanların ve konuşulanların sadece aramızda kalacağını, O'nun istediği kadarının yargısal sürece yansıtacağını, istemediği hiçbir şeyin kullanılmayacağını, ama aramızdaki güven ilişkisinin kurulması ve benim olayların detaylarına vakıf olabilmem için ve O'na hukuki destek sunabilmem için de olayların en azından mahiyetine, onun mahremiyetini ihlal etmeyecek ölçüde bilmem gerektiğini anlatıyorum. “Burada seçenekleri, bunların alternatif sonuçlarını anlatırım. Bunun sonunda vereceğiniz kararlar her türlü size ait” şeklinde bir girizgah yaptığım için, bir de kadın olduğum için daha fazla güveniyorlar. “Ben bunu kimseye anlatamadım bir tek size anlatıyorum” diye anlatabiliyorlar.

the only way possible to gain the trust of their clients, enough so that they can tell them the events which took place. According to Ellmann (1986), women lawyers are correct in thinking so, because

We may expect, then, that some clients will think that what is meant to be "non-judgmental acceptance" is actually affection and approval. We may expect, too, that a client who encounters such unexpectedly, and unintentionally, warm responses will sometimes respond in kind, with "reciprocal" affection and trust. Such feelings no doubt will frequently encourage [her] to be even more frank with [her] lawyer (1986: 739).

What is also striking in Çilem's previous quotation is that women clients trust their lawyers because of their woman identities. Without exceptions, the respondents claimed that women can trust them easier because they are also women. That is, in fact, one of the reasons that they choose to carry out their struggle in the legal domain with a *woman* lawyer. To quote from Bedriye;

They are certainly more comfortable because I am a woman. I know from the times when I worked in the legal assistance office that if the case included sexual violence, they request that we assign a lady, sorry, a *woman* (smiling and nodding for approval)<sup>69</sup> lawyer to the case. That is why I also know that women clients feel more comfortable with women attorneys.<sup>70</sup>

Feeling comfortable when discussing private, sensitive, sexual matters is also affected by the lawyers' women identities, according to their answers. Damla explains, from her own experiences:

Explaining these things to a man might be harder. I am certain that my woman identity directs me much easier in this subject. I know that women sometimes find it very difficult to these things to men attorneys, that they *can't* tell them. But we

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<sup>69</sup> "Not lady, woman!" (Bayan değil, kadın) is a slogan used in Turkish by feminists. The word "bayan" refers in English to "lady, or Ms.". In Turkey, people use the word 'bayan' to refer to women, with the implication attributed to the word "kadın" as a girl who is no longer a virgin, suggesting that she has had sexual intercourse. In other words, the word "woman" is perceived to be obscene for women who are not yet married. Therefore, the word 'bayan' is used when calling to women, in order to avoid thinking about whether she has had sexual intercourse or not. Feminists are trying to change this discourse, claiming that "woman" is a sex, and it should not be "rude" or "shameful" to call a woman a woman. When Bedriye accidentally called a woman 'bayan' by accident, she instantly corrected herself to use the word 'woman' instead, and looked to me for approval, in that I know about this discourse.

<sup>70</sup> Muhakkak ben kadın olduğum için rahat oluyorlar. Adli yardım kurulunda çalıştığım zamanlardan biliyorum, eğer cinsel içerikli bir kadının kullanılması varsa kendilerine atayacağımız avukatların mutlaka bayan olmasını, pardon, kadın olmasını rica ediyorlar. O yüzden onların da kadınlarla kendilerini daha rahat hissettiklerini biliyorum.

have a client profile today that has surpassed this. These women are usually educated; academicians, business women, capital owners... They can tell these easier without differentiating between men-women attorneys. However, some other women, even though I am a woman, insistently try to keep some things from me.<sup>71</sup>

Damla's remarks at this point include an exceptional aspect when compared to the other response in that she mentions the "educational background" of her clients. She claims that the more educated the clients are, the easier they find it to explain sensitive and sexual issues to their lawyers, independent of their gender identity. None of the other lawyers have suggested this, therefore it would not be correct to imply that this really is the case.

Thus, it can be suggested that women lawyers try to accomplish a relation based on trust with their clients related to violence against women cases. They imply that these women *need* to feel affection and if women lawyers are able to provide this, women clients will tell them what they have experienced in a more detailed way. However, from the women lawyers' perspective, this trust should be *mutual*. What is meant by mutual can be comprehended from Öykü's words: "For starters, they need to trust you. But of course, you also need to trust *them*! By trust in this case, I mean "does she really want to start a legal process, will she be able to take the risks of the consequences and is she ready for an open, honest, fair relationship"<sup>72</sup>. What makes this mutual trust relationship easier to achieve is the lawyers' woman identities. According to the respondents, their gender identities make it easier for women to trust their attorneys as they will think "she is also a woman, she will understand me, I can trust her".

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<sup>71</sup> "Bunları bir erkeğe anlatmak biraz daha zor olabilir. Kadın kimliğimin beni bu konuda kolay yönlendirdiğinden eminim. Erkek vekillere kadınların bunları bazen çok zor anlattığını biliyorum. Anlatamadıklarını biliyorum. Ama bunu aşmış olan müvekkil profilimiz var. Genellikle bunlar eğitilmiş kişiler oluyor, akademisyenler, iş kadınları, sermaye sahipleri... bunlar biraz daha kolay anlatabiliyorlar kadın-erkek ayrımına girmemek için. Bazıları karşıdaki ben, kadın olduğum halde benden ısrarla gizleme çabasına girdiklerini biliyorum."

<sup>72</sup> "Öncelikle size güvenmeleri gerekiyor. Ama tabii sizin de onlara güvenmeniz gerekiyor! Burada güvenden kastım şu; hani gerçekten hukuki bir süreç başlatmak istiyor mu ve bunun sonuçlarını göze alabilecek mi ve de açık, dürüst, adil bir ilişkiye hazır mı."

### 4.3. Attempt at Transforming the Legal Parlance

In the previous parts of the thesis, women lawyers' dissatisfaction with the implementations of existing legal regulations has been expressed. When they were interpreting the attitudes of their colleagues, or commenting on their university education at law faculties, women lawyers also voiced their displeasure of the legal parlance, claiming that it was masculine in its essence. For this reason, I asked them "what do you think about the legal parlance?" and "what do you pay attention to in the language you use when you are pleading?". In this part of the thesis, I will analyse their opinions on the existing legal parlance and whether or how they attempt to transform this legal parlance based on their personal and professional experiences.

According to Philips (1982), "In a criminal trial, the power of the state is brought to bear upon an individual through the use of language. The criminal trial and, more generally, the law itself, is thus a prime site for the study of the use of discourse as an instrument of power." (1982: 179). Emine supports this view by suggesting that laws and rules exist for those in power to sustain their power and to maintain the prevailing social structure, just like the legal parlance exists to serve the existing masculine structure;

Legal parlance is definitely masculine. The legal community is masculine. Although it has changed in most of the other professions, law itself is masculine. Because law is a living structure based on preserving the social structure and our society has a masculine social structure. There are rules of the male dominant system and we try to open a channel for the woman within these rules.<sup>73</sup>

When describing this masculine language used by the law, they related the legal parlance to the cases of violence in the following way:

First of all, there is a masculine language. And there is a language which interrogates the woman. The other day, a woman was stabbed, she was beaten. And the judge is reprimanding the woman! After a while I started laughing at this. He's saying "you oppose, you do this, and this happens". I told him that the conversation

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<sup>73</sup> "Hukuk dili kesinlikle eril bir dil. Hukuk camiası aslında eril bir camia yani maalesef. Çoğu meslek içinde kalmamış olmasına rağmen hukuk kendisi eril. Çünkü hukuk, toplumsal yapının korunmasına dair olan canlı bir yapı ve bizim toplumsal yapımız eril bir toplumsal yapı. Erkek egemen sistemin kuralları var ve biz o kuralların içerisinde kadına bir kanal açmaya çalışıyoruz."

law has passed, but the state couldn't protect her. He said "what will the state do? Will it give two policemen to their beds? How will it protect her? What will the state do? Which of us will it protect?". Well, so what will be the solution? That part is non-existent. A masculine parlance is established, and that makes everything more difficult. You cannot come out by gaining strength from there.<sup>74</sup>

It is clear by the interviewee's responses that they are aware of, and disturbed by, the undergoing masculine parlance used in the legal domain, especially when handling cases of violence against women. When they were asked if they were doing anything to change this, what they paid attention to in their own pleads and language, they asserted that they firstly try not to use a masculine language, and secondly a violence language. In this way, they attempt to change the existing parlance; or at least avoid *reproducing* it. The most striking example given related to this was the discussions on "woman's honour". The aim of the women lawyers handling cases of violence against women is to turn things around. Right now, "honour" (namus) is tried to be used among unjust provocation reasons for criminal behaviour. However, similar to their achievement in honour killings (töre cinayetleri), they are now struggling to turn the usage of "honour" to be turned into aggravating circumstances. Nevin's explanations will demonstrate this example:

"Honour killing" has become the concept which we least hear these days, though we used to hear it so often in the past. Unjust provocation remission was applied in murders carried out with the motive of honour killing. The law makers brought a regulation where honour killing as a motive was turned to be an aggravating circumstance and men started to be punished more than what he would, so honour killings reduced in number. We are struggling for the same thing to happen with killings that are "honour" motivated. If that were implemented, those men wouldn't be able to say "she dishonoured me, so I killed her" in such a relaxed manner in their pleas. We put this forth in all cases, but the court does not accept it. Still, it has effects on the suspects.<sup>75</sup>

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<sup>74</sup> Öncelikle eril bir dil var. Bir de kadını sorgulayan bir dil var. Ve yukardan yani, kadını ezecek. Geçen bir kadın bıçaklanmış, dayak yemiş gelmiş. Hakim kadını fırçalıyor yani. Bir yerden sonra artık gülmeye başladım. İşte "rest çekiyorsunuz böyle oluyor, şöyle yapıyorsunuz böyle oluyor". Koruma kanunu geldi devlet koruyamadı dedim ben de. İşte "ne yapacak devlet yatağa iki tane polis mi verecek, nasıl koruyacak, ne yapacak devlet hangimizi koruyacak". E o zaman ne olacak çözüm? Orası yok. Eril dil kuruluyor, bu da şeyi zorlaştırıyor yani güçlenerek çıkmıyorsun ordan."

<sup>75</sup> "Töre cinayeti kavramı bugün en az duyar hale geldiğimiz kavram oldu, halbuki ne kadar çok duyduğumuz bir kavramdı bir dönem. Töre saikiyle işlenen cinayetlerde de haksız tahrik indirimi uygulanıyordu, yasa koyucu buna bir düzenleme getirdi, töre saikiyle işlenmesi halinde değil indirim, ağırlaştırıcı sebep oldu ve normal alacağı cezanın üzerinde ceza almaya başlayınca artık töre saikiyle

Women lawyers who I interviewed also mentioned examples of “small things” which they try to change in the legal language such as using the phrase “killing a person” rather than “killing a man”<sup>76</sup>. What they emphasized was that they try not to base their defences based on gender roles. For instance, Eda said she feared that she might recreate the existing parlance and she formulates her defences in a way that would not include judgements on what women need or should do. The significance of these attempts at changing the legal parlance is that, no matter how small or insignificant they seem, it actually means changing the *social meaning* attributed to those words. For instance, when they imply that the verb “killing a man” should be changed with “killing a person”, implies that who is considered to be a person is a man, rather than a woman in this society. This shows how the verb actually underlines that women are put in a secondary position directly from their genders. However, when the verb is transformed into “killing a person”, women are indeed considered as equals of men. They are considered as a “person”! The same goes for changing the discourses on “honour”. As women lawyers insist on making the usage of “cleaning my honour” a reason for aggravating circumstances, they are actually intending to change the social meanings of having a clean honour. To clarify how this meaning is embedded in the society, we can think that when a guy kills his wife with the reason that “she cheated on me, I cleaned my honour by killing her” and the judge decides to give unjust provocation remission to this man, it will mean that the men who chose to “divorce” their wives are dishonourable! When women lawyers look at the issue in this way, they gain the chance to alter those hidden meanings behind discourses.

As can be seen from the example of “honour killings”, it is apparent that women lawyers have a certain power to make alterations in the existing legal parlance.

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cinayetler azaldı. Biz namus saikiyle işlenen cinayetlerin de aynı kapsama alınması için çaba sarfediyoruz. Bunu uygulasalar o erkekler de artık rahat rahat savunmalarında “işte benim namusumu lekeledi o yüzden öldürdüm” diyemeyecekler. Biz bunu bütün davalarda aslında öne sürüyoruz ama mahkeme kabul etmiyor, fakat sanıklar üzerinde etkisi oluyor.”

<sup>76</sup> “Killing a man” – “Adam öldürmek”. Killing somebody is explained by “adam öldürmek” in the Turkish language.

Menkel-Meadow has provided examples of this in other contexts, suggesting that women's participation in the legal profession has had some outcomes with regard to changing the legal parlance. To quote, Menkel-Medaow (1986) asserted that

The increase of women in the profession seems to have changed some of our understandings of juridical concepts--equality has been transformed in some contexts to equity (comparable worth and equal value in Europe and the U.S.) and individualistic rights, in some contexts, have been broadened to more collective or group-based rights (health care and reproductive freedom) (1986: 15)

Thus, whether it will be a gradual process or not, it is clear that women lawyers handling cases of violence against women aim to change the existing legal parlance which they view to be highly masculine. They attempt to change major concepts such as "honour" to be used as unjust provocation factors and they formulate their defences without giving reference to gender roles. There are existing examples which demonstrate that they had the power to make alterations, and the interviews conducted within the scope of this study show that they are willing and trying to do so. However, it must be further given thought to, because women who are fighting for this within and against the legal domain are actually *a part* of this domain. In a way, are they not recreating the system and the discourses it produces by being a part of the system itself?

## CHAPTER 5

### Conclusion

In this study, I have attempted to explore how the issue of violence against women appears in the discourses of gender-sensitive women lawyers in the case of Ankara Bar Association with the aim of understanding their approaches and positions in dealing with the issue of violence against women. The main questions which I dealt with were “How do women lawyers in Turkey who are dealing with violence against women interpret the issue which is considered to be a social problem all over the world? As women lawyers are part of this legal system with their gender identities of being a ‘woman’, how do they approach the issue of violence against women in general? How do they define their own positions, both professionally and personally, within the contradictory structure of the law? How do they interpret the laws and the practices of these laws in reference to violence against women? How do they interpret the recent changes and reforms in the legal system of Turkey on the issue of violence against women? How do they evaluate and attempt to change the existing legal parlance?”. I discussed these queries by adapting a feminist standpoint approach, in the light of the in-depth interviews which I conducted with fifteen women lawyers who handle cases of violence against women, and five trials involving violence against women – one in a Criminal Court and four divorce suits in the Family Courts – which I observed.

I argue in this thesis that women lawyers’ gender identities and personal experiences cannot be separated from their entrance to, and existence in, the legal profession. Their gender identities and personal experiences affect their professional choices, experiences or how they approach the issue of violence against women. I claim that the reason they choose the legal profession, the legal area which they choose to specialize in, and the way they perform their profession are all dependent on their

personal experiences and woman identities. However, the arguments in this thesis are based on the interviews which were conducted with gender-sensitive women lawyers who are dealing with violence against women and who were already willing to criticize and comment on the issue, who are already struggling in this domain for women's rights. Other women lawyers may have different experiences and different approaches towards violence against women. Therefore, it is significant to keep in mind the standpoints of the interviewed women lawyers when discussing their approach to violence against women.

I contend that how women lawyers approach the issue of violence against women alter in relation to their own political views. The interviewed women lawyers seem to adapt a feminist approach when referring to violence against women by taking power relations into consideration. They also touch upon the patriarchal system, and one respondent considered class struggle as an important aspect of violence against women. They claim that it is a form of violence based on gender inequality, resulting from the patriarchal system; rather than providing individual-based explanations for violent acts. I argue that such an approach affects their professional experiences of handling cases of violence against women; from the way they formulate their pleas to the way they attempt to change the attitudes of other legal professionals and the existing laws.

The women who were interviewed for this study chose to become lawyers with the motivation of serving justice, because they themselves experience gender inequality throughout their lives; they have been subjects of violence in their daily lives and this affects the way they approach the issue of violence against women. The respondents define violence against women to be a form of assault carried out simply because the other person is a woman; and in their view, they are possible subjects of this violence at any second because they are also women. Thus, these women lawyers who handle cases of violence against women are gender-sensitive and they view this issue to be "their problem" and approach the issue of violence against women with a feminist approach, develop their defences in relation to their political views and use the legal arena as a domain to fight for women's rights. In

that sense, as Babcock (1998) puts it, “the personal is indeed political for women lawyers” (1998: 1689).

In this thesis, I focused particularly on women lawyers’ mediatory position when handling cases of violence against women. I accept that they build a bridge between the law and those in need of accessing the law. However, they have the chance to choose *who* they represent, and this study shows that they choose to defend *women* in these cases. Again, due to their woman identities, women lawyers interviewed for this study choose to be on the side of women in cases of violence against women; and they refuse to defend any suspect who is accused of inflicting violence to women despite their professional doctrine stating that “everyone has the right to be defended”. As emphasized previously, this is mostly related to the standpoints of the respondents who view women’s struggle to be their own struggle, and it may not be the case for other women lawyers. Moreover, I was able to identify that the interviewed women lawyers develop strategies as they are handling cases of violence against women in order to achieve better defences, but also in order to deal with the negative effects on their own psychological well-being. Changing the gender of the subjects when formulating their defences, being present in a trial with a crowded number of lawyers in order to create pressure on the judge to affect his/her decision and visiting a psychologist regularly to deal with the pressures of handling these cases can be presented as examples of the strategies which these women lawyers employ when handling cases of violence against women.

An important concept which I used in this thesis for understanding the relationship between the lawyers and their clients was “trust”. When defending their women clients, women lawyers dealing with violence against women seek to achieve mutual trust. This study demonstrated that women lawyers try to gain their clients’ trust in order to have better grasp of their clients’ experiences, whereas women lawyers must also gain the trust that their clients will not lie or give false pretences. It was seen that the lawyers’ identities of being women were very affective in creating this relationship between attorney and client. Women victims of violence preferred to discuss their problems, especially personal and sensitive issues with women lawyers

who would understand them because they assume that women lawyers share similar experiences. The fact that accomplishing this trust with a woman lawyer resulted in especially requesting a woman lawyer for women victims of violence against women. The trust which the clients form with their lawyers is significant for cases including violence, because it is a trust which includes the narration of negative experiences, intimate privacy, sexuality and these women clients need to feel that their decisions and experiences are not “judged” by their own lawyers; and the interviewed women lawyers have suggested that their clients form this trust easier with women lawyers. In turn, the women lawyers have explained that they do the most they can in order not to break this trust and they approach their clients without judging them in any way.

The level of “double consciousness” that these women lawyers experience when handling violence against women cases is also discussed within this thesis. Women lawyers who took part in this study explained that they never forget that they are women when handling cases of violence against women as a lawyer. They are present in the trials with both of their woman and lawyer identities. They formulate their defences in accordance with their woman identities, their own feminist positioning, and they are present in the courtroom acknowledging that they stand there as a “woman” lawyer. Being a “woman” lawyer even means that the outcomes of the trials could be affected, for the respondents felt that they do better defences when they “believe” in the cause. However, it is demonstrated that being crowded is more important than being a woman lawyer. This double consciousness also causes the interviewed women’s awareness of the masculine structure of the legal system which they try to exist in. Moreover, I suggest in this thesis that women’s professional experiences affect their daily lives. They tend to take psychological guidance due to the cases they handle, and that they become too aware of the gender inequality they experience in their own daily lives. Their approach to the patriarchal system, to the oppression of women are altered as a result of their experiences in the professional domain in a way that they intensified their struggle for women’s rights; in their own lives, and in the legal domain. Importantly, the interviewed women did

not experience any conflict between their two identities of being a woman and being a lawyer. Instead, these were intertwined, supporting one another.

I put forth in this study that the interviewed women lawyers, by adapting a feminist perspective and as defenders of women's rights, perceive law as a tool for carrying out their struggle. However, they criticize the existing legal procedures, regulations, attitudes of other professionals and legal parlance. The data of this study presents that there are implementation problems of the legal regulations, that women lawyers are subjected to verbal harassment in the courtrooms from both other professionals and suspects, and the legal parlance is masculine and this is felt throughout the experiences of women lawyers who are handling cases of violence against women. This limitation which the interviewed women lawyers who are motivated for this cause feel when they are handling cases of violence against women is embedded in the difficulty of changing the social meanings. As Waldron suggests, legal reasoning and the practice of law are connected to the political culture of the society (2004: 352). What these women lawyers are experiencing as barriers in the legal domain is actually the reflections of the social meanings and the political culture of the society onto the legal arena. Still, women lawyers who were interviewed for this study are insistent in their claims that the legal arena is one dimension of the solution to violence against women if not the only solution, therefore they prefer to stay within this gendered, masculine structure of law. With this study, I claim that women lawyers also attempt to alter these existing dynamics of the law and legal procedures. They stress their possibility in taking part in the lawmaking processes and seek to use this for their objectives. Though, of course, they are aware that the law is only one side of this struggle and what needs to be changed is the patriarchal system and the mentality.

I have asserted in this thesis that women lawyers also attempt to change the existing legal parlance and laws and regulations related to violence against women. According to Menkel-Meadow, "One of the significant themes in any study of women in the legal profession is whether women will be changed by the legal profession or whether the legal profession will be changed by the increased presence

of women” (1986: 4). In parallel with their views, with their continuous efforts, laws are transformed, the masculine approach is at the least questioned and tried to be changed. The amount of which they can achieve this is, of course, open to discussion. Nonetheless, I suggest from the conducted interviews and observed courtrooms that these gender-sensitive women lawyers are trying to “correct” the attitudes of other professionals to cases of violence against women, to ensure that the related laws are implemented and to transform the masculinity. From this study, though women lawyers did not mention taking on any negative traits of their profession, it could be suggested that their daily lives were affected from the cases that they handle. The respondents often need to see a psychologist regularly, because they feel like they take on very large responsibilities of fighting for women and though it is not professional, they may tend to empathize with their clients in a way that it damages their psychological well-being.

In my thesis, I have demonstrated that the interviewed women lawyers are aware of the masculinist traditions in the legal domain. There are existing debates in the literature related to whether women participate in the continuity of the masculine traditions in the legal domain. To quote from Silius (2003), “women, while lawyering differently, are also following masculine traditions. Whether their lawyering in a new way will change legal culture overall is, however, by no means certain” (2003: 140). I also suggest in this study that despite their awareness of the masculine traditions, overall, the respondents continue to exist within the masculine structure of the legal domain. However, this does not mean that their efforts of changing these masculine traditions from the inside will be unsuccessful. Instead, I have presented examples of women’s achievements in changing the masculine legal discourse. This implies that with time, the new lawyering attitudes of devoted women lawyers who are gender-sensitive and who adapt a feminist approach towards cases of violence against women could have larger effects on the legal culture, and especially the masculine traditions they are subjected to could continue to be transformed.

Consequently, I argue that the woman identities of women lawyers are at least as affective as their lawyer identities when they are handling cases of violence against women. Their experiences in the legal domain, from the reasons they choose to become a lawyer to the harassment they experience, are defined by their gender and their feminist standpoint while their personal lives are also affected by their professional experiences. They establish their relationships with their clients based on the notion of “trust” which is easier to achieve due to their woman identities, and they attempt to change the legal parlance which they interpret to be masculine. As their feminist standpoint necessitates, women lawyers aim to change the laws in favour of the women and remove any discriminating discourses against women from these laws. As they have a major position in connecting individuals to law, and have the possibility to interfere with the lawmaking processes, I believe women lawyers play a large role in instrumentalizing law for struggling against violence against women. This is why I suggest that further studies should be conducted with the aim of understanding their standpoints and their approach to the issue of violence against women.

Much of what has been suggested in this thesis remains unsupported by other research due to the lack of studies conducted on women lawyers in Turkey, especially on women lawyers who deal with violence against women. In this sense, having based its arguments on the interviews and courtroom observations, it can be argued that one of the main gaps of this thesis is its inability to provide any generalizations or comparisons of the findings with those of other relevant studies. Even if this same study was conducted through interviewing other women lawyers dealing with violence against women or observing trials where cases of violence against women took place, the results could be different. Additionally, a lack of this study was my not being able to observe any divorce suits where the judge was a man. I also did not come across any trial where the women lawyers were physically or psychologically subject to violence – either by other legal professionals or from suspects and their families – as the respondents claimed. This lack prevented the possibility of observing what the respondents explained to experience, such as

verbal abuse. Hence, these gaps could be filled with the carrying out of further studies that can contribute to the discussions provided in this thesis.

Despite the gaps and lacks of this study, the hope is that it has raised consciousness to pay attention to the positions of women lawyers and created new discussion points to consider for approaching the struggle against violence against women in the legal arena. In this thesis, I have demonstrated that there are women lawyers dealing with the issue of violence against women, who were motivated with a feminist standpoint and who aimed to employ law as one dimension of the struggle against violence against women. It will hopefully pave way to discussions on how to situate the experiences of these devoted women lawyers on the issue of violence against women, how to evaluate the difficulties they experience within the legal domain, whether/how the approaches and experiences of these women (will) change the legal regulations related to violence against women and the masculinist character of the legal domain. Moreover, any studies focusing on other women lawyers or rather men lawyers who do not specifically adapt a feminist approach of instrumentalizing law for the struggle against violence against women would provide the chance to compare these experiences and open way to elaborations and discussions on the outcomes of adapting a feminist approach when handling cases of violence against women in the legal domain. Additionally, studies conducted with victims of violence against women could be complementary in understanding the position of women lawyers in dealing with these cases and the relationship between lawyers and clients of these cases. In fact, when the absence of studies on the experiences of lawyers is considered, any study focusing on lawyers and their professional and personal experiences will be contributing to the closure of this gap.

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**Appendix-1 Number of Women and Men Lawyers as of 31.12.2014**

<b>Name of the Bar Association</b>	<b>Women</b>	<b>Men</b>	<b>Total</b>
ADANA BAR ASSOCIATON	795	1238	2033
ADYAMAN BAR ASSOCIATON	40	174	214
AFYONKARAHİSAR BAR ASSOCIATON	93	234	327
AĞRI BAR ASSOCIATON	19	68	87
AKSARAY BAR ASSOCIATON	55	142	197
AMASYA BAR ASSOCIATON	49	116	165
ANKARA BAR ASSOCIATON	5407	6892	12299
ANTALYA BAR ASSOCIATON	1233	1854	3087
ARTVİN BAR ASSOCIATON	31	45	76
AYDIN BAR ASSOCIATON	339	551	890
BALIKESİR BAR ASSOCIATON	295	573	868
BARTIN BAR ASSOCIATON	32	43	75
BATMAN BAR ASSOCIATON	43	192	235
BİLECİK BAR ASSOCIATON	30	56	86
BİNGÖL BAR ASSOCIATON	23	70	93
BİTLİS BAR ASSOCIATON	19	61	80
BOLU BAR ASSOCIATON	52	92	144
BURDUR BAR ASSOCIATON	60	113	173
BURSA BAR ASSOCIATON	917	1491	2408
ÇANAKKALE BAR ASSOCIATON	124	223	347
ÇANKIRI BAR ASSOCIATON	25	51	76
ÇORUM BAR ASSOCIATON	87	215	302
DENİZLİ BAR ASSOCIATON	291	599	890
DİYARBAKIR BAR ASSOCIATON	255	644	899
DÜZCE BAR ASSOCIATON	50	96	146
EDİRNE BAR ASSOCIATON	105	215	320
ELAZIĞ BAR ASSOCIATON	60	238	298
ERZİNCAN BAR ASSOCIATON	35	68	103
ERZURUM BAR ASSOCIATON	88	251	339
ESKİŞEHİR BAR ASSOCIATON	351	462	813
GAZİANTEP BAR ASSOCIATON	286	823	1109
GİRESUN BAR ASSOCIATON	83	162	245
GÜMÜŞHANE-BAYBURT BAR ASSOCIATON	9	35	44
HAKKARİ BAR ASSOCIATON	8	74	82
HATAY BAR ASSOCIATON	312	633	945
İĞDIR BAR ASSOCIATON	27	52	79
İSPARTA BAR ASSOCIATON	98	192	290
İSTANBUL BAR ASSOCIATON	15070	18279	33349

**Number of Women and Men Lawyers as of 31.12.2014 (continued)**

<b>İZMİR BAR ASSOCIATON</b>	2991	3676	6667
<b>KAHRAMANMARAŞ BAR ASSOCIATON</b>	97	341	438
<b>KARABÜK BAR ASSOCIATON</b>	47	79	126
<b>KARAMAN BAR ASSOCIATON</b>	41	78	119
<b>KARS-ARDAHAN BAR ASSOCIATON</b>	33	81	114
<b>KASTAMONU BAR ASSOCIATON</b>	62	116	178
<b>KAYSERİ BAR ASSOCIATON</b>	360	747	1107
<b>KIRIKKALE BAR ASSOCIATON</b>	54	114	168
<b>KIRKLARELİ BAR ASSOCIATON</b>	77	124	201
<b>KİRŞEHİR BAR ASSOCIATON</b>	31	89	120
<b>KİLİS BAR ASSOCIATON</b>	13	28	41
<b>KOCAELİ BAR ASSOCIATON</b>	504	680	1184
<b>KONYA BAR ASSOCIATON</b>	528	1165	1693
<b>KÜTAHYA BAR ASSOCIATON</b>	89	182	271
<b>MALATYA BAR ASSOCIATON</b>	122	335	457
<b>MANİSA BAR ASSOCIATON</b>	233	513	746
<b>MARDİN BAR ASSOCIATON</b>	62	186	248
<b>MERSİN BAR ASSOCIATON</b>	562	1015	1577
<b>MUĞLA BAR ASSOCIATON</b>	474	579	1053
<b>MUŞ BAR ASSOCIATON</b>	21	55	76
<b>NEVŞEHİR BAR ASSOCIATON</b>	47	124	171
<b>NİĞDE BAR ASSOCIATON</b>	39	96	135
<b>ORDU BAR ASSOCIATON</b>	92	198	290
<b>OSMANİYE BAR ASSOCIATON</b>	74	163	237
<b>RİZE BAR ASSOCIATON</b>	29	71	100
<b>SAKARYA BAR ASSOCIATON</b>	142	286	428
<b>SAMSUN BAR ASSOCIATON</b>	263	586	849
<b>SİİRT BAR ASSOCIATON</b>	7	56	63
<b>SİNOP BAR ASSOCIATON</b>	33	52	85
<b>SİVAS BAR ASSOCIATON</b>	143	230	373
<b>ŞANLIURFA BAR ASSOCIATON</b>	103	495	598
<b>ŞIRNAK BAR ASSOCIATON</b>	21	103	124
<b>TEKİRDAĞ BAR ASSOCIATON</b>	235	377	612
<b>TOKAT BAR ASSOCIATON</b>	102	211	313
<b>TRABZON BAR ASSOCIATON</b>	171	260	431
<b>TUNCELİ BAR ASSOCIATON</b>	14	29	43
<b>UŞAK BAR ASSOCIATON</b>	77	184	261
<b>VAN BAR ASSOCIATON</b>	65	268	333
<b>YALOVA BAR ASSOCIATON</b>	59	91	150
<b>YOZGAT BAR ASSOCIATON</b>	41	118	159
<b>ZONGULDAK BAR ASSOCIATON</b>	162	267	429
<b>TOTAL</b>	<b>35216</b>	<b>51765</b>	<b>86981</b>

## Appendix-2 Interview Questions

1. How, when and why did you become a lawyer? (Ne zaman, nasıl, neden avukat oldunuz?)

Kendi seçiminiz mi? Evetse Neden? (Is it your own choice? If yes, why?)

2. What does it mean to be a lawyer? (Avukatlık nedir?)

3. What is violence? (Şiddet nedir?)

4. What is violence against women? (Kadına karşı şiddet nedir?)

5. What are the reasons behind your handling cases of violence against women? (Kadına karşı şiddet davalarıyla ilgilenmenizin sebebi nedir?)

6. Which dimensions of violence against women are mostly carried to the legal domain? (Kadına karşı şiddetin en çok hangi boyutları mahkemeye taşınıyor?)

7. How do you evaluate the approach of other legal professionals towards cases of violence against women? (Diğer meslektaşlarınızın kadına karşı şiddet davalarına olan tutumunu nasıl değerlendiriyorsunuz?)

Genelde bu davalara bakan avukatlar kadın mı? Erkek olunca değişen bir şey var mı? Bu konuyla ilgilenen yeterli sayıda avukat var mı? (Is it usually women who handle these cases? Does anything change if it is me? Is there enough lawyers handling this issue?)

8. What do you discuss on the first meeting with your clients? (Müvekkillerinizle ilk görüşmenizde neler tartışıyorsunuz?)

Nasıl bir taleple geliyorlar? Nasıl anlatıyorlar? Sizin tavrınız nasıl oluyor? (With what kinds of demands do they come? How do they explain? What are your attitude like?)

9. How do you discuss private, sexual matters with your clients? (Müvekkillerinizle hassasiyet, cinsellik içeren konuları nasıl tartışıyorsunuz?)

Kadın olmanızın burada bir etkisi var mı? (Does your woman identity matter at this point?)

10. What are your criteria when choosing clients in cases related to violence against women? (Müvekkillerinizi seçerken başvurduğunuz kriterler nelerdir?)

Reddettiğiniz davalar oluyor mu? (Do you turn down any cases?)

11. How do you evaluate the legal reforms and regulations which are offered as a solution to the problem of violence against women? (Kadına karşı şiddet sorununa çözüm olarak önerilen hukuksal reform ve düzenlemeleri nasıl değerlendiriyorsunuz?)

Yapılan düzenlemeler değişim için yeterli mi? (Are the transformations enough for the change?)

12. As a woman lawyer, how do you position yourself when handling cases of violence against women? (Bir kadın avukat olarak bu davalara bakarken kendinizi nasıl konumlandırıyorsunuz?)

Hangi kimliğiniz öne çıkıyor? (Which of your identities come to the forefront?)

13. Does your identity of being a woman affect your clients' decisions in choosing you as their attorney? If yes, how? (Kadın kimliğinizin müvekkillerinizin sizi seçmesinde bir etkisi olduğunu düşünüyor musunuz? Evetse, nasıl?)

14. Does your identity of being a woman affect the given decisions in court? If yes, how? (Kadın kimliğinizin mahkmede alınan kararları etkilediğini düşünüyor musunuz? Evetse, nasıl?)

15. What do you think about the legal parlance? (Hukuksal alanda kullanılan dili nasıl buluyorsunuz?)

Hakimlerin bu davalara dair tutumları nasıl? Mahkeme ortamı nasıl? (What are the attitudes of judges like in these cases? How is the setting in the courtroom?)

16. What do you pay attention to in the language you use when you are pleading? (Savunma yaparken kullandığınız dilde nelere dikkat ediyorsunuz?)

Belirli ibareleri, erilliği şekillendirme çabanız var mı? (Are you in a struggle for changing certain expressions or masculinity?)

### Appendix-3 Interviewee Profile

<b>Pseudonym</b>	<b>Professional Experience as a Lawyer (years)</b>	<b>Date of Interview (Day/Month/Year)</b>	<b>Duration of Interview (minutes)</b>
Gülfıdan	7	16/9/2015	28.17
Havva	9	1/10/2015	33.21
Ayşegül	16	6/10/2015	44.01
Bedriye	10	12/11/2015	54.05
Çilem	13	1/12/2015	42.18
Nevin	26	4/12/2015	40.46
Öykü	19	10/12/2015	39.15
Yıldız	21	11/12/2015	17.53
Emine	17	7/1/2016	30.51
Hasret	11	18/1/2016	20.17
Ayşe	8	10/02/2016	27.16
Nesrin	29	3/3/2016	30.35
Eda	14	9/3/2016	36.52
Damla	10	7/4/2016	48.55
Yasemin	34	13/4/2016	51.05

## Appendix-4 Türkçe Özet / Turkish Summary

Toplumsal cinsiyet eşitsizliğine dayalı bir şiddet biçimi olan kadına karşı şiddet, hukuktan ayrı ele alınamaz; çünkü şiddet ve hukuk arasında ayrılamaz bir bağ bulunmaktadır. Hukuk, infaz şeklini tanımladığı için kadına karşı şiddetin önlenmesi için bir alan açmakla birlikte cezasını da sağlamaktadır. Bireylerin gerekli durumlarda hukuka erişimini sağlayanlar ise avukatlardır. Avukatlar bu arabulucu konumları sebebiyle sistemde bireylerin haklarını savunan ve aynı zamanda kanun yapma sürecine katkıda bulunabilen önemli aktörler haline gelmektedir ve dolayısıyla kadına karşı şiddet meselesine yaklaşırken avukatların konumlarını anlamak ve tartışmaya açmak önem kazanmaktadır.

Kadına karşı şiddet meselesini hukuk unsuruna odaklanarak çalışmanın gerekliliğini ve avukatların bu hukuksal sisteminin elzem bir ögesi olduğunu kabul ederek; bu tez, avukatların kadına karşı şiddet meselesine dair diskurlarını araştırmayı hedeflemektedir. Aynı zamanda, kadına karşı şiddetin toplumsal cinsiyet temelli bir şiddet biçimi olmasından yola çıkarak “tüm dünyada toplumsal bir sorun olarak kabul edilen kadına karşı şiddet meselesiyle ilgilenen *kadın* avukatlar bu meseleyi nasıl yorumlamaktadır?” sorusu belirlemiştir. Kadın avukatlar bu sistemde hem kadın kimlikleriyle hem de avukat kimlikleriyle yer aldıkları için, kadına karşı şiddet meselesine nasıl yaklaşmaktalar? Kendi konumlarını, hem mesleki hem kişisel, hukukun yapısı içerisinde nasıl tanımlamaktalar? Kadına karşı şiddet meselesine dair kanunları ve uygulamaları nasıl yorumlamaktalar? Türkiye'nin hukuk sisteminde kadına karşı şiddet meselesine dair yapılan son değişim ve reformları nasıl değerlendirmekteler? Mevcut hukuk dilini nasıl yorumlamaktalar? Bu sorulardan yola çıkarak, bu tezin araştırma sorusu; “*kadına karşı şiddet meselesi Türkiye'deki kadın avukatların söylemlerinde ve yaklaşımlarında nasıl belirmektedir?*” şeklindedir. Tezin amacı, kadın avukatların günlük yaşamlarının ve toplumsal cinsiyet deneyimlerinin mesleki deneyimleriyle nasıl ilişkilendiğini, ve bu deneyimlerin kadına karşı şiddet meselesine yaklaşımlarını nasıl şekillendirdiğini anlamaktır.

Kadın avukatların kamusal söylemde kadına karşı şiddet meselesinin altını çizmesi, kadına karşı şiddetle mücadelede önemli bir yer kazanmıştır. Dolayısıyla, kadına karşı şiddetle mücadeleyi anlayabilmek için kadına avukatlara, özellikle de bu meseleyle ilgilenen feminist avukatlara, dair tartışmalara odaklanmak önemlidir. Kadınların avukatlık mesleğine katılım süreçlerinin; ayrımcılık, cinsiyetçilik ve toplumsal cinsiyet eşitsizliğiyle mücadele ettikleri kendi mesleklerine dair kişisel tutumlarını anlamak açısından önemli olduğunu savunuyorum. Kadın avukatlar üzerine olan literatüre bakıldığında tartışmaların dört temel noktada odaklandığı görülmektedir. Öncelikle, kadınların hukuk mesleğine neden ve nasıl girdiğine odaklanan çalışmalar bulunmaktadır. İkinci olarak, kadınların avukatlık mesleğinde karşılaştığı zorluklar üzerine tartışmalar mevcuttur. Üçüncü olarak, kadın avukatların feminist aktivizmine ve kadın hakları meselelerinin uluslararasılaşmasına odaklanan bir literatür bulunmaktadır. Son olarak ise kadın avukatların kanunları dönüştürmesine ve bunun zorluklarına odaklanan tartışmalar bu tez için önemli tartışmaları oluşturmaktadır.

Kadına karşı şiddet davalarıyla ilgilenen kadın avukatların söylemlerinde kadına karşı şiddetin nasıl yer aldığını anlamak, bu davalarla ilgilenirken nasıl bir yaklaşıma sahip olduklarını ve kendilerini nasıl konumlandıklarını anlamak amacıyla çalışmamı Ankara Barosu'na kayıtlı olan 15 kadın avukatla yarı-yapılandırılmış derinlemesine görüşmeler yaparak ve kadına karşı şiddet unsurunu içeren 5 davanın duruşmasında katılımcı gözlem yaparak gerçekleştirdim. Bu çalışma kapsamında görüşme yaptığım kadın avukatlar en az yedi, en fazla otuz dört yıllık avukatlık deneyimine sahipti. Buna rağmen, deneyim sürelerinin kadına karşı şiddet davalarına olan yaklaşımlarını etkilemediğini gördüm. Gözlemlediğim duruşmalar, görüşme yaptığım kadın avukatların davalarından rastgele seçilmiştir. Çalışmamın zaman süreci içerisinde olan duruşmalardan beş tanesini; biri Ağır Ceza Mahkemesinde, diğer dördü Aile Mahkemelerinde; hepsi Ankara Adalet Sarayı'nda gerçekleşmek üzere gözlemladım. Yaptığım görüşmeler ve gözlemlediğim duruşmalar esnasında konuşulan ve konuşulmayan dinamikleri birleştirmeyi hedefledim. Kadın avukatların özellikle kadına karşı şiddet davalarıyla

ilgilenmekteyken deneyimledikleri ve yorumları üzerinden kadına karşı şiddete dair söylemlerini anlamayı amaçladım.

Feminist duruş teorisinde bulunan üç ana tema sebebiyle elde ettiğim verilerin analizinde feminist duruş perspektifini kullandım. İlk olarak, toplumsal ilişkileri anlamının ezilenin bilgisine ulaşmayı gerektirdiği argümanı; ikinci olarak, bilgiye kadınların deneyimleri üzerinden ulaşmanın vurgulanması; ve son olarak kadınların deneyimleri arasındaki farklılıkların bilincinde olunması feminist duruş perspektifini kullanmamın sebeplerini oluşturmaktadır. Kadın avukatların kadına karşı şiddet meselesiyle ilgilenirken yaşadıkları deneyimleri analiz ederken kadın avukatların kendi toplumsal cinsiyetlerinin erkeklere kıyasla daha fazla bilincinde olduğu varsayılmaktadır, çünkü Martin, Reynolds ve Keith'in (2002: 666) de belirttiği üzere kadınlar değeri düşürülmüş olan toplumsal cinsiyetin mensubu halindeler ve bunun sonucu olarak daha fazla olumsuz deneyimler ediniyorlar; ve böylece feminist bilinç geliştiriyorlar.

Çalışmamın bulgularını tezimde üç ana başlık altında topladım. Öncelikle, kadınların avukat olma ve kadına karşı şiddet davalarıyla ilgilenme süreçlerine odaklandım. İkinci olarak, kadın avukatların diğer meslektaşlarının bu davalara nasıl yaklaştığına dair yorumlarına ve hukuksal reform ve uyarlamaları değerlendirmelerine yer verdim. Tezimdeki son ana başlığı ise kadın avukatların kadın kimlikleriyle ilişkili olarak kadına karşı şiddet davalarıyla ilgilenmekteki mesleki deneyimleri şeklinde belirledim.

Kadınların avukat olma ve kadına karşı şiddet davalarıyla ilgilenme süreçlerine odaklanmamın sebebi, bu sürecin kadına kadına karşı şiddet meselesine yaklaşımlarını, motivasyonlarını ve hatta mesleklerini nasıl perform ettiklerini yansıttığı düşüncesidir. Görüşme yaptığım kadınlar için avukat olmanın “hayallerindeki meslek” olduğunu gördüm; çocukluklarından beri avukat olmak istiyorlardı çünkü avukatlık “onurlu” bir meslekti, ve avukat olmayı istemelerinin sebebi başkalarının haklarını savunma ve adaletin sağlanmasına yardımcı olma amaçlarıydı.

Avukat olmak kendi seçimleri olsa dahi, görüşülen kadınlar meslekleriyle ilgili yaşadıkları hayal kırıklıklarını dile getirdiler. Görüşme yaptığım kadınların çoğu avukat olarak çalışmanın aslında “bekledikleri gibi olmadığını” belirtti. Bu hayal kırıklığı kadınların kişisel deneyimlerinden ya da toplumsal cinsiyet kimliklerinden dolayı yaşadığı bir hayal kırıklığı olmaktan ziyade mevcut hukuk düzeni ve bu sistemin onların beklediği gibi adaleti yerine getirmenin aracı olmadığından kaynaklanmaktaydı. Bu sebeple, kadınların bir parçası olmayı beklediği ile gerçekten hukuk mesleğini icra ederken deneyimledikleri arasında bir çeşit çakışma bulunduğunu savundum. Görüşme yaptığım kadınların bir anlamda “kısıtlanmış” hissettiğini gördüm, çünkü gerçekleştirmeyi umdukları hak savunuculuğu belirlenmiş “haklar” çerçevesinde gerçekleşebilmekteydi. Neyin hak olduğu ve dolayısıyla savunulma imkanı olduğu güç ilişkileriyle belirlendiği için kadınlar mücadelelerini kısıtlanmış hissetmekteydi. Tabii, kanunları değiştirmek mümkün ve görüştüğüm kadınlar avukat olmanın aynı zamanda kanun yapma sürecine müdahil olmak anlamına geldiğini belirttiler, ancak mesleklerinin bu boyutunu gerçekleştirmenin zorluğunu vurguladılar. Kadınların hukuksal alanda bir bariyer olarak deneyimledikleri aslında toplumsal anlamların ve toplumdaki politik kültürün hukuksal alana yansımalarıdır. Buna rağmen, bu çalışma kapsamında görüşme yaptığım kadın avukatlar hukuksal alanın kadına karşı şiddetle mücadelenin tek olması da önemli bir boyutu olduğu iddialarında ısrarcılar ve bu sebeple hukukun cinsiyetçi, eril yapısı içerisinde var olmayı tercih ediyorlar. Bu çalışma aracılığıyla ben kadın avukatların aynı zamanda hukukun ve hukuksal prosedürlerin var olan dinamiklerini değiştirme girişiminde bulduklarını ileri sürüyorum. Görüştüğüm kadın avukatlar kanun yapma sürecine müdahil olma ve bunu kendi amaçları doğrultusunda kullanma ihtimallerini vurguluyorlar. Bunun yanı sıra hukukun bu mücadelenin sadece bir tarafını oluşturduğunun ve değiştirilmesi gerekenin aslında ataerkil yapı ve zihniyet olduğunu dile getiriyorlar.

Görüşme yaptığım kadın avukatlar hukuksal alanda hissettikleri kısıtlamaları dile getirirken aynı zamanda müvekkillerini seçme yetkilerinin olduğunu belirttiler; ve görüşme sonuçlarına göre davalarda *kadınların* tarafında olmayı tercih ettiklerini

gördüm. Yine, kadın kimliklerinden ötürü, bu çalışmaya katılan kadın avukatlar kadına karşı şiddet davalarında kadının tarafında olmayı seçtiklerini ve mesleki prensipleri “herkesin savunulma hakkı vardır” dese bile kadına karşı şiddet uygulamakla suçlanan bir sanığın tarafında olmayı reddettiklerini belirttiler. Daha önce de belirttiğim gibi, bu durum görüşme yaptığım kadın avukatların kadın mücadelesini kendi mücadelesi gibi görmeyi gerektiren duruşlarından kaynaklanmakta ve bu durum diğer kadın avukatlar için aynı olmayabilir. Aynı zamanda, görüşme yaptığım kadın avukatların daha iyi savunmalar üretebilmek ve psikolojik sağlıklarını koruyabilmek için bazı stratejiler geliştirdiğini gördüm. Savunmalarını cinsiyetleri değiştirerek kurmak veya karşılaştıkları davalarla daha iyi baş edebilmek ve günlük hayatlarında psikolojik sağlıklarını koruyabilmek için psikolog yardımı almaları bu stratejilere örnek olarak gösterilebilir.

Yine de, bu zorlukların ya da hayal kırıklıklarının kadınların mesleklerini sevmemelerine ya da avukat olma seçimlerinden pişman olmalarına yol açmadığını gördüm. Bunlara rağmen, mesleklerini kendi kızlarına, ya da arkadaşlarının kızlarına tavsiye ettiklerini söylediler. Burada, avukatlığa toplumsal cinsiyet açısından yaklaştıklarını görmek mümkün; çünkü hukuksal alanı toplumda ezilen ve ayrımcılığa uğratılan gruplar için bir hak mücadelesi alanı olarak görüyorlar. Görüşme yaptığım kadın avukatlar, kadınların kendi haklarını savunabilmek için hukuk bilgisine sahip olmaları gerektiğini savundular; çünkü hukuku kadın mücadelesi için önemli bir araç olarak yorumlamaktalar.

Görüşme yaptığım kadın avukatların kadına karşı şiddet meselesiyle ilgilenmelerinin sebeplerine odaklandığımda, bu alanla ilgilenmelerinin iki ana sebebi olduğunu gördüm. Öncelikle, mesleklerinin amacının “ezilen grupların haklarını savunmak” olduğunu iddia ediyorlar ve kadınlar da toplumda ezilen ve ayrımcılığa uğrayan bir grup. İkinci olarak, kendilerini kadına karşı şiddete uğrayan kadınlarla özdeşleştiriyorlar; kendilerinin de bu şiddetin nesnesi olduklarını belirterek bu olguya karşı hukuksal alanda mücadele etmeyi hedefliyorlar. Bu kadın avukatlar kendi deyimleriyle günlük hayatlarında bu şiddetin her an nesnesi halindeler ve mücadelelerini hukuksal alana taşıyan kadınları savunmak istiyorlar.

Kadına karşı şiddeti nasıl tanımladıkları görüşülen kadınların kendi politik görüşlerine göre değişiklik gösterdi. Görüşme yaptığım kadınlar toplumsal cinsiyete duyarlıydı ve kadına karşı şiddeti tanımlarken feminist bir yaklaşımla güç ilişkilerini dikkate alarak, ataerki sisteme değinerek tanımlama yaptılar ve bir katılımcı sınıf mücadelesini kadına karşı şiddetin önemli bir unsuru olarak tanımladı. Neredeyse tüm kadın avukatlar “erkeklerin kadınlar üzerindeki güçlerini sürdürüebilmek için şiddet uyguladığı”na değindiler. Hepsi kadına karşı şiddetin kadınlara *kadın oldukları için*, toplumsal cinsiyetleri yüzünden uygulanan bir şiddet olduğuna vurgu yaptılar ve bunu ataerki ve güç ilişkilerine dayandırdılar. Kadına karşı şiddet içeren davranışlar için bireysel açıklamalar yapmak yerine bu şiddet biçiminin ataerki sisteme dayanan toplumsal cinsiyet eşitsizliği sonucu ortaya çıktığını iddia ettiler.

Tezimdeki ikinci ana başlık, kadın avukatların diğer meslektaşlarının kadına karşı şiddet davalarına olan tutumlarını yorumlamalarını ve kadına karşı şiddete dair yapılan hukuksal reform ve düzenlemeleri değerlendirmelerini içermektedir. Görüşme yaptığım kadınların meslektaşlarının bu davalara olan tutumlarına dair yorumlarında üç tema ortaya çıktı. Öncelikle, kadına karşı şiddet davalarıyla ilgilenen avukatların çoğunlukla kadınlar olduğunu belirttiler ve erkeklerin bu davalara bakıp bakmaması gerektiği hususunda çeşitli fikirlere sahiptiler. Bazı kadın avukatlar bunun bir kadın meselesi olduğunu ve bu yüzden bu davalarla kadın avukatların ilgilenmesi gerektiğini savunurken bazı kadın avukatlar bazı erkeklerin de kadınları samimi bir şekilde savunabileceğini iddia etti. Bazı kadın avukatlar ise erkekleri de bu mücadeleye dahil etmenin bir *amaç* olduğunu belirtti. İkinci olarak, görüşme yaptığım birçok kadın kadına karşı şiddetle ilgilenmeye dair bir eğitim verilmesi gerektiğini ve hukukçuların bu eğitim programlarına katılması gerektiğini, çünkü bakış açılarının değişmesinin gerekli olduğunu savundular. Görüşülen kadınlar, üniversite eğitimleri boyunca kadına karşı şiddete dair herhangi bir eğitim almadıklarını, ve eğer meslektaşlarının kendilerini bu alanda geliştirmeyi dilemiyorlarsa kadın bakış açısından mahrum bir biçimde bu davalarla ilgilendiklerini öne sürdüler. Üçüncü olarak, kadın avukatlar diğer meslektaşları tarafından uğratıldıkları ayrımcılık veya tacizi gösterebilmek için kendi

deneyimlerini paylaştılar. Birçok kadın avukat, diğer hukukçuların TCK'da yeterince ceza hükmünün bulunduğunu söyleyen, neden bu kadar uğraştıklarını, neden başka iş çıkarttıklarını sorgulayan bir tutumu olduğunu ve erkeklerin de şiddet mağduru olduğunu iddia eden bir yaklaşımlarının olduğunu belirtti. Görüştüğüm bazı avukatlar, kadını savunan avukatların sayıca fazla olmasının dava üzerinde olumlu bir etkisi olduğundan bahsetti ve hatta hakimlerin bu konuda bir farkındalığı bulunmuyorsa bile kadın örgütlerinin “bela” olacağı hissiyle bir çeşit baskı hissederek kadınların istediği yönde karar aldıklarını belirtti. Bu durumun kadının örgütlenmesiyle ortaya çıkabildiğini ifade ettiler.

Görüştüğüm kadın avukatların hukuksal düzenlemelere ve reformlara dair değerlendirmelerinde ortaya çıkan temel nokta hukuksal çerçevenin yeterince iyi olduğu, bunun aktif kadın hareketi ve kadın örgütlerinin çabalarıyla başarıldığı; ancak uygulama kısmının geliştirilmesi gerektiği düşüncesi idi. Uygulama sürecinin neden sorunlu olduğuna dair değişik gerekçeler sundular. Örneğin, şiddet mağduru kadınlara karakollar tarafından evine ve ailesine dönmesi yönünde baskı yapıldığını iddia ettiler. Aynı zamanda cezai yaptırımların büyüklüğü sebebiyle hakimlerin aklında sanıkların suçlu olduğuna dair en ufak bir şüphe bile varsa vicdani sebeplerden ötürü bu cezayı vermeme yönünde bir eğilimleri olduğunu savundular.

Tezimdeki son ana başlık, kadın avukatların kadına karşı şiddetle ilgilenirken kadın kimlikleriyle ilişkili olarak mesleki deneyimlerini analiz etmeye yöneliktir. Görüşme yaptığım kadın avukatların çalışmama dahil olma sebepleri öncelikle avukat olmalarıdır. Dolayısıyla, mesleklerini icra etmelerinde kadın kimliklerinin bir rolü olup olmadığını anlamaya çalışmak, profesyonel olmadıklarını ima edebileceği için zor bir konuydu. Buna rağmen, kadın avukatların kadına karşı şiddet davalarıyla ilgilenirken “çift-bilinçlilik” deneyimleyip deneyimlemediklerini anlayabilmek için görüşme yaptığım kadınlara bu davalarla ilgilenirken kendilerini nasıl konumladıklarını sordum. Yalnızca üç katılımcı bu meseleye sadece avukat kimlikleriyle yaklaştıklarını, profesyonelliklerinin bunu gerektirdiğini belirtti. Bunun dışında, görüşme yaptığım avukatların büyük çoğunluğu kadın kimliklerinin hukuksal alandaki mesleki deneyimlerini etkilediğini ifade ettiler. Bu anlamda, bu

kadınların bir çeşit çift-bilinçlilik deneyimlediğini söylemek mümkün. Çift-bilinçlilik terimi, Drachman'a göre kadınların toplumsal cinsiyet kimlikleriyle beraber mesleki kimliklerinin de bilincinde olmalarını ifade etmektedir (2001: 63). Bunun yanında, Drachman, kadın avukatların bu iki kimlik arasında bir çatışma yaşayabileceğini de ileri sürmektedir (2001: 64). Bu çalışma, görüşme yapılan kadınların böyle bir çatışma deneyimlemediklerini gösterdi; yalnızca iki kimliklerinin de bilincinde olduklarını, bu iki kimliklerinin iç içe geçtiğinin farkında olduklarını ve bu iki kimliğin diğeri hakkındaki bakış açılarını etkileyebildiğini kabul ettiklerini belirttiler. Görüşülen kadın avukatlar kadına karşı şiddet davalarıyla ilgilenirken kadın olduklarını asla unutmadıklarını ifade ettiler ve duruşmalarda hem kadın hem avukat kimlikleriyle birlikte bulduklarını söylediler. Müvekkillerini savunurken savunmalarını kendi kadın kimlikleriyle ve feminist duruşlarıyla ilişkili olarak geliştiriyorlar ve duruşma salonunda "kadın" avukat olarak bulduklarının bilincindedir. Kadın avukat olmak, görüşme yaptığım kadınlara göre, davaların sonuçlarının bile değişebilmesi anlamına geliyor, çünkü amaçlarına inandıkları için davaları daha iyi savunabiliyorlar. Bunun yanı sıra, kadın ya da erkek avukat olmaktan ziyade kadını savunan tarafın avukatlarının sayıca fazla olmasının önemli olduğunu ifade ettiler. Deneyimledikleri çift-bilinçlilik, aynı zamanda görüştüğüm kadın avukatların var olmaya çalıştıkları hukuk sisteminin eril yapısının farkına varmalarına neden olmakta.

Kadın avukatların kadına karşı şiddet davalarıyla ilgilenmeleri, müvekkillerini seçme biçimlerinden müvekkilleriyle kurdukları ilişkilere ve hatta davalarda alınan kararlara kadar kadın kimliklerinden etkilenmekte. "Güven" kavramı, kadın avukatlar ve müvekkilleri arasındaki ilişkiyi tanımlamakta büyük bir önem kaplıyor. Bu güven, iki yönlü bir olgu ve hem müvekkil hem avukat tarafından sağlanmak durumunda. Mevcut literatürde, güven kavramı müvekkillerin açısından kavramsallaştırılmıştır. Nolan-Hayley'in öne sürdüğü gibi müvekkillerin avukatlarına karar verme süreçlerinde güvenmeleri gerekmekte (1997: 1385). Yaptığım görüşmelerin sonucunda, kadın avukatların kadın kimliklerinin bu güveni sağlamayı kolaylaştırdığını düşündüğünü gördüm, çünkü görüşme yaptığım

avukatlara göre müvekkilleri “O da bir kadın, beni anlayacaktır, ona güvenebilirim” diye düşünüyor. Bu durum kadına karşı şiddet davalarında daha da büyük bir önem kazanıyor, çünkü müvekkiller genelde en yakınları tarafından ihanete uğramış bir biçimde, başkalarına karşı güvensizlik duygusuyla, en özel, cinsellik içeren konuların tartışılacağı çekincesi ile avukatlarıyla iletişime geçiyorlar. Bu durum, kadın avukatların bu güveni sağlamada fazladan bir çaba göstermesi gerektiğine işaret ediyor. Var olan tartışmalarda göz ardı edilmiş bir husus ise avukatların da müvekkillerine güven duyması gerektiği. Görüştüğüm kadın avukatlar, müvekkillerine güvendikten sonra yaşadıkları olumsuz deneyimleri aktardılar. Bu olumsuz deneyimlere rağmen yanlış beyan vereceği şüphesi ya da korkusuyla ihtiyacı olan bir kadına yardım etmekten vazgeçmeyeceklerini de eklediler.

Yaptığım görüşmeler neticesinde kadına karşı şiddet davalarıyla ilgilenen toplumsal cinsiyete duyarlı kadın avukatların oldukça eril buldukları hukuksal dili değiştirmeyi hedeflediğini savundum. “Namus” gibi kavramların haksız tahrik sebebi olarak kullanılmasını değiştirmeye çalıştıklarını ve savunmalarını toplumsal cinsiyet rollerinden bağımsız bir biçimde formüle ettiklerini anlattılar. Töre saikiyle işlenen cinayetlerde haksız tahrik indirimi uygulanıyorken bunun artık ağırlaştırıcı sebep haline gelmesi gibi örnekler, kadın avukatların bu değişikliklerin yapılmasında belirli bir etkisinin olduğunu göstermektedir ve bu çalışma kapsamında yapılan görüşmeler, kadın avukatların bu değişiklikleri yapmayı istediğini ve bu amaçta çabaladığını göstermektedir. Görüşleriyle ve süregelen çabalarıyla paralel olarak kanunlar dönüşüyor; mevcut eril yaklaşım en azından sorgulanıyor ve değiştirilmeye çalışılıyor. Ne kadar hızlı ya da etkili bir biçimde bu değişimi gerçekleştirebildikleri ya da gerçekleştirebilecekleri tabii ki de tartışmaya açıktır; ancak yaptığım görüşmelerden yola çıkarak bu kadın avukatların diğer meslektaşlarının kadına karşı şiddet davalarına olan tutumunu “düzeltmeye”, ilişkili kanunların uygulandığını kontrol etmeye ve var olan erilliği dönüştürmeye çalıştıklarını söylemek mümkün. Görüştüğüm kadın avukatlar mesleklerinden olumsuz nitelikler edinmediklerini belirtse de, kişisel hayatlarının ilgilendikleri davalardan etkilendiklerini ifade ettiler. Görüştüğüm kadınlar genellikle düzenli bir

biçimde psikolog danışmanlığı aldıklarını; çünkü bu durum profesyonel olmamasına rağmen uğruna mücadele ettikleri kadınların sorumluluklarını kendi omuzlarına yüklenmekten ve müvekkilleriyle empati kurmanın psikolojik sağlıklarını etkilediğini öne sürdüler.

Sonuç olarak, görüşme yaptığım kadın avukatların kadına karşı şiddet davalarıyla ilgilenirken kadın kimliklerinin en az avukat kimlikleri kadar etkili olduğunu savunuyorum. Hukuksal alandaki deneyimleri; avukatlık mesleği seçmelerinden mesleki hayatlarında yaşadıkları tacize kadar; toplumsal cinsiyetlerinden ve feminist duruşlarından etkilenmekte ve aynı zamanda kişisel hayatları da mesleki deneyimlerinden etkilenmekte. Bireylerin hukuka erişimini sağlamak açısından aracı bir konuma sahip oldukları ve kanun yapma sürecine müdahil olabildikleri için, kadın avukatların hukuku kadına karşı şiddet olarak kullanmada önemli bir role sahip olduklarına inanıyorum. Bu sebeple, kadına karşı şiddetle ilgilenen kadın avukatların duruşlarını anlamak için daha fazla çalışma yapılması gerektiğini öneriyorum.

Tezimde yaptığım önerilerin büyük bir kısmı, Türkiye’de kadın avukatlara dair çalışmaların eksikliği sebebiyle başka çalışmalar tarafından desteklenmemiş bir haldedir. Bu anlamda, argümanlarımı yapmış olduğum görüşmelere ve duruşma gözlemlerine dayandırmamdan ötürü tezimin ana açıklığı herhangi bir genelleme yapmayı mümkün kılmayı ve bulgularımın benzer alandaki başka çalışmaların bulgularıyla kıyaslanamaz oluşudur. Aynı çalışma, kadına karşı şiddetle ilgilenen başka kadın avukatlarla veya kadına karşı şiddet konusunu içeren farklı duruşmaların gözlemlenmesiyle tekrar yapılsa bile sonuçlar farklı olabilir. Buna ek olarak, çalışmamın bir diğer eksikliği, hakimin erkek olduğu herhangi bir boşanma davasının duruşmasını gözlemleyememiş olmamdır. Aynı şekilde, görüştüğüm kadın avukatların iddia ettiği gibi kadın avukatların fiziksel ya da psikolojik olarak şiddete maruz kaldığı herhangi bir durumu gözlemleyemedim. Nitekim tezimdeki bu boşluklar, yaptığım tartışmalara katkıda bulunabilecek yeni çalışmaların yapılması ile doldurulabilir.

Tezimde, kadına karşı şiddetle ilgilenirken feminist bir duruşla motive olmuş ve hukuku kadına karşı şiddetle mücadelede bir araç olarak gören, toplumsal cinsiyete duyarlı kadın avukatlar bulunduğunu ortaya koydum. Umuyorum ki bu çalışma, kadına karşı şiddet meselesine kendini adanmış kadın avukatların bu deneyimlerinin nasıl konumlandırılacağına, hukuksal alanda karşılaştıkları zorlukların nasıl değerlendirileceğine ve onların yaklaşım ve deneyimlerinin kadına karşı şiddet meselesine dair yapılan hukuksal düzenlemeleri nasıl değiştireceğine dair tartışmalara öncülük edecektir. Ayrıca, kadına karşı şiddet davalarıyla ilgilenirken özellikle feminist bir yaklaşıma sahip olmayan kadın avukatlara ya da erkek avukatlara odaklanan çalışmalar da bir karşılaştırma yapmaya olanak sunacaktır ve bu davalarla ilgilenirken feminist bir tutuma sahip olmanın sonuçlarına dair tartışmaları mümkün kılacaktır. Türkiye’de avukatlara yönelik yapılan çalışmaların sayısının kısıtlılığı düşünüldüğünde, avukatlara ve avukatların kişisel ve mesleki deneyimlerine odaklanan herhangi bir çalışma bu eksikliğin giderilmesine katkıda bulunacaktır. Davalarını hukuksal alana taşıyan şiddet mağduru kadınlarla yapılan çalışmalar da avukatlarla kurdukları ilişkileri ve deneyimlerini anlayabilmek açısından bu çalışma için tamamlayıcı olabilecektir.

## Appendix-5 Tez Fotokopisi İzin Formu

### ENSTİTÜ

Fen Bilimleri Enstitüsü

Sosyal Bilimler Enstitüsü

Uygulamalı Matematik Enstitüsü

Enformatik Enstitüsü

Deniz Bilimleri Enstitüsü

### YAZARIN

Soyadı : Okan

Adı : Cansu

Bölümü : Sosyoloji

**TEZİN ADI** (İngilizce) : GENDER-SENSITIVE WOMEN LAWYERS' PERCEPTIONS AND POSITIONS IN HANDLING CASES OF VIOLENCE AGAINST WOMEN IN ANKARA

**TEZİN TÜRÜ** : Yüksek Lisans  Doktora

1. Tezimin tamamından kaynak gösterilmek şartıyla fotokopi alınabilir.
2. Tezimin içindekiler sayfası, özet, indeks sayfalarından ve/veya bir bölümünden kaynak gösterilmek şartıyla fotokopi alınabilir.
3. Tezimden bir (1) yıl süreyle fotokopi alınamaz.

**TEZİN KÜTÜPHANEYE TESLİM TARİHİ:**