

who's GUILTY? II Project Report



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KAMER Foundation

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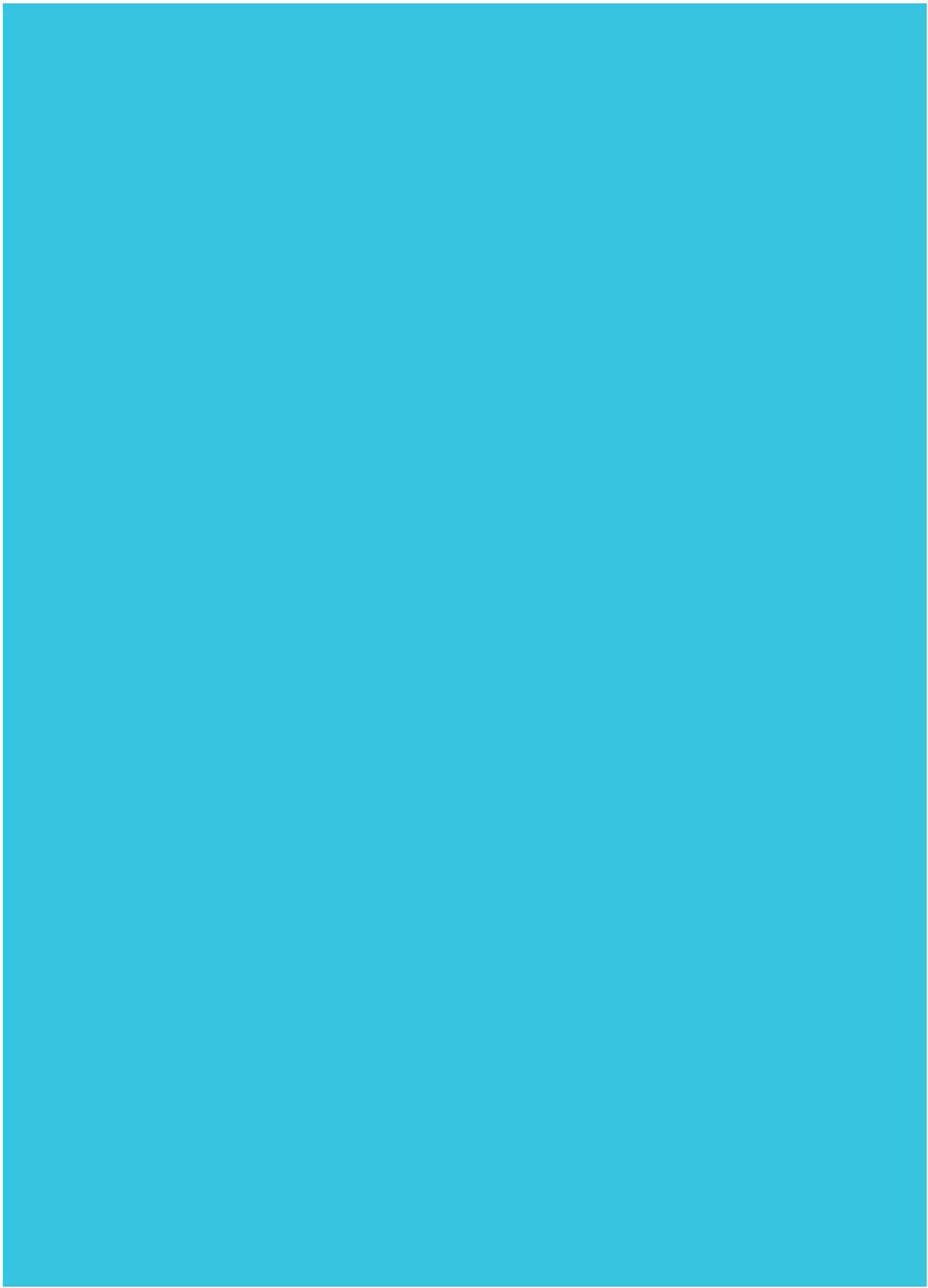
On behalf of KAMER Foundation

Project Coordinator

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Brief information on who's GUILTY? II Project

Previously, the project titled who's GUILTY? was conducted and the demands of women put forward in this project lead to planning of who's GUILTY? II Project.

Both projects were planned to make visible all the violence and discrimination a woman experiences from her infancy to her adulthood as well as to reveal its perpetrators.

Think about a girl;

Even before she is born, she starts to face discrimination as soon as her gender is identified. After she is born, she is deprived of majority of her rights.

She is discriminated against her brother.

Her life is surrounded by shame and taboos.

Sometimes, she cannot exercise her right to education,

Sometimes, she is married off at an early age when she is a child.

Sometimes, she is forced to be the wife of a man whom she never knows or knows but does not love.

She is subjected to every form of violence.

Then, one day something happens. It is either an incident of violence that she cannot bear anymore or an incident of murder that takes away her life.

If she survives and can find the courage, she files a lawsuit to claim her rights.

If she loses her life, either a relative or the public prosecutor files the lawsuit.

Most probably, all her past will be ignored; she will be humiliated over that case because she is a woman and yet she will try to seek her rights.

As if the story behind this case is non-existent...

Therefore, we wanted to ask;

who's GUILTY?

Family?

State?

Society? All of us? Each of us?

Through who's GUILTY? II Project, it was planned to:

- Strengthen 40 non-governmental organizations, under the coordination of KAMER Foundation, to determine violation of rights and to find tools to claim one's rights,
- Work with women within the scope of target group, to raise awareness about gender-based violence and discrimination, to inform them about their rights, and to increase their efforts in claiming justice,
- Promote social awareness and sensitivity related to all types of violence and discrimination,
- Enable access of women to justice and a fair trial through using their rights.

In this way;

- Rights based civil society organizations would become empowered through solidarity.
 - Women and LGBTI individuals who do not know their rights and need assistance to access these opportunities would feel empowered through raising awareness on gender-based violence, equality and their rights.
 - For those in need, support and solidarity about legal consultancy, access to justice and a fair trial would be provided.
- All these objectives would contribute to decreasing impunity for violence against women...

Target group of who's GUILTY? II Project

- 40 rights-based civil society organizations which would work in solidarity and become empowered
- 10.000 women and LGBTI individuals who would build awareness on issues related to gender equality, rights and opportunities by participating in neighborhood meetings
- 2.000 women who developed awareness

about gender-based violence, legal rights and opportunities by attending awareness-raising groups and spreading such awareness to women around them

- An average of 1.000 women seeking support to end violence and would be monitored during the supporting process
- 500 women who were offered legal consultancy
- 150 legal cases to be monitored and reported
- Public institutions to be collaborated with

Outcomes of who's GUILTY? II Project

- Collaboration of 40 right-based civil society organizations was planned to and yet this number increased to 47 civil society organizations.
- Neighborhood meetings were planned to take place with 10.000 women in total. In two years, 49.000 women participated in the neighborhood meetings. 1.500 public officials joined the meetings to inform women about support services they provide. Participant women and public officers came together in a meeting for the first time.
- 2.000 women were to attend small group meetings. In two years, 9.500 women participated in these group meetings.
- It was planned that 1.000 women seeking help to end violence would receive support and would be monitored. In two years, 2.900 women were supported against violence and monitored.
- 500 women were to receive legal consultancy, and yet this number increased to 711 women.
- 150 legal cases were to be monitored and reported. At the end of the project, 157 legal cases in total were monitored.





Results of the analyzed legal cases

- 157 legal cases of 109 individuals were monitored within the scope of this Project. 140 of these legal cases were from provinces within KAMER's operational network, and 17 were from western provinces of Turkey.
- Among these legal cases, there were more than one lawsuit of the same kind that belonged to a single woman as well as both a criminal case and a civil case that belonged to a single woman. Of 109 individuals, 88 were women, 4 were male children and 17 were female children. Of 88 women, 3 of them were trans women.
- Of 157 lawsuits, 67 were criminal cases. The remaining 90 cases consisted of civil cases such as divorce, alimony, protective and preventive cautionary decisions. Backgrounds of all legal cases were considered, independent of the kind of the case.
- Of all criminal cases, 7 were murders, 1 was complete (but imperfect) attempt to kill, 18 were child molestation, 3 were aggravated sexual assault, 2 were sexual abuse, and 18 were injuries. Others were threatening with death, threatening with a gun, defamation, violation of residence immunity cases. In addition to these, two cases, one filed for encouraging to commit suicide and the other filed for a suicide investigation, were examined. It is striking that there is a significant increase in the number of sexual assault cases among criminal cases.
- Of civil cases, 57 were divorce, 16 were protective and preventive cautionary decisions, and others were alimony, custody, and compensation cases. Only 1 of all divorce cases was an uncontested divorce case. 10 of the cases were about alimony and custody claims.
- Among 65 cases, of which 58 were divorce and 7 were alimony cases, only 18 were resulted in welfare allowance. Except 3 of the cases, the amount of welfare allowance ranged between TL150.- and TL250.-.
- Of 88 women whose cases were monitored, 15 were illiterate and were never schooled. Of the remaining 73 women, 4 were literate; 19 were primary school; 22 were secondary school; 29 were high school; and 18 were college-university graduates. It is observed that there is no relation between women's literacy level and being subjected to violence. Women of all education levels are subjected to violence.
- 16 women did not speak Turkish. Of these women, 9 spoke Kurdish and 7 spoke Arabic as their mother tongues.
- It is observed that these women who did not speak the official language could not claim their rights despite the violence and discrimination they experience in their lives. In the institutions where they were able to claim their rights, they could not find an independent and qualified translator.
- 16 women were married off at an early age. 2 of these women were married off as a result of bride exchange at the age of 14; and they were girls who became mothers at the age of 15.
- Of all women who were subjected to violence, 16 of them were forcibly married off at an early age; 10 were forced into marriage; 21 were married through arranged marriage; and 30 of them got married on their own will.
- 30 women were employed. Compared to the previous project period, there is an increase in number of working women.
- 63 women were not employed; 14 were students. Information related to employment status of two women could not be accessed.
- Of all women subjected to violence, 68 of them did not have any income.
- Of all victims of violence, 3 received social welfare and 1 received support from the

Ministry of Family, Labor and Social Service. 13 of them earned minimum wage and 17 earned little more than minimum wage.

- In 20 of the cases, victims of violence were children.
- In 2 of the cases, it is observed that 3 children are tried as perpetrators of sexual violence perpetrators.
- In 41 of the cases, judicial support requests were accepted.
There was a significant increase in the requests for judicial support. Collaboration of women's organizations and bar association women's centers could have an important role in this. Failings of the system are discussed separately.
- 7 of the cases were related to murder. In these cases, 5 victims were women and 1 was a girl. In 1 case, women who killed the perpetrator was tried. Bar Associations, lawyers of the Ministry of Family, Labor and Social Policies as well as women's organizations monitored these cases closely.
- 3 of the cases was related to suicide of women. So far, there are no lawsuits filed about suspicious suicides even though, in three incidents, there is concrete evidence that would prove the suicides suspicious.
- Excluding 9 cases, good conduct time allowance was applied in all other criminal cases. In 3 of them, sentences were reduced due to unjust provocation. The cases that were monitored closely by the Bar Associations and women's organizations did not result in good conduct time allowance or reduced sentence due to unjust provocation.
- In 22 criminal cases, the Ministry of Family, Labor and Social Policies joined the cases via its attorneys. 16 of these cases were femicide and child molestation cases. 6 of them were cases of the Criminal Court of First Instance such as injury and threatening with death.

- In 4 of the cases, participation of Bar Associations was accepted. These lawsuits were femicide and child molestation cases. In 1 case, participation request was accepted by majority of votes. Woman member of the committee opposed the Bar Associations' request to participate.
- Among 107 perpetrators of violence, 20 were primary school graduates; 22 were secondary school graduates; 36 were high school graduates; and 16 were college/university graduates. It is observed that regardless of education level, men from different education backgrounds became perpetrators of violence. The number of perpetrators who were high school graduates was higher than other education levels. No information related to education level of 5 perpetrators was available.
- Of all perpetrators of violence, 69 were husbands and 5 were ex-husbands. Besides, 12 were close relatives; 2 were brothers; 1 was a friend; 4 were fathers; 3 were ex boyfriends; 3 were employers; 1 was stepfather; and 7 were unknown people. These results show women were subjected to violence mostly by their husbands and men from their close circle.
- In 17 cases, the parties or the witnesses testified with the assistance of a translator. In these cases, justice system did not utilize independent and qualified translators. Mostly beadles were asked to translate.
- All definitive judgments, except three, were made by unanimity of votes. In 28 of the cases, a committee of three judges carried out the trial. At the end of the trials, 25 definitive judgments were passed by majority of votes. However, in 3 cases, one judge from each committee gave a dissenting vote. Two of the decisions taken by majority of votes were about child abuse. One was about the misconduct of a public officer, which carried out by the Administrative Court.

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- Of all individuals who were subjected to violence, 64 were between ages 19-35. Besides, 5 were between ages 0-12; 15 were between ages 13-17; and 25 were between ages 36-60.
 - In 99 of all cases, victims of violence received support from a lawyer. There were 38 female and 61 male lawyers who represented victims of violence.
 - In 10 cases, it was observed that perpetrators of violence did not speak Turkish and gave testimonies with the assistance of a translator.
 - 5 perpetrators of violence spoke Arabic, 4 spoke Kurdish and 1 spoke French as their mother tongues.
 - In 5 cases, the defendants were women. 3 of these women were actually victims of violence and stated that they could not deal with violence all by themselves. These women were put on trial for the actions they committed that were defined as crimes in the Penal Code. One was acquitted; the other was given a non-prosecution verdict and one was given punishment. The other two women were tried for perpetrating violence against other women.



who's GUILTY?



Research process

As part of who's GUILTY? II Project, a total of 157 lawsuits were analyzed pursuant to the criteria explained in detail below.

Moreover, as part of this project, meetings with lawyers and presidents of bar associations were held to analyze cases on violence against women by sharing experiences in terms of judicial processes and final reports.

On May 11, 2018, in Diyarbakır, a meeting was held with the participation of lawyers registered to local bar associations and representatives both from the Ministry of Family, Labor and Social Policies and from Prevention and Monitoring of Violence Centers (ŞÖNİM). In addition to this meeting, on June 28-29, 2019, 36 lawyers coming from 20 provinces within KAMER's operational network convened in Istanbul.

In meetings held in the provinces with participation of presidents of bar associations and lawyers as well as in Istanbul meeting held with the participation of lawyers from 23 provinces, Istanbul Convention and GREVIO Turkey report were analyzed. Upon analysis, the enforcement of Law no. 6284 on Prevention of Violence and its judicial practices were evaluated while the participants shared their experiences.

These meetings mostly focused on structural reasons of violence against women, prevention and protection measures against violence, risk evaluation and the practices related to these issues.

Moreover, the issues of accessibility to justice by victims of violence, offered legal aid, femicide cases, child molestation cases, problems with involvement of bar associations and women's organizations in criminal cases, sentence reductions due to unjust provocation and good conduct time, matters regarding alimony, particularly practices of welfare allowance and collaboration with bar associations were considered.

In the meetings, participants emphasized the best practices regarding these issues and dis-

cussed the ways to collaborate in order to increase the number of these practices.

Throughout this project, KAMER centers, presidents of bar associations and lawyers worked together in directing women to bar associations, monitoring pilot cases, providing legal aid and supporting educational matters. Continuation of this collaboration was agreed upon.

While problems and sample practices were discussed in detail, suggestions for solutions were also considered. Views and suggestions are also discussed in relevant parts of this report.

Cases were chosen among applications made by victims of violence to KAMER's local centers and directed to a legal process. The type of the case, civil or criminal, was not used to make a distinction.

Additionally, information about victims of violence and their perpetrators were accessed through local KAMER centers. These details are age, degree of relation, socio-economic status, education level, status in the family, type of marriage, marriage age, personal stories, and views of victims of violence about judicial processes.

Case files were analyzed in two categories: criminal and civil cases. These categories were also divided into sub-categories and analyzed accordingly.

Of 157 case files that were analyzed, 90 were civil and 67 were criminal cases.

Even though monitored cases differ in terms of the subject, duration, time and place, they were analyzed according to the extend the victims' rights were prioritized. Analysis of judicial processes did not merely focus on result (decision) of the case, but also focused on the entire process and its stages, access to justice, and duty of care were also evaluated.

Cases were analyzed for the right of access to justice, legal aid, effective investigation and prosecution, coordination and collaboration,

risk evaluation, language barrier and accountability as well as in terms of the effects of prejudices, customs and tradition to the process and results. The analyses were also compared to the outcomes of the previous who's GUILTY? Project and the results of this comparison were also discussed in this report.

Cases were particularly analyzed based on their subjects. The problems and possible solutions were discussed. Names of the victims were not included; when necessary, pseudonyms were used.

The femicide cases were also analyzed under the question of whether the result would have changed if necessary, effective, and immediate protective measures were taken and whether it was possible to save the lives of these women. If the answer was positive, the source of the problem was questioned: whether it was the system or the person in charge. In cases where the responsible party was the person in charge, it was analyzed whether that person was held accountable for their actions.

All cases were analyzed through a gender perspective, no matter what their subject and type were.





Findings

In all lawsuits, including civil cases, the incidents at issue were directly related to gender-based violence.

In all cases, whether it be a civil or a criminal case, it is observed that:

- Domestic violence is the most common and repeated type of violence women and girls face.
- Violence is deeply rooted in discriminatory and repressive ideas attributed to women's roles.
- Despite the efforts to improve the coordinated safety and support systems provided to women and children subjected to violence, there are systematic flaws, failures of implementation and neglect while the testimonies of the complainants are usually ignored.

Furthermore,

- Risk assessment for the cases was taken into consideration and the cases were evaluated according to the options on the electronic forms; and yet, despite being of vital importance, a multi-institutional and coordinated intervention mechanism is not established, and woman who is subjected to violence as well as women's organizations are not involved in the process.
- Murder of women do not take place out of blue but are results of a series of discriminatory practices and acts of violence.
- Risk assessment is not done properly and officials who do not perform due diligence are not held accountable for their actions.
- Risk factors are not analyzed carefully; risk assessment and risk management are not handled on a case-by-case basis.
- Needs of survivors of violence, such as safety, empowerment and restoration of one's health are not considered enough.
- Despite the efforts of improvement and increased number of legal aid receivers com-

pared to the previous project period, there are still considerable obstacles to rights of access to justice.

- There is a significant decrease in the number of honor killings, however suicide cases are not investigated carefully and effectively.
- In cases of women's murders and physical violence, different than the previous project period, perpetrators torment women to death by applying a variety of cruel methods and techniques.
- In judicial processes, apart from some exceptional cases, victim's civil rights are not considered, and effective investigations are not carried out. Final decisions are made based on routine procedures that do not necessarily relate to the specificities of the cases rather than considering reparative measures.
- Women subjected to violence usually complain about judicial processes.
- There is a significant increase in the number of cases about sexual abuse of children compared to the previous project period.
- Judicial officers approach similar cases differently and interpret laws differently. They do not refer back to Law no. 6284 or Istanbul Convention throughout the decision process apart from injunctions decided pursuant to Law no. 6284.
- Current lack of trust in the country as well as in the region within KAMER's operational network negatively affect the number of women, especially refugee women (mostly Syrian), looking for justice.
- Syrian refugee women and girls are subjected to intense violence, living under unsafe and insecure conditions due to prejudices and suffering from early and polygamous marriage. Even though they can receive legal aid from bar associations, courts do not accept their legal aid requests due to lack of an agreement of reciprocity between the Turkish and Syrian Governments.

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- Trans women are subjected to prejudice, discrimination, hostile treatment and violence both in the society and judicial processes.

In addition to these general findings, other results will be discussed in detail with concrete explanations below.



who's GUILTY?



Problem of access to justice

It is known that women face further victimizations compared to men when accessing justice due to lack of education, social alienation, house confinement, poverty; as well as administrative, social and cultural obstacles.

It is observed that right to legal justice is not practiced by women due to obstacles such as economic difficulties, complexity and aversiveness of the legal system, the language used, lack of information about how the system works, expenses and duration of legal procedures.

When analyzing the cases, we focused on the procedures and processes of lawsuits rather than their results to understand the extend victims of violence can practice their right to access justice. Women's opinions on the processes of the cases are also explained further in this report.

There is a significant increase in the number of women who applied for legal aid compared to previous project period. However, most women receiving legal aid continue to complain about the judicial process and this shows that there are still obstacles that prevent women from practicing their right to access justice.

It is a positive insight to see that bar associations in the region give priority to female applicants when considering legal aid applications and almost all female applicants are assigned a lawyer. On the other hand, it is observed that, due to limited and late payments of fees to lawyers from the Department of Justice, lawyers complain that this situation affects the capacity and efficiency of legal aid service.

It is observed that some of the difficulties that prevent women from practicing their right to access justice are: time consuming and wearisome process of collecting documents to be exempt from case fees and expenses, lack of knowledge about using public spaces and difficulties of transportation to town center from remote neighborhoods and rural areas.

Denial of the request for legal aid by a court is

striking in showing how right to access justice is violated. In N.Y.'s case, even though poverty certificate was submitted, the court rejected the motion by declaring: "Considering the economic conditions and life standards in this country, fees requested by the Department of Justice are not constraining the right to access justice. Thus, the motion for legal aid is rejected." This reasoning shows that the courts do not properly comprehend what right to access justice entails and that they actually reject and violate this right.

Moreover, for women who cannot speak Turkish or use the language enough to express themselves, it is hard to collect the required documents, understand what is being said, or explain their problems.

Women whose mother tongue is not Turkish and women who cannot speak another language other than their mother tongues, especially Syrian women, cannot apply to bar associations on desired levels.

Inability to speak Turkish or not knowing it enough to express themselves is a significant obstacle for Syrian and Kurdish women. When accessing justice, translation service is either not offered to women or it is offered by staff or a beadle whose competency and expertise for translation is questionable and yet is present in the room at the time of deposition.

It is observed that KAMER staff who can speak the same language as Kurdish and Syrian women who do not speak Turkish, assist in translation during meetings with legal aid centers of bar associations and lawyers as well as throughout the judicial process. Absence of qualified and professional translators during judicial procedures is a significant obstacle to access justice.

There are differences among bar associations in the region in terms of offering legal aid services to Syrian women. Some bar associations do not assign lawyers to Syrian women who apply for legal aid. The reason for this is shown as the ab-

sence of an agreement of reciprocity regarding legal aid between the governments of Syria and Turkey.

It is observed that, when Syrian women submit a request for legal aid to the courts, the motion is rejected with the same reason. Refugee women's requests for legal aid could be evaluated and problem could have been solved pursuant to Law no. 6458 on Foreigners and International Protection, Article no. 81. However, upon rejection of legal aid requests, a significant obstacle was placed in the way of refugee women's right to access justice.

Long duration of the cases also cause distrust within the justice system. This distrust also affects the demands to look for justice.

Frequent changes in the positions of legislation officers also cause cases to linger and thus feed into feeling of distrust towards justice. For example, in one case, the first three hearings took place with three different judges and even though 11 months passed since the case was opened, merits of the case were not discussed.

When access to justice is analyzed as a process, it is observed that definitive judgment does not mean anything by itself. The fact that women's problems are not resolved even though they have a court order in hand poses the greatest risk to the process.

Among unexecuted decisions, alimony cases are the most common. Alimonies are not being paid and executions for debt of alimony remain unresolved.

Unsafe environment both in the region and in the country decrease the rate of women's demands for justice and will to practice their right to access justice.

Women mostly apply to police stations to access justice. That is why female personnel, who received gender education, should be employed in police stations to work specifically with cases of violence against women and sexual abuse.

Legal aid fund should be increased and payments to lawyers should be done on time. Women should receive translation support to explain themselves properly.





Problems with the enforcement of Law no. 6284

As is known, the purpose of Law no. 6284 is explicated in Article 1 as “protection of the women, the children, the family members and the victims of stalking, who have been subject to the violence or at risk of violence, and to regulate procedures and principles with regard to the measures of preventing the violence against those people”. In this respect, the Law aims to prevent violence before it occurs and to immediately and safely protect individuals who are subjected to violence.

Despite some shortcomings, this law is the most comprehensive law in effect to prevent and punish violence against women. It is a special law.

However, some of its practices reveal that practitioners do not fully comprehend the extent and aim of the Law no. 6284 as well as the importance of preventive and protective measures framed by this law.

In the monitored cases, it is observed that the protection measures pursuant to Law no. 6284 are taken easier and quicker than the previous period. The fact that Istanbul Convention is mentioned in the justifications of definitive judgments can be accepted as a positive change. However, it should be noted that most precautionary decisions are taken and applied automatically by a copy and paste method, almost following routine template rather than focusing on the specificities of each case.

In almost all cases, precautionary decisions are taken pursuant to Article 5/1 of Law no. 6284 stating “not to exhibit an attitude and behaviors including the threats of violence, insult and humiliation against the victim of violence and not to cause distress to the protected person by means of communication instruments or alternative channels”.

In the monitored cases, depending on the specificities of the case, alternative measures such as education, counseling, rehabilitation, treatment and medical/psychological examination

aiming to change attitudes and behaviors of perpetrators by raising awareness towards violence, anger control, coping with stress are not observed.

It is determined that even though precautionary decisions are taken immediately, they are not supported by a close monitoring process. It is seen that two women were murdered despite the precautionary decisions.

Moreover, in some high-risk cases, protective/preventive decisions were not taken.

Judges, who are expected to evaluate the cases by considering the type of violence, risk factors victims of violence face and the needs of victims, usually make their decisions without reading the petitions and this certainly affects the implementation of the law and monitoring of the cases.

Law officers are authorized to rule for temporary alimony, financial assistance, custody and visitation matters pursuant to Law no. 6284. However, in monitored cases, no decisions are made regarding these matters. Rulings about alimony, custody, visitation rights are given only in divorce cases pursuant to the articles of Civil Law.

It is observed that women who are subjected to violence first apply to police stations where they are offered the choice to be located at a women’s shelter. However, apart from 2 exceptional cases, women did not choose to or demand to stay at a women’s shelter.

The reasons why women do not request or choose to stay at a women’s shelter even in high-risk cases should be analyzed.

It is revealed that the rate of Syrian women applying for precautionary measures provided under Law no. 6284 is very low.

In some cases, it was seen that the protective measures that the law enforcement officers deem appropriate were rejected or changed by the court judge during the approval process, but

why these decisions were rejected or changed was not clear since justification for the decision was not presented.

In the meetings held with lawyers, the reasons why protective measures were rejected by the courts are discussed and lawyers explained that judges usually deny these motions thinking women request precautionary measures to use them as a proof at divorce cases. Courts are responsible to protect the rights of a woman who is inclined to file for divorce or has already filed for divorce. Thus, these rejection decisions can be considered to be against the purpose of Law no. 6284.

There is a difference between the length of protective decisions taken by the police force and by the court judges. Longer protective decisions are made by police force and these decisions are usually reduced to 2 months by court judges without any justification. One of the cases in which protective decision duration was reduced to two months, the woman victim was found to be severely injured by the perpetrator, leaving a mark on her body, but the reason for the judge's decision was not explained.

In another case, the judge rejected a precautionary decision requested under Law no. 6284, by stating "there is no evidence or incident showing that the complainant will be subjected to physical violence." This decision is clearly against the Law as it is clearly declared by the Law that no evidence can be sought to rule for precautionary measures.

In a divorce case, the judge rejected a woman's request for precautionary measure on the ground of lack of evidence even though there was a medical doctor's report indicating that woman had been subjected to physical violence.

Moreover, in another case, it is notable that the protective measure did not include disallowance from owning and carrying a gun even though the perpetrator was a public officer carrying a gun.

In a case where there was a life-threatening

situation and yet necessary measures were not taken sufficiently for the elimination of this danger, the identity change for the victim of violence was carried out easily and immediately. However, the personnel who was not cognizant of the relevant article of Law no. 6284 regarding identity change, this person gave trouble. This problem was overcome by the intervention and support of KAMER staff.

This case and some other cases show that personnel in police departments and gendarmerie units have more knowledge about the issue than the officers in local police stations.

Informing all personnel working in the entire police force and ensuring sensitivity towards the subject will be a crucial step towards solving the problem.



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Risk Assessment

As is known, safety of victims of violence and their right to a life without violence can only be possible by careful evaluation of the law practitioners the dynamics, risks and dangers of domestic violence and other types of violence against women.

In the monitored files, it was found that precautionary decisions were not handled on a case-by-case basis; the cases were not analyzed carefully; the precautionary decisions were not monitored; and the victims themselves as well as civil society organizations were not included in the process.

In fact, as is acknowledged, risk factors are different in each case and, that is why, every incident should be analyzed separately on a case-by-case basis.

Electronic monitoring system was not used in any of the examined cases.

In police departments, with the application forms developed particularly for evaluating the risk factors in domestic violence cases, applicant women are classified as low, medium or high-risk groups to be able to identify which risk group the subject of violence belongs to. However, this new and important practice is insufficient to provide the expected benefit due to lack of trained personnel in police stations and legal institutions who can conduct risk assessments on a case-by-case basis, lack of coordinated security and support offered to the victim of violence, and lack of involvement of the subject as well as the relevant civil society organizations to the process.

For instance,

As can be seen clearly in the murders of A.G. and Ş.D., threat of assault is concrete, real, destructive and close. Women tried every possible way to get away and struggled to get help.

Case of Ş.D.

Drug addict E.D. perpetrated violence against his wife and children. Ş.D. was threatened to

death by her family because she wanted to divorce her husband, who was also her aunt's son. Ş.D. was determined to get divorced, so she filed for a divorce. E.D. convened the family council to come to a decision to kill his wife.

However, in the first meeting, the family council could not come to an agreement. They held a meeting once again.

In the meantime, upon Ş.D.'s appeal, two stay-away decisions were issued at different times pursuant to Law no. 6284. He was also subjected to a 3-day forced imprisonment for violating the precautionary decision.

Furthermore, Ş.D. filed a complaint about the family council members who got together to discuss her murder. This complaint could be considered as a cry for help. However, the prosecutor's office decided that there was no room for prosecution about this complaint and dismissed the file. Ş.D. was murdered. (24.12.2016)

Four days before her murder, Ş.D.'s filed a petition for legal aid to the bar association. This could be considered a final distress call, but this cry for help was also not answered:

"I am a mother of two. I live in a 1+1 house given by the Foundation. I live by the financial help of the Foundation. I am a housewife and I have no income. I am married for seven years. I always lived under threat, assault and violence. He threatens the children with a knife. The psychology of the children and me is a mess. He threatens me and the children with death. I cannot take it anymore. My children are miserable. It is all because of him. Help me! He is addicted to drugs and take in front of the children. Whatever the drug he is taking, he denies using it and resorts to violence and threat. He vilifies me in front of the children. He accuses me of ill things in front of my children. He undressed me and took photos of me. He said things to my family, children and my social circle to make them believe that I am a whore. He damages things at home, hurts me and the children. I got married by a religious ceremony before, he stole all the gold gifts given by my family

and ran away in 2011. He did the same thing again; he took my gold possessions, my cell phone, and the money I earned from my own handcrafts. He took the money from the children's penny-bank, left no money in the house, ran away with his mistress, spent everything we had and then again came back to me. I forgave him for the sake of my children. He robbed me and ran away with his mistress. And he is threatening me right now. He says if I get a divorce, he will make sure we suffer and that he will kill us. I want a lawyer. I want him to stay away from me and the children during the divorce process. He will hurt me and the children. He is a dangerous and cunning person. I trust you and our government, please help me before a murder happens and before it is too late. With kind regards. Thank you"

A.G.'s Case

A.G. and defendant C.Y. got married by a religious ceremony and lived together. Defendant C. had a criminal record for heavily injuring the woman he was together with before with a knife in 2009. And he served jail time for this crime. He used physical, verbal and psychological violence against A.G. and abused A.G.'s daughter from her previous marriage. A.G. took shelter in her family's house with his daughter. Defendant C. threatened A.G. and her family with death. He also damaged A.G.'s hairdresser saloon by shooting. A.G. went to a police station and filed a complaint. Upon her request, a stay-away order for 3 months was issued. Defendant C.'s criminal record was an important risk factor. However, the restraining order was not monitored carefully. At the first opportunity, defendant C. found A.G., shot A.G. 17 times and killed her.

After A.G.'s murder, her mother Y. wrote to the Prime Ministry Communication Center (BİMER) to request a lawyer. In the application she said:

"This man threatened my daughter when she was alive. He shot the saloon. I have a voice recording; he says he did it. We filed a complaint to the Prosecutor's Office. They decided not to follow the case. My daughter died because she

trusted our government. My daughter died and we received a decision that said all the complaints we filed are unfounded."

Before these murders were committed, if necessary measures were taken on a case-by-case basis, if precautionary decisions were followed carefully, if prosecutors had investigated perpetrator's criminal record of violence in detail, and if they considered these criminal records as an evidence for the risk of violation of these protection decisions, these murders could have been prevented.

Struggling violence against women entails a fight against impunity. If sincere attempts at this struggle are to be made, then not only perpetrators but also officials responsible in the process should account for their mistakes and neglect.

In the cases monitored within the scope of this project, it is seen that punitive sanctions against perpetrators who violate their protective measures are not taken quickly and effectively. Protective/preventive custody or treatment programs are not applied properly. It is obvious that these measures are crucial in cases that involve high-risk situations.

In the justice system, measures should be taken to ensure that perpetrators accept their responsibilities for their actions as well as question their beliefs and behaviors towards women.



Effective Investigation - Prosecution - Sanctions and Precautions

Every individual has the right to a life without violence.

Governments are responsible for protecting these rights. In cases when these rights are violated, immediate intervention, effective and careful official investigation should be implemented.

The lawyers we met at the meetings complained about the difficulty of finding a prosecutor if incidents occur during weekends.

However, all government officials regardless of their duties are responsible to act according to the immediate and effective investigation rules. They should act with the awareness that a public or personal life without violence is a basic human right for all individuals.

Nonetheless, it is observed that in the monitored murder cases, government officials did not act with this awareness. For example, in the murders of A.D., Ş.D., A.Ö., A.G. and H.Ö. it is revealed that even though the victim of violence was under a life-threatening danger, the posed threat was real, close and highly probable, preventive/protective measures were either not implemented at all or implemented according to the routine measures taken in previous cases. These implemented measures were also not monitored.

These women who got murdered tried to tell all institutions and officials they applied to that their lives were in danger and that they need protection. However, these officials almost turned a deaf ear to these women's cries for help.

Ş.D. filed a complaint to the police officer and the prosecutor, who are in charge of ensuring her life-safety, that the family council convened for a death sentence for her. However, the prosecutor's office dismissed her complaint on the grounds that there is no need for prosecution. When making that decision, the prosecutor was able to track the record of Ş.D.'s application to the police station several times for physical vio-

lence, injury, abuse and threat to kill, and for violation of the precautionary decision by the perpetrator from the National Judicial Informatics System (UYAP). In this case, not only the prosecutor but also police officers and the judge were aware that the perpetrator was a drug addict and that he exerted more violence when he was under drug influence. Still, for Ş.D.'s two applications, the perpetrator received two stay-away orders and this order was not monitored even though it was known that the perpetrator violated the precautionary measures before. They knew that this case was a high-risk one considering the family council meetings and traditional beliefs. However, the judicial system did not take necessary precautions.

In this case, if the police department, the prosecutor and the judge performed due diligence, Ş.D.'s murder could have been avoided. Even though these officers should have held accountable for their negligent and irresponsible approach, their roles throughout this prosecution process were not questioned and investigations were not held.

In any the monitored cases, especially in murder cases, neither the period before the murder was analyzed at all nor were the neglect and mistakes of the public officers investigated.

In cases where women's lives were in danger, it is observed that that risk assessment was not held; preventive/protective measures were not taken in accordance with particularities of the case; emergency detention orders were not executed; preventive custody and similar preventive steps were not implemented adequately and rapidly.

For example,

In the case of B.Ü, the woman, a subject of violence, complained that every time she went to a police station, the officers gave support to her husband. From this statement, we understand that B.Ü. applied to the police before more than once. However, in none of the files we have,

there is information or a document regarding investigation of this situation. Unfortunately, the woman who was exposed to violence paid the price of this neglect by a burn mark on her body. The nature of the investigation may vary depending on the incidents, but the officers and authorities assigned by the state must act immediately when an incident happens. In order to conduct an effective investigation for detecting the criminal act, all the necessary legal precautionary measures should be taken.

Among monitored lawsuits, there are three suspicious suicide cases. In one of the cases, there was considerable doubt to file a lawsuit, and yet no investigation was held pursuant to this crime. Another case was closed due to decision of non-prosecution. In the other case, even though a file was claimed on account of encouraging and assisting to commit suicide, the defendant was acquitted, and the decision was finalized.

In three cases, murder of three women were not even deemed worthy of investigation. Even though in the autopsy report of K.Ç., it was stated that there was substantial amount of ecchymosis in her body, and in the report of A.Ö., that there were burn marks and abuse marks on her body, an extensive investigation was not carried out and evidence for material facts was not searched for.

As a result, it was determined that suicide cases were not investigated effectively. Even if they were accepted as suicide cases, the reasons for the suicide were not investigated or the suspicious points on the cases were not analyzed. The evidence was also not thoroughly analyzed.

In fact, the procedural dimension of state's obligation with regards to the right to life requires identification of all responsible agents of unnatural deaths and holding an effective investigation for their punishment when necessary.

Besides, for an effective investigation, the investigation must be held immediately within a rea-

sonable time and should be open to public control.

In this respect, the problem of intervening to criminal cases gains importance. It is observed that the courts made different decisions regarding this matter. Majority of criminal courts reject the demands of women's organizations and bar associations for intervening in the trials by claiming that the only way to join the court with the victim is if you are affected directly by the crime. Few courts have accepted demands of women rights organizations to intervene in the case. However, in the meetings held with lawyers, they stated that currently the judges changed frequently, and the new judges tend to reject demands of bar associations to join the courts.

In one murder file, the demand of bar association's women's rights center to intervene in the case was evaluated by the committee and accepted by majority of votes, not by unanimity of votes. The judge who gave the dissenting vote claimed that the applicant was not directly affected by the crime. The interesting thing about this dissenting vote is the fact that the woman member of the committee opposed the verdict and lodged a statement of opposition.

It is obvious in cases of K.Ç. and N.B. that the involvement of civil society organizations and bar associations is vital for an effective and victim-oriented investigation as well as for the principle of accountability. The most important feature that distinguishes these cases from others is the fact that the process was carried out with a victim-oriented approach and material evidence was collected diligently. Another feature that distinguishes these cases from the others is that the prosecution was completed at a reasonable time and there were sufficient opportunities for public to monitor the process.

Involvement of bar associations and civil society organizations in the cases also ensure careful consideration of sentence reduction

decisions given due to unjust provocation and discretionary mitigation, also named as "kravat indirimi"¹.

Article 62/1 of the Criminal Code which regulates discretionary mitigation states that "In case of existence of the discretionary matters of mitigation extenuating the punishment in favor of the offender, the offender is sentenced to life imprisonment instead of heavy life imprisonment; or twenty-five years imprisonment instead of life imprisonment. Other sentences are reduced by 1/6."

It is observed that the number of cases resulted in discretionary mitigation is less than the previous project period. Compared to previous period when the Article 62 of the Penal Code stating a sentence reduction in favor of the perpetrator was applied automatically in almost every case, the decrease in number of the cases in the current period could be related to the involvement and monitoring of bar associations, lawyers of the Ministry of Family, Labor and Social Policies and women's organizations.

In A.D.'s case, the reason why 1st Chamber of the Court of Cassation reversed the final decision of the local court on grounds of the Penal Code Article 62 is an important and positive development. The reversal decision states: "Evaluation of the way the crime was committed, the reaction and response it received from public, offensive nature of the crime towards public consciousness required reversal of the discretionary mitigation decision made in favor of the defendant."

This exemplary decision is a direct result of constant monitoring of the case by the public, bar associations and women's organizations.

In some cases, perpetrators abused and tortured women and girls in unthinkable ways and for long periods of time. This violence was not prevented or reported even though it was

known by the relatives. Neighbors also refrained from being called as a witness to the cases. It is notable that prosecution offices granted good conduct time allowance even though they were aware of the ongoing torture and violence when issuing the definitive judgment.

For example,

In F.R.'s case, before the lawsuit was filed, the perpetrator resorted to violence against the victim repeatedly, and finally poured boiling water on the victim, heavily injuring and leaving burn marks on her body. The contradiction in the court's decision despite all these incidents is notable. The court granted sentence reduction pursuant to Article 62 of the Penal Code to the penalty of imprisonment on the grounds of "taking into account the consistent demeanor to injure his partner by weapon, perpetrator's aim and motive, the peril of the weapon (boiling water), the punishment to be decided at minimum amount." If there is persistency of perpetrating violence, the conditions of Article 62 are not met. Thus, it is clear that the sentence could not be reduced by this justification.

In some cases, the decisions were made without thoroughly analyzing the evidence and some of the justifications of final decisions were not clear.

In the murder of H.Ö., the court granted sentence reduction to the perpetrator husband due to both unjust provocation and good conduct time pursuant to Penal Code Article 62. However, in this case, there was absolutely no incident that could justify unjust provocation or discretionary mitigation.

K. Ç.'s case has been shared as an exemplary decision made about self-defense cases. In this case, the perpetrator was the father and he had raped his daughters for years. The father, apart from sexual abuse, had also used unimaginable torture methods and held a gun to his daugh-

¹ Sentence reduction to those who wear a tie in front of the court

ters' heads many times. The oldest daughter, K. Ç., got the hold of her father's gun and killed him during another rape attempt. This case was monitored by women's organizations and bar associations. After prosecution, K. Ç. was acquitted on grounds of self-defense. This acquittal decision serves as an example for other cases and the justification of the decision states: "Considering that the defendant has surpassed an ongoing, repetitive and unjustified act done against her with self-defense with fear, panic and rush that could be excused due to the current conditions, the court decides that there is no room for imposing penalty..." This case was also followed by lawyers and women's organizations.

It is determined that there are significant problems with monitoring the violence cases of trans women where violence against trans women is not approached seriously, with a human rights lens or from the victim's perspective. There is also prejudice against these cases.

For example, Ç.Ü. was assaulted and injured by 3-4 men waiting outside her house at night because she was a trans woman. Ç.Ü. tried to defend herself and during the struggle, the car driven by perpetrators was slightly damaged. One of the perpetrators blackmailed Ç.Ü. and threatened her to death to pay for the damage. Even though Ç.Ü. filed a complaint about the perpetrators, they could not be found for some reason, and this criminal act remained unpunished. In E.T.'s case, the perpetrators who were guilty of stalking, abuse, wrongful conduct were police officers. The Governorship did not give permission to investigate these police officers. Only after the complaint filed by E.T.'s lawyer, the investigation procedures were started.

In S.K.'s case, this trans woman was abused by her boyfriend. Her nose was broken, she was thrown off the second-floor window resulting in multiple fractures and broken bones on her body. She withheld her complaint due to perpe-

trator's and his family's pressures. Prosecutor's office decided that there was no room for prosecution since the complaint was withdrawn. When S.K.'s lawyer appealed with a motion claiming that the act was a homicidal attempt, the file was reopened.

As we can see from the aforementioned cases, the only way to get results in cases about violence and violation of rights of trans women is by a lawyer's persistent and serious monitoring of the case.

The case of H. is related to crimes of aggravated sexual assault and deprivation of liberty. H. was forcefully raped under threat of a knife by two perpetrators. As soon as she got away, she called 155 and the police officers took her to the hospital. After the hospital examination, the bruises on her neck, swelling and scratches on her forehead were detected. The sperm and wipe samples as well as other evidence were found to belong to the perpetrators. Besides, the security camera recordings also match H.'s statements given both in the police station and in prosecutor's office. Perpetrators were arrested and the case was opened. Up until this point, the careful collection and immediate use of evidence, effective intervention of the police force are on point and should be used as a positive example.

However, after this, perpetrators' families pressured H. and offered her money. H. changed her statement because she was in a financially and socially insecure position. She told that she had sex with the perpetrators for money and thus, the defendants were released and acquitted.

This case is important because it provides an example on how violation of Istanbul Convention and thus Law no. 6284 caused impunity of perpetrators of rape. There were all necessary elements of a crime in this case and the evidence proved that it was an assault. An act of sexual assault, because it is not founded on consent, does not necessitate a complaint. In this case, it was clear that there was no consent.



Women's perspectives on judicial procedures

Women whose cases were monitored within the scope of the project were asked their opinions about the judicial process. Of 59 women, 48 of them told that they were not pleased with the process and had complaints about it. 11 women said that they were pleased by the process. Women who talked positively about the process used the phrase "for the time being" in their answers and this was striking. For example, they said, "My lawyer is attentive, I am pleased for the time being."

As can be seen from the examples provided below regarding women's views on the judicial process, women mostly complained about the long duration, slow pace and ineffectiveness of the cases.

Some women, even though the majority disagrees with them, said that they felt alienated at every stage of the process starting from police stations. They asserted that some police officers supported their husbands instead of themselves.

Women complaining that they were not given enough chance to speak during the trials stated that they could not express themselves properly due to harsh and repressive attitudes of prosecutors and judges.

It should be noted that majority of women who complained that court orders were not properly applied gave alimony decisions as an example.

Women complain about the ineffective and unjust implementation of judicial procedures.

Relatives of the murdered women complained that even though threat to kill was imminent and known, the prosecutors refrained from opening a case or taking a precautionary decision.

In addition to all these problems, women who did not speak the official language or did not speak it well enough to express themselves, felt desperate and alone during long lasting and

complicated legal procedures. They said that the process is deterrent and wearisome.

Women usually withdrew their complaints because they lost their belief in long and ineffective process and stopped following the case. Most of them were Kurdish or Syrian women who did not speak the official language at all or enough to express themselves properly.

Women who were able to get away from violent environment and received support from KAMER or their families claimed that they found hardships in legal procedures more bearable than violence they endured in the past.

It should also be noted that women who were contend with the legal process talked mostly about their lawyers and KAMER's attention instead of referring to the entire legal process.

Especially, statements like "now that I know about the Law no. 6284 and my rights, that is why I do not have any complaints" is important to show that women who know more about their rights feel empowered.

Moreover, statements such as "I used to be a coward person, then I went to KAMER, now I have confidence" reveal the importance of solidarity and not feeling isolated.

Some statements that came from women about legal procedures are as follows²:

"I can't get what is my right for years"

"In my criminal case, I don't get enough chance to speak, they don't listen to what I say, I feel repressed, so harsh, I abstain from talking, I can't express myself"

"Both me and my family were worn down by the long duration of the case. But it is still peaceful to be away from the man who put me through unbearable violence"

"They did not accept me. They took everything

² Women's statements are narrated verbatim without changing any spelling mistakes.

in the house, my clothes, even my identification card. I had nothing. I am trying to live by financial assistance. I filed for divorce, I still could not get divorced for two years. He does not give alimony. I want to sue him for compensation, but I don't have enough money to do so."

"My sister was exchanged for marriage at the age of 15. They tortured her in the house she went. 7 months before she got murdered, I knew they were going to kill her, and I filed a complaint. They didn't file a lawsuit against the tormenters, but they opened a case against me for defamation."

"We filed a complaint to the prosecutor's office, nothing came out. We received a motion for dismissal of charges one week after my daughter died."

"They don't care. Because I don't have anyone with me. Because I am a woman. They take the side of men. We can't get divorced for two years. If I can get a divorce, I can receive my mother's allowance. I told the judge too. I have nothing. I want it to end."

"The lawyer didn't notify me even at the time of the court hearing. They gave my child's temporary custody to him and did not even notify me. Don't I need to know the decisions made about my own life?"

"My husband hired a lawyer to sue me for custody because he doesn't want to give alimony. He said, 'You are worth a lot of money, go and sell yourself'. I want my right to alimony and compensation."

"KAMER's impact and support is a lot. Everything is alright for the time being."

"I was worn down throughout this process, I was repressed. I lost my belief in the society and family. This is a very painful process for me."

"My husband's family is a well-known family. I think that was why lawyers shied away from the

case. I requested a lawyer from the bar association, that lawyer did not pay attention, either. They don't talk to me or inform me. The committee listened to my husband's side of things, but they never listened to me."

"The court hearing ended, they decided for alimony and compensation. Five months passed, he never paid the alimony or the compensation. I suffer."

"The bar association appointed a lawyer to me but I don't speak the language, we couldn't understand each other. Lawyer from KAMER comes to my meetings"

"He kidnapped my three-month old baby and gave the baby to a nursery to take revenge from me. I am going to lose my mind. I go to the court; they don't inform me. They insult and dismiss me."

"My children were abused, I realized it late. They want proof. How can I find evidence? The case takes too long. My family and people we know put the blame on me and my children."

"The fact that the case took so long ruined my psychology and wore me down. I don't feel good."

"I have no complaints. Because I've been told about my rights protected under Law no. 6284. I will do it and I have many rights. And I will use these rights."

"The case is carefully followed by the lawyer appointed by the Ministry of Family, Labor and Social Policies, even if we don't participate in the hearings."

"I was a coward. My husband was in Istanbul. I applied to KAMER. I participated in the events. I felt more confident. I felt empowered. Thanks to them, I applied everywhere to save myself from this beating. I confronted my family, too. I am waiting for the court hearing now. I will get over this hopefully because I am not the same

coward anymore. I promised that I will provide a nice life to myself and to my kids. I will never let anyone make us upset again."

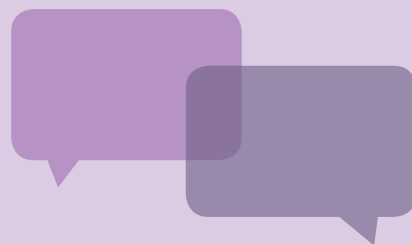
"The divorce case took so long. I have a protection decision from the court, but my husband kidnapped my kid and he is always around the house."

"I have a court hearing stress constantly; I am depressed for three years because of the same problems."

"On the day of the hearing, before I told about what I lived through, the other side said he wanted to reconcile, and the hearing was postponed. I want them to defend my rights as a woman."

"My divorce case was concluded. Although I proved with reports and with my children's testimonies that I endured all kinds of violence for 17 years, the fact that I was granted only 5.000TL material and 5.000TL moral compensation and my case for division of property is still going on for six years is not fair at all. A woman's life should not be this cheap. It should not be deemed unworthy."

"I was the one being subjected to violence despite stating this I got nothing I was seen guilty and I was repressed because I am a WOMAN."





Sentence reduction due to unjust provocation

Article no. 29 of the Turkish Penal Code states that “A person committing an offense with affect of anger or asperity caused by the unjust act” can benefit from sentence reduction. The level of unjust provocation determines the amount of sentence reduction.

Although sentence reduction due to unjust provocation has not been used commonly in the past years, it is still criticized for the possibility that it could be used in honor killing cases and that it poses a risk.

Yet, a slight deviation from traditional roles assigned to women, such a woman will to get a divorce or re-marry after divorcing, is still used to justify violence.

In a case examined as part of this project and a case that can be classified as an honor crime, the perpetrator requested a sentence reduction due to unjust provocation, claiming that the victim had relationships with other men. This woman was killed because she wanted to get divorced and filed for it. The court evaluated witness statements and other evidence and rejected perpetrator’s unjust provocation claim. The perpetrator was first sentenced to aggravated life imprisonment and then to life imprisonment due to being granted good conduct time allowance pursuant to Article no. 62 of Turkish Penal Code. The case was sent to District Court of Law for appeal. (This case is monitored by bar associations and women’s organizations).

However, District Court of Law reversed the judgment in the appeal decision of the local court stating, “defendant’s statement about cheating was not investigated adequately to make a decision about unjust provocation sentence reduction.”

The decision and justification of reversal of judgment made by the District Court of Law violates Article no. 42 in the Istanbul Convention. The way unjust provocation was evaluated could put the guilt on woman victim. This approach can encourage committing honor killings

and may lead to the danger of creating a cover of “honor” for other crimes. In this specific case, if local court follows the reversal of decision and gives a sentence reduction due to unjust provocation, this will result in perpetrator benefitting from both unjust provocation and discretionary mitigation. Unfortunately, these practices will strengthen the belief of impunity for violence against women.

In almost all examined criminal cases, it is observed that perpetrators request a sentence reduction by a motion of discretionary mitigation. Even if the women get divorced, they are still stalked by their husbands and subjected to violence. Perpetrators justify their acts of violence by the notion of “honor”. In cases of violence against women, judges and prosecutors are advised to refrain from using unjust provocation sentence reductions on unacceptable grounds such as “honor” or tradition.

Amendments should be introduced to the Article 29 of the Penal Code, stating that the crimes and murders committed in the name of “honor” cannot benefit from sentence reduction due to unjust provocation. This can solve the problem and provide legal protection to victims of violence.

As a result, sentence reductions granted due to unjust provocation or good conduct time create the perception that violence against women is not a serious and major crime. This poses a high risk of repetition of violence and an increase in the dose, and violates the rights of women and girls to live free from violence.



Divorce cases

Only one of the divorce cases was filed as uncontested divorce. 4 of the contested divorces turned into uncontested divorce cases because both sides came to an agreement during the divorce process.

The interesting thing about these cases is that all women, without exception, expressed that they were forced to agree as a result of pressure, threat, helplessness or intimidation. They also stated that as soon as the divorce was over, they would file a new case for alimony and custody.

U.Y. who signed the uncontested divorce protocol and accepted the divorce during the court hearing, came to KAMER right after the court and told that she signed the protocol by force and threat. She said that she had to give the custody of her children to her husband. She wanted and asked for support to file for a new lawsuit.

K.Ç. had no income and lived by financial support. She explained that the divorce lawsuit she filed in 2016 was getting tiring due to her alimony request. She was unable to get support from her family, so she gave up her demands other than divorce and got a divorce.

Ç.Ş. was illiterate. She did not speak Turkish. During court hearings, the beadle was appointed as the translator. On the protocol submitted to the court, there was a scribble under her name. There were also signatures of witnesses on the protocol. Even though the protocol stated that custody of one child would be given to the father, she said that she wanted the custody of both children during court hearing. Judge took note of this request in the hearing report, but approved the protocol as it was and gave the custody of one child to the father.

F.K. filed for a divorce in 2016 demanding alimony and compensation. However, when the case dragged for a long period of time, she waived her all other requests and alimony demand, and got divorced.

N.Y. stated that she signed the protocol stating she did not request alimony or compensation by force.

As these examples clearly show, uncontested divorce cases or the cases in which both parties

come to an agreement do not necessarily include women's actual requests. What's more, there is a story of violence against women in most of these cases. These women are usually desperate and impoverished. We believe it is crucial for doing justice that the judges make a decision about the case after investigating carefully women's actual requests and whether they receive familial or state support and their history of violence.

Another important issue worth noting in these divorce cases is the situations where women withdraw their lawsuits. Women usually withdraw the divorce case because they feel tired of the long process and feel alone and desperate. Thus, they return to their abusive husbands.

C.K. was married off to a quite elderly man by her brother and sister-in-law in exchange of money. She filed for a divorce but withdrew her lawsuit because it was not concluded for a while. Later, she applied to KAMER stating that she wanted to file for a divorce again.

S.Ç. filed for a divorce despite her husband's and her family's objection. However, she could not go to the trial because she was not allowed to leave the house. She called the court and asked what would happen if she could not attend the hearing and she was told that the lawsuit would be dropped. Even though she wanted to go, she could not dare to leave the house. The case was dropped because it was not pursued.

Contested divorce cases take longer to conclude due to procedures such as investigation of socio-economical situations, Social Investigation Reports and hearing of witnesses.

Some cases take longer to conclude due to reasons such as reassignment of judges or address search. Despite the length of the proceedings, in these cases, with the exception of a few cases, it is observed that the evidence and witness statements are analyzed meticulously; Social Examination Reports are taken into consideration; socio-economic conditions are searched; evidence about violence allegations are collected; and the justifications for

the final decisions are explained in detail.

N.D.'s case is an exception to the findings indicated above. In this case, parties were married for 6 years and had difficulty in having children despite all their efforts. Her husband was psychologically abusing N.D. because of this. He insulted and swore her. He didn't come home. One day after taking N.D. to her father's house, he left her saying he was going to marry someone else. The lawsuit N.D. filed was dismissed because N.D. was not subjected to physical violence. During the court hearing, the judge repeatedly asked N.D., "Did he kick or punch you? Is there a medical report?" and even though N.D. told everything in detail, the judge dismissed the case. However, the psychological violence used on N.D. was severe and should have been considered carefully.

Another exceptional case is E.İ.'s divorce lawsuit where E.İ. was subjected to physical and psychological violence, oppressed by her husband's family, got her golden jewelry confiscated and sold and was not taken to a hospital when she was sick and was not taken care of. In this case, husband claimed that E.İ. had gone to a meeting held by Peoples' Democratic Party(HDP) and they had had a disagreement because of this. The court denied E.İ.'s alimony and compensation requests stating that both parties were at fault equally. However, this statement about equal fault was unjustified. The fault of E.İ. was not clearly stated and the justification of the decision was not submitted. The dismissal decision was both ungrounded and against the actual situation. It is highly possible that the judge's decision was affected by his political bias.

In divorce cases apart from these examples, the fault was investigated meticulously, and the requests of alimony were evaluated and decided after detailed investigation of faults and economic situation. All cases in which alimony was granted, women were the victims of violence and did not have an income. Plus, they would fall into poverty after the divorce. It is determined that, except two cases, welfare allowance is set between TL150.- and TL200.-.

In a case that resulted in alimony more than this amount, the husband, who perpetrated violence against his wife for years, received retirement income from both Turkey and Germany. He also owned a taxi running business in Germany. After detailed investigation of income, the court set the alimony amount to TL750.-. However, the defendant objected the decision particularly for the amount of the alimony.

The most important problem identified in the files and expressed in the meetings is that, despite being awarded by the courts, alimony is often not paid.

Another point that draws attention in divorce cases is the decisions regarding visitation and custody. In these cases, if the characteristics of the situation requires an immediate action, judges should carefully evaluate the situation for risk and order a temporary ruling by considering the best interest of the child. However, rather than taking immediate action, judges wait for the Social Investigation Report and this procedure is against the best interest of women and children, especially in high-risk situations.

At the meetings held in the bar associations, lawyers stated that the fact that judges wait for Social Investigation Report to make a decision about custody and visitation results in an increase in violence against women and children and even kidnapping of the children. The lawyers all agreed that this procedure should not be practiced.

All custody and visitation are ruled pursuant to the articles of the Civil Law. It is observed that none of the visitation or custody rulings are issued according to Law no. 6284.

Besides, there are no rulings that refer to the relevant regulations of the Istanbul Convention. However, Istanbul Convention and Law no. 6284 include important regulations for the best interest of a child. It gives the judges the opportunity to tie visitation rights to certain regulations, limit or cancel it.

For example,
D.Ö. was severely injured because her husband

used violence against her, broke her nose, threatened her to death. She even had to change her address repeatedly because of him. In her case, the judge temporarily gave the custody of the child to D.Ö. but granted visitation rights to the father as well, despite all the warnings. In fact, the judge knew that the husband had busted D.Ö.'s work place and used violence even against her co-workers.

As this example shows, the judges make decisions about visitation and custody without considering the history of violence, the increasing rate of violence after the divorce and the risks that women and children would face in the future.

Moreover, the lawyers who attended the meetings expressed with concrete examples that the judges do not give custody of children to women who live in women's shelters. This is completely against the regulations of Law no. 6284.

It is advised that rulings issued about custody and visitation should regard the right of women and children to live a safe life and should consider the best interest of the children.



who's GUILTY?



Annulment of marriage and forced marriages

Only one of the cases is about annulment of marriage.

Civil code writes that the annulment of marriage can be granted in marriages done by deception. It can also be granted when one of the parties is forced into consent to marriage via threatening by an imminent and serious danger to the person or to a relative's life, health, honor or pride.

S.O. was about to marry the person she loved when she was abducted by her stalker M. and M's brothers, left at a construction site without food or water for four days while her family and herself were threatened by death. M.'s family is a powerful family. S.O. had to agree to marry M. because she was afraid something bad could happen to her family. After the wedding, as soon as she found an opportunity, she ran away to her sister's house and filed for annulment of marriage.

Witnesses of the defendant admitted that they kidnapped S.O. One witness even told the court how he helped M. and his brothers in abducting S.O. However, the court considered statements of the witnesses of the defendant and the mukhtar and dismissed the case due to lack of grounds for the annulment of marriage. S.O. continues to live with her family and does not want to continue this marriage.

In this case, it can be said that the judge fell short in evaluating and interpreting available evidence and this criticism would be true. However, in our laws, there is not any regulation that makes it possible for marriages to be annulled without any burden placed on the victim. This lack of regulation, in cases like this, result in court decisions against victim's best interest.

As stated above, the ground for the annulment of marriage regulations in the Civil Law is limited and they do not apply to marriages that affect partner's consent via physical and/or psychological violence.

Even though the number of early and forced marriages is 16 in the monitored files, there

is only one annulment of marriage case. This shows that women who were married off by force choose to get a divorce rather than filing for an annulment of marriage. In fact, forced marriages are not recognized legally due to lack of consent. Women forced into these marriages also have to endure long, tiring and costly divorce cases. That is why, legal regulations should be made about forced marriages that make it possible for these non-consensual marriages to be annulled.





Notification

Domestic violence is considered to take place in a private space, and thus, is not reported. Anonymous notifications are left only in cases of death or near-death situations occurring as a result of maltreatment and torture.

Women exposed to violence usually report cases of violence less due to fear of social stigmatization, lack of knowledge about where and how to apply, economic difficulties and lack of trust in police.

In the case of A.N., the perpetrator stalked her for six years, harassed her over the phone, crossed paths with her and disturbed her on social media. A.N. feared that her husband and her family would blame her and that was why she did not file a report. In fact, long years of abuse and stalking left the woman psychologically weak and she got sick. She tried to deal with this form of violence by herself but could not succeed. At the end of six years, M. abducted A.N. by car. A.N. begged the perpetrator, enraged, fought him and finally found a way to get off the car. She tried to stop the passing cars, first none of the cars stopped but then two cars pulled over. In one of the cars, there was a woman and a man and in the other, there were four men. A.N. shouted for help by saying "Call the police! He kidnapped me!", however the perpetrator told them "I did not, she is my wife" and the drivers went away.

This case serves as an interesting but upsetting case showing how domestic violence is perceived by the society and explains why the number of reports on violence is low.



who's GUILTY?



Child witnesses of violence, child victims

It is determined that the number of children witnessing domestic violence is significantly high. Particularly, children living in rural areas witness two or three times more violence than children living in urban areas. These children often witness their fathers perpetrating violence against their mothers. Some children are even subjected to violence themselves along with their mothers.

As can be seen in the cases of A.G. and Ş.D., mothers were brutally murdered in front of their children.

It is known that violence against mothers have permanent and harmful damage on emotional development of children. Living in spaces of violence and witnessing it run the risk of normalizing violence and yet it is observed that this possibility is left out of the judicial processes.

It is determined in the monitored cases that the judicial process remained silent and dysfunctional in implementing a reparative and restorative approach for the children who witnessed the killing of their mothers by their fathers.

The approach of the judicial process to a six-year old who witnessed killing of the mother by the father was simply recognizing that children's statement as a witness at the police station. The fear, trauma, shock or emotional damage this child faced remains outside of the scope of law officers except for petty procedures.

In murder or violence cases, although women victims claimed that their children witnessed violence or were subjected to violence themselves, the justice system did not present any approach that emphasizes the significance of these statements in any phase of the trials.

If the judiciary approached the case prioritizing the best interest of the child and child's healthy growth, they could have accepted these cases as serious and heavy matters and could discuss the punishment by moving away from the lower limit.

Child witnesses of violence was not discussed in the judicial process in any of the cases. It is even worse that the perpetrators committing vio-

lence or murder in front of children's eyes were granted good conduct time allowance pursuant to Article no. 62 of the Turkish Penal Code.

Children as witnesses or subjects of domestic violence along with their mothers, are known but disregarded victims of not only criminal cases but also civil lawsuits.

For example,

In almost all divorce cases, law officers knew about the violence, but this matter was neither discussed as a separate issue during trials nor was considered in rulings of custody or visitation rights.

However, in the divorce cases, in the Social Evaluation Reports prepared by experts, the children usually state that they witness their fathers perpetrating violence against their mothers. They also tell about the violence they endure themselves. Despite these statements, the courts give the custody of the child to one party and give visitation rights to the other party instead of discussing this issue in detail.

As is known, Law no. 6284 also protects individuals who are affected by the violence or individuals who are at risk. In other words, Law no. 6284 deems witnessing violence and being subjected to violence equal in regard to protection services.

Judicial authorities should evaluate cases involving children who witness violence by prioritizing the best interest of children and children's right to a nonviolent life. Law enforcement should investigate meticulously and consider their final ruling within a restorative, transformative and long-term plan.

Moreover, it is advised that the issue of children witnessing violence should be regarded as an aggravating circumstance in the Penal Code.



Child molestation

18 of the cases are about sexual abuse of children. It is seen that this number has increased compared to the previous period. As there is no research or statistical data about this increase, in the meetings held with lawyers and local women's organizations, it was discussed whether this increase in the last period was only coincidental to the cases monitored as part of this project or was a reflection of the increasing number of similar cases submitted to the judiciary.

Lawyers and officers from local organizations also stated that number of child molestation cases submitted to the court also significantly increased in recent years.

When asked about how they interpret this increase, they stated that social sensitivity, awareness and especially careful and attentive approach of school counselors to children are effective in recognizing these cases. However, they claimed that the number of cases submitted to the courts is less than the actual numbers, adding that most witnessed cases remain unreported.

Low tendency in reporting child molestation incidents could be explained by lack of awareness or by the fear that abused child might be stigmatized in the society. Besides, in the monitored cases, it is seen that the abuse of children perpetrated by their relatives is likely to be covered up. Lawyers who attended the meetings expressed that families of abused girls mostly care about whether the hymen is damaged or not, rather than whether the abuse actually happened or not. If the hymen is not damaged, then they think that the case could be closed.

Moreover, another important point is that in one of the cases, although both parents are farmers and work together all day, the mother was held responsible for the abuse. She was continuously blamed for it both by her husband and his family. After the abuse, it was seen that fathers and families blame the child and the mother for the abuse. In one case, the father had difficulty in

talking with his child and refrained from making eye contact with him/her.

In the meetings as well as in the monitored cases, it was observed that lawyers of defendants asked embarrassing questions to abused children during court hearings and also ill-treated them during trials.

Due to insufficient number of Child Monitoring Centers, established for detecting the devastating psychological effects of sexual abuse on children and preventing further traumatization of children, it was observed that, except for 4 cases, sexually abused children continue to be ill-treated during the judicial processes.

Among monitored cases, in a province where the number of child molestation cases was the highest compared to other provinces, it was observed that there was not a Child Monitoring Center.

Moreover, in the meetings, lawyers complained that police officers were usually present in the room when children were giving testimonies and that the prosecutors asked leading questions.

When there is a Child Monitoring Center in the city, children's testimonies should be taken in these centers. However, in one of the cases, even though there was a Child Monitoring Center in the city, it was observed that this requirement was not met, and child's statement was not taken there.

It was also seen that Child Monitoring Centers were put into effect in some cases which were mostly opened in 2019. This is a positive development which proves that Child Monitoring Centers have started to be utilized more commonly.

As is known, investigating child molestation does not depend on reporting, except some special situations.

N. was a 16-year-old child who was sexually abused. In N.'s case, it was decided that there was no reason for prosecution because the child did not file a report. Prosecutor made the dis-

missal decision without properly investigating the legal requirement stated in Penal Code Article no. 103 as "whether or not being aware of legal meaning and results of the act happened to the self." This decision of non-prosecution is against the law.

Moreover, this verdict and the verdict of A.'s case explained below prove that the criticism directed towards Penal Code Article no. 103 is valid.

The justification of definitive judgment in 16-year-old A.'s case (without changing the spelling mistakes) is as follows:

"Even though it is claimed that the defendant had forced anal intercourse with the plaintiff and gave the plaintiff drugs, there is no medical evidence on these matters, the plaintiff agreed to get in the car by her own will, there is no evidence of battering or coercion, that the defendant thought the child was older than 18 years old thus made a mistake, the defendant is acquitted of all charges."

And yet, in Article 103 of the Penal Code, for acts committed against children older than 15 years old, use of force is stipulated. However, this article of the law is against Istanbul Convention that defines sexual abuse as any act done when consent is not given on free will. In the actual cases, the best interest of children is not considered and their right to accessing justice is seriously violated.

The cases that can serve as an example for the violation of effective investigation obligation are;

In G.'s case, the mother learned about the abuse by the call and report of the school counselor, however she tried to cover it up thinking they would get a bad reputation in the village. The mother was an illiterate and impoverished widow with 8 children. Despite these conditions, in the statement she gave to the court, she stated that after the incident her daughter could not sleep at night, that she was in depression and that she was using the prescribed drugs by the doctor. The mother said that her daughter

came to the house with two buttons of her shirt missing at the day of the event. In the final verdict of the court, the fact that the plaintiff was receiving psychological help and was using psychological medicine were used against her and the defendants were acquitted. The verdict was made by majority of votes and the decision was justified as "Due to the fact that medication G. took caused her to hallucinate, the witnesses stated they had not seen the incident, and that there was no concrete, believable and free-from-doubt evidence, there is no ground for punishing the defendants".

In the statement of the judge who gave the dissenting vote, he/she stated;

"There is no ground for the plaintiff to slander the defendants. It should also be noted that the child reported being abused to the school administration, told about it to school counselor and emphasized that he/she wanted it to be kept private. The request to hide matches with the psychology of a sexual assault victim. According to research, children who were sexually assaulted and kept it hidden live with a feeling of heavy stress. These children also feel guilt, rage and shame. Basic statements of the sexually abused child are consistent throughout her testimonies in the judicial process. Even though it is claimed in the justification of the decision that the assault is reported under drug influence, this is completely a presumption. The fact that the victim applied to a psychiatrist and started to receive medication cannot be interpreted against the victim. On the contrary, this act supports her willpower and shows that the assault had concrete impacts on her psychology. Sexual abuse crimes, due to their nature, involve secrecy, therefore testimonies of the witnesses about not seeing the incident cannot be used and interpreted against the victim."

This case also shows that sexually abused children gave statements in different steps of the judicial process, such as in police stations, prosecutor's office and the court. This means that

the child is forced to live the trauma over and over again and is further abused.

This case, both by its procedures and the final result, is an example of how obligation for effective investigation and the right to access justice are brutally violated.

Another example of how obligation for effective investigation and right to access justice is violated can be the case of Ö. and its definitive judgment. The plaintiff, Ö., is younger than 12 years old at the time of the crime. After her parents got divorced, she was sent to a dorm and was sexually abused multiple times by the adult officer there. She was also deprived of her freedom. When she wrote a letter to her mother saying, "My teacher is abusing me, save me from this place", the mother reported the incident to the dorm administration. After couple of days, the dorm principal called and said "Your daughter is slandering and lying. Come and get her" and the mother took her daughter from the dorm. When the child started skipping classes in her new school, school consultant talked to her and Ö. told the consultant about what she had been through. Upon reporting of the school consultant, the prosecutor's office started an investigation and the mother started to send the child to professional psychologist for help.

The school consultant not only took minutes but also testified during the trial that the child was subjected to heavy psychological trauma, that she had difficulty in focusing and had a constant urge to skip school or places that reminded of her trauma.

During the hearing, the psychologist accompanying Ö. said that "We had meetings with the child before the trial. She told everything the same. There is no conflict in her statements. She is capable of judgment."

Even though the mother told the court that she took the child to a professional psychologist after this incident, the court did not consult to the opinion of that psychologist. The verdict below

is reached as a result of partial investigation.

This final verdict is given by the majority of votes. The justification reads:

"The student is troubled. The incident that had been brought forward by the school consultant could not be verified by concrete, final and free-from-doubt evidence to result in an imprisonment."

The judge who gave the dissenting vote stating that there was no contradiction in child's statements, and as 2 years passed since the incident, there was no reason for the plaintiff to slander the defendant.

Among examined cases, these cases are the two lawsuits that had definitive judgments reached by majority of votes. The cases other than these two have final verdicts reached by unanimity of votes.

Among sexual abuse cases, S.'s file is an exemplary judicial case in showing how the obligation of effective investigation can be carried out with due diligence.

In two examined cases, perpetrators of sexual violence are also children. These children are prosecuted in Juvenile Court. However, since our legal system is a penal system, the judges give imprisonment rather than issuing restorative alternative solutions.

The case where 11-year-old S.S.Ç. was sentenced for 7 years due to sexual abuse is entirely against the explicit provision of the law. Criminal code Article 31/1 states; "minors under the age of twelve at the time of the act are exempt from criminal liability. While such minors cannot be prosecuted, security measures in respect of minors may be imposed." However, in this case, a minor was prosecuted and given 7 years of imprisonment even though he/she was exempt from criminal liability by law.

Another striking matter in child molestation cases, as stated above, is the fact that both the sexually abused child and the mother were blamed by the society for the abuse.

In the case of P., the family had to move from the neighborhood where the assault happened and migrate to the city center. Despite this negative result, this case should be recorded as a positive example of monitoring the case by the cooperation of lawyers, KAMER's local offices, local office of the Ministry of Family, Labor and the Social Policy and Social Assistance and Solidarity Foundation.

As a result, the capacity of support mechanisms for children who experience trauma should be improved and increased. In order for children and their families to benefit from these services, it is suggested that models of professionalized extensive support services should be developed.





Syrian women

Another matter that participants and the lawyers agreed upon in the meetings held both in the provinces and region-wide is the fact that even though the number of Syrian refugee women and girls subjected to unjust treatments, violence and especially sexual violence due to polygamous marriages is high, the number of Syrian women and girls applying to legal authorities is low.

It is observed that because Syrian women are unsafe and unsecured, they cannot get results from their applications to legal authorities.

In six of the examined cases, plaintiffs are Syrian women. Two cases include protective and precautionary rulings decided pursuant to Law no. 6284.

Except one of the six cases, it is seen that Syrian women filed for divorce, alimony, compensation and custody and yet, did not get any results from these lawsuits. It is also observed that the courts spend long time determining the type of law to adopt in cases concerning Syrian citizens. After deciding to enact Syrian laws, the courts reject or refuse to monitor cases including Syrian women's requests for legal aid, their divorce, alimony and custody cases due to the lack of mutual agreement between governments of Turkey and Syria, or women filing the lawsuit give up pursuing their cases.

However, countries ratifying Istanbul Convention are liable to provide all private and public support services to women who are subjected to violence in the borders of that country.

When both parties in the case are Syrian citizens, it might not be possible to practice international law if requirements for a divorce is not met, yet requests such as alimony, compensation or custody rights can be regulated under Law no. 6284. However, the judges dismiss the cases pursuant to provisions of Civil Law rather than enacting the regulative opportunities and power provided to them by Law no. 6284.

As is known, fees and expenses cannot be

charged for the applications made in accordance with Law no. 6284. Applications for financial assistance and custody regulations are not subject to fee considering the best interest of the children and women subjected to violence. Requests can be evaluated pursuant to the provisions of this law.

In this regard, regardless of their status, Syrian women and children who are victims of violence living in the territory of this country should be provided with the necessary services within the framework of the opportunities provided by Istanbul Convention and Law no. 6284. Independent and expert interpreters should be appointed in the application centers considering language barriers.



Reconciliation in criminal prosecution

In the practice of Penal Code, reconciliation between parties is possible in cases related to crimes such as intentional or reckless injury, violation of the immunity of residence, kidnapping of a child, as well as to crimes that require reporting for prosecution.

It is determined both in case evaluations and at the meetings with the lawyers that there are significant application problems regarding reconciliation practices.

Both case contents and meetings with participants revealed that during criminal proceedings plaintiff women who were subjected to violence were not informed about reconciliation procedures.

Some lawyers state that sometimes women do not know the function of the form they are signing when they are signing the reconciliation form. This situation is later realized during the meeting with the lawyers.

Another problem is that women are repeatedly asked if they want to reconcile or not, almost pressured to do so, and after such pressure, women come to believe that the result will be against their best interest if they do not reconcile.

The lawyers who attended the meetings gave the examples where the victim and the perpetrator were invited to the same place at the same time for reconciliation meetings.

Due to unequal power relations between a victim woman and the perpetrator, the extend of freedom of women when signing the reconciliation form should be thoroughly discussed. It is suggested that women should be informed about the subject, called to the reconciliation office at a different time than the perpetrator, and whether women consented on free will should be considered first and foremost.



who's GUILTY?



Stalking

As is known, stalking is a form of violence and bullying that can result in physical and psychological desperation and fear for the person who is subjected to this violence.

One of the examined cases is a typical case of stalking. The perpetrator, who was a family friend, abused the woman over the phone for a long time, came up to her on the street and disturbed her over the social media. The victim woman tried to cope with stalking on her own, fearing her husband and her social circle might blame her for this abuse. Desperation, fear and worry caused psychological and physical harms on the victim. Perpetrator, feeling relieved and reckless due to impunity, sustained threatening behavior and finally kidnapped the victim woman.

Below is the exact statement of the woman who was the victim of stalking:

"This incident affected both my family and my work life negatively. I changed my work afterwards. The abuse continued from time to time. Even though I threatened him with filing a lawsuit, he did not care as he knew the procedures by saying 'do whatever you want, they will take a statement from me and let me go, nothing will happen to me'."

"The trauma I lived immensely hurt me and my family. I tried to commit suicide six times. The psychology of my children is ruined. After everything I had been through, the morning of my kidnapping, he called a worker of mine and asked about me. And then, the worker called my husband."

In this case, after the kidnapping incident, the investigation was opened on the grounds of deprivation of freedom. The perpetrator was released after being questioned and the next morning called the same worker employed at the woman's workplace and continued the act of violence.

Stalking is defined as a criminal act in Law no. 6284 and its Implementing Regulation. However, it is not defined as a criminal act in the Penal Code. The investigation was pursued for the last criminal act the perpetrator committed and the

lawsuit was filed pursuant to the act of kidnapping. In the actual case, the perpetrator stalked the victim for years and repeatedly and caused harm to the victim and her children. Nonetheless, these facts were not considered by the judicial authorities.

The impunity of the cruel and bullying acts committed by the stalking perpetrator against the victim and her family, further perpetuate these criminal acts and encourage criminals. In the concrete case, the dangerous results of the impunity are apparent.

That is why, it is suggested that stalking should be defined as a criminal act in the Penal Code and it should be punished effectively and in an intimidating way.



Comparison of the results with the findings of previous who's GUILTY? Project

- It is determined that compared to the previous project period, lawyers from the Ministry of Family, Labor and Social Policies attended almost all criminal cases and this participation was mostly active, meaning that they did a research on the subject and causes of the cases and contributed to the evaluation of evidence. When this was brought up during meetings, the participant lawyers also agreed to this finding. Despite this positive improvement, it is determined that numbers of lawyers from the Ministry of Family, Labor and Social Policies were usually low, that even in big cities only one lawyer was appointed to the cases and that they had hardships in attending cases in the province and the district.
Some victims of violence who could not receive a lawyer support stated that they were pleased with the lawyer from the Ministry of Family, Labor and Social Policies and they did not need another lawyer to be appointed.
- It is observed that, compared to the previous period, the cooperation between the bar associations and KAMER offices increased. The empowering effects of working in cooperation is apparent in the lives of victims of violence.
- In the cases examined within the scope of this project period, there is a significant increase in the rate of benefiting legal aid compared to the previous period.
- It is also noticed that the risk assessment, which was not even mentioned in the previous period, started to be assessed with the digital form developed in this period despite its deficiencies.
- There is a significant decrease in the number of murders committed under the cover of "honor". The last "honor" killing was in 2016. However, there are suspicious suicide cases and none of these cases were investigated effectively.
- In this period, there are fewer cases in which perpetrators were granted sentence reductions due to good conduct or unjust provocation. It is observed that the judges were more careful in imposing penalties as in trials and did not reduce sentences pursuant to Penal Code Article no. 62 in lawsuits that were monitored by the public, bar associations and women's organizations.
- There is an increase in the number of child molestation cases compared to the previous period. The reasons for this increase should be further investigated.
- It is seen that, in this period, there is an increase in number of femicide cases and physical violence against women cases where women were slowly killed after days of torture and physical violence by acts of hanging, face down hanging or electrocution. Violence is turning into barbarity and this should be regarded as an alarming situation. The structural foundations of this violence should immediately be investigated, and restorative precautions should be implemented.



Realities of women

Within the scope of this project, we not only investigated the case files and monitored the lawsuits but also did a thorough research on what these women subjected to violence, torture and murder went through before being a party to a legal case.

The information obtained during and after face-to-face meetings held with women by KAMER's local offices, especially when statements of women are evaluated, proves how data gathered simply from case evaluations is insufficient to bring forward the realities of these women.

Since we believed that looking at criminal cases with regular testation tools is not enough to reveal women's realities, we tried to focus on the background of these cases without limiting ourselves to solely criminal cases.

When we tried to look at the background of the cases, we realized each case had a story behind. We added some of these stories in women's words to our report.

These stories and cases show us that women, from the moment they were born, are deemed unworthy by their families. The care dedicated to the male child is not given to the female child. Women's privacy is not respected, and they cannot use public spaces. Their rights as an individual and their honor is violated.

In one case, a girl got a cell phone despite the opposition from her family and hid it. When her family found out about the cell phone, they tortured her for days and she was killed by her brother, despite the fact that her younger brother already had a cell phone and used it. The cell phone was seen as a right of a male child whereas it is a reason to be killed for a female child.

Girls are sold off to marriage, they are forced to marry before growing up and bear children. Their bodies are plundered. These children are married off without consent to men whom they have not seen before and they are forced to live a life full of violence, suicide, and unhappiness.

Women are subjected to life-long violence, from conditions created by inequality in education to situations that cultivate fear, discrimination, alienation and insecurity that hinder their freedom.

It is apparent in the cases and in the backgrounds of the cases that women are beaten up, their bodies are tortured, they are killed, raped, and forced to commit suicide. Perpetrators are mostly fathers, husbands, ex-husbands or brothers.

Inequality in access to education results in lower participation of women into work life and lower income for women.

The approach of the applied institutions towards violence and impunity of the perpetrator further increase the severity of violence for women. Therefore, women feel lonely, desperate and insecure.

It is observed that in some cases, the family members despite being aware of the violence or being a witness to it, they were indifferent towards violence for various reasons.



Women's stories

"When I was 18, my to-be-husband raped me, and I was married off to my rapist. I became prisoner in my life. I never loved him and always wanted to divorce him. The day he got back from Istanbul, he stabbed me in front of the mosque. I heard that he also wanted to commit suicide by cutting his wrists. Then, my lawyer introduced me to KAMER. They supported me."

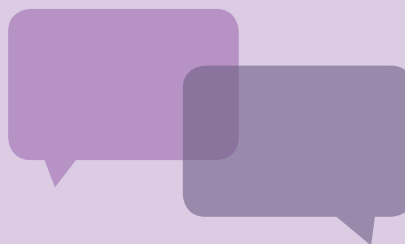
"I was forced into marriage by my family when I was 22 years old. When I was engaged, I told my family about the first instant of violence. I wanted to give back the ring, but my family did not support me. They said, 'Are you going to bring shame on our family?' They ignored the violence by saying 'It happens sometimes, you will get used to each other'. After I got married, I was subjected to violence by my husband and his family."

"I am S.B. I am 32 years old. I never went to school. When I was a kid, I had to work at the field and bring money to my family. When I was 15, I got married. The man who asked to marry me did not have to try hard to convince me and my family. Because when he asked my family, they promised me off to him without hesitation. I accepted it thinking it might save me. After a while, I learned that my husband was already married. I got really upset."

"Last time, my family married me off for a good amount of dowry to a 65-year-old man. I refused, tried to commit suicide, cried but it didn't change anything. They married me off despite all my efforts. They also ruined the lives of my sisters by marrying them off forcefully in exchange of dowry. The man I was married off to was 65 years old. His wife died and he had 9 children. 3 of the children were single, the rest was married. I even organized one of the daughters' wedding. One year later, he started perpetrating every form of violence against me. He would beat and torture my children from my previous marriage. He would call them bastards. The son of my husband also used to beat me up.

They sometimes especially made him beat me. When I didn't want to have a sex with him, he would beat the hell out of me and then rape me. I learned that this was rape later on."

"I got married with my uncle's son by my family's request when I was 17 years old. I was forced to live with my father-in-law after I got married. My husband did not let us live separately. I had to remain silent because he was a relative. I had to endure all kinds of violence perpetrated by my husband and his family since the day I got married. When I had my period, I never used pads, I even did not know what it was. I used cloths. I would wash them and reuse them. My brother-in-law would take those cloths, show it to everyone and make fun of me. I have five children. I also had a still born. The three of five kids were as a result of forced sexual intercourse with my husband and these 3 children were as a result of unwanted pregnancies. My husband was a ranger and he confiscated the pension of my father-in-law. He would not meet our needs in any way. Even if he did, he would abuse me, rape me and then meet our needs. Sometimes he would deceive us but would never keep his words."





General information about the activities carried out to prevent violence against women and impunity of perpetrators

Neighborhood meetings

KAMER operates in 23 provinces of Southeastern and Eastern Anatolia Regions of Turkey and has offices in 20 provinces.

When working on the issue of gender-based violence and discrimination, KAMER chooses to work in the remote neighborhoods of the cities. As the assessments carried out reveal, these peripheral neighborhoods are mostly populated by women who are deprived of their educational rights; who belong to the most impoverished class of the society; who mostly moved to the city from villages due to security reasons; who could not integrate into the life in the city and thus were forced to live in these confined neighborhoods.

It is seen that if these women are not reached in their own environment, this confinement could last for years.

KAMER carries out household visits to access these women. Women are usually visited in their houses by a woman's organization for the first time. In this way, they receive preliminary information about violence against women and children, its effects, ways of protection and available opportunities.

In previous who's GUILTY? Project, 22.864 women were visited in their houses and were interviewed face to face.

In the who's GUILTY? II Project, it was aimed to include 10.000 women visited at their homes in neighborhood meetings that offered a space for knowledge building and awareness raising. It was also planned to bring these women together with officials from public institutions, inform them firsthand about the support mechanisms that were available to them and encourage them to apply.

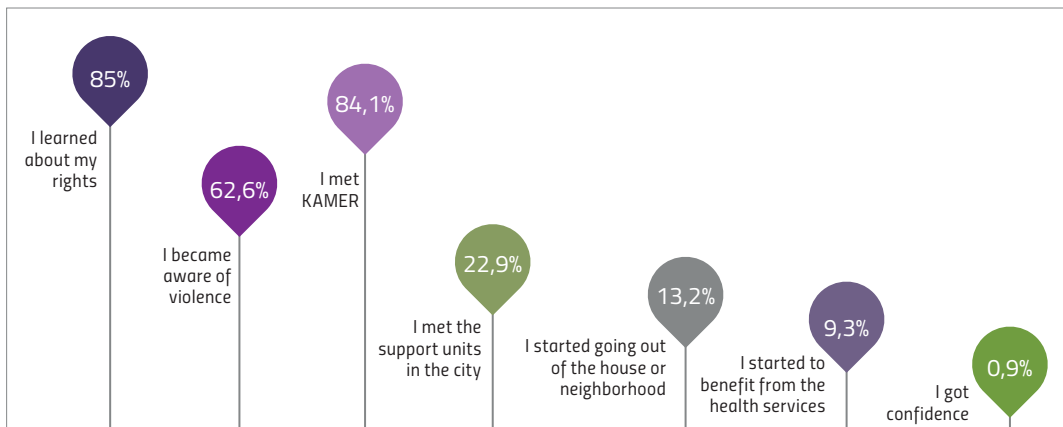
The number of women participating in neighborhood meetings was planned to be 10.000. However, this number reached 49.000 in two years. This shows that women also affect women around them and take their first steps in exercising their rights by encouraging each other. 49.000 women and 1.500 public officials attended to 1.255 neighborhood meetings held in total. These public officials gave firsthand information on the available services for women.

That women met public officials for the first time in a meeting also contributed to their encouragement.

After neighborhood meetings are concluded, a follow-up and evaluation study was conducted. The results of this study can be seen below:

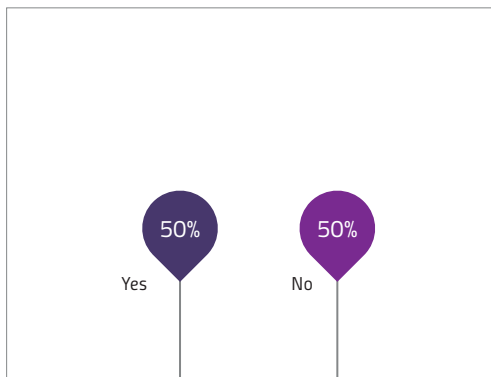


Did you find the neighborhood meeting helpful?

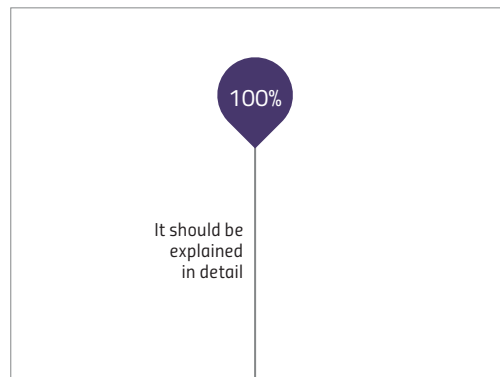


In what ways do you think neighborhood meeting was helpful?

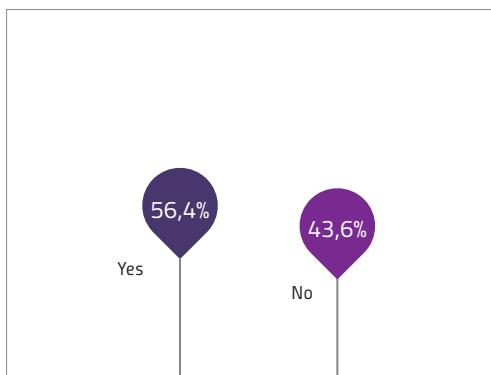
** The respondent might have chosen more than one answer*



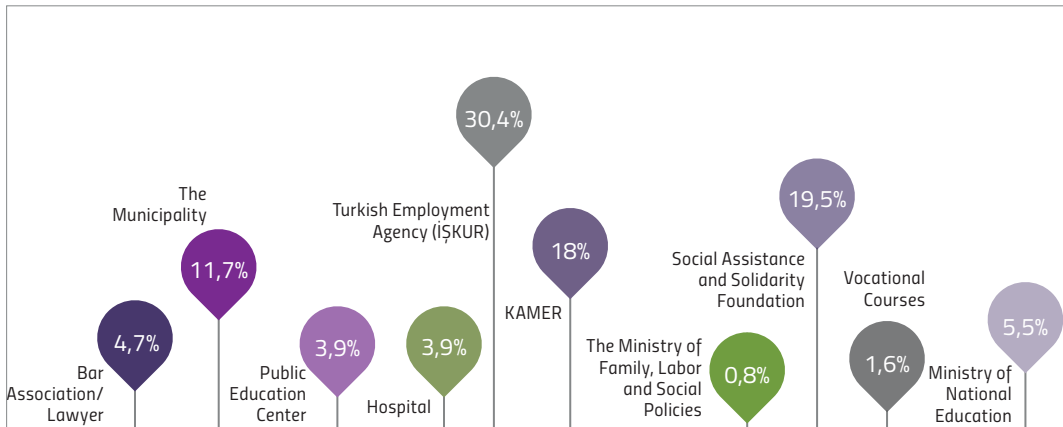
If you didn't find the neighborhood meeting helpful, do you have a suggestion?



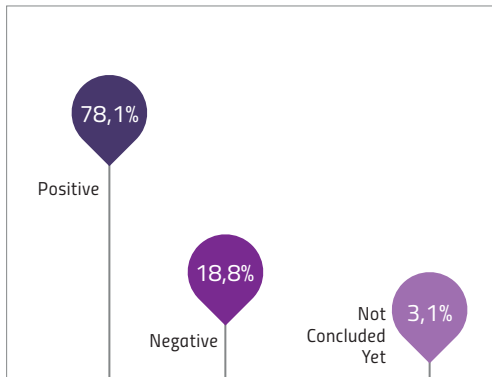
What is your suggestion for the neighborhood meeting to be more helpful?



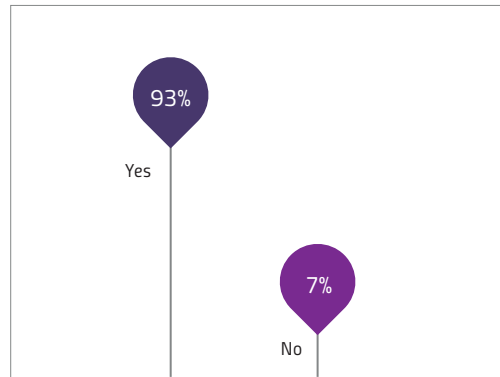
During or after the meeting, did you apply to an institution?



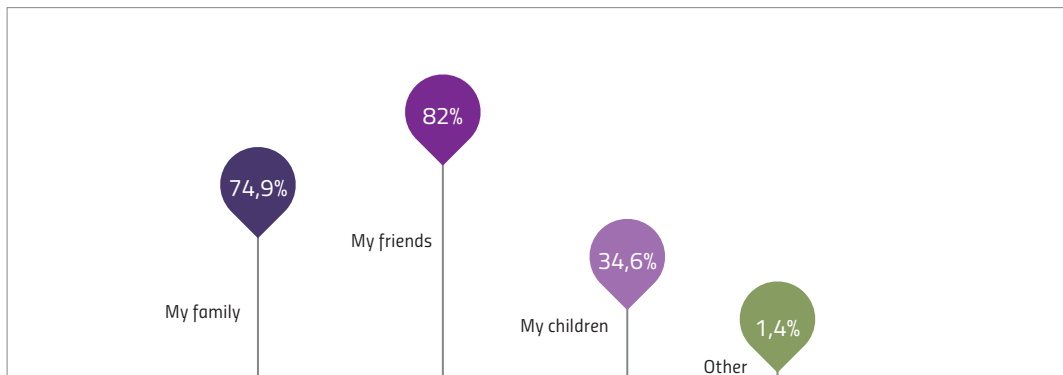
During or after the meeting, which institution did you apply to?



What type of results did you receive from the institutions you applied to during or after the meeting?

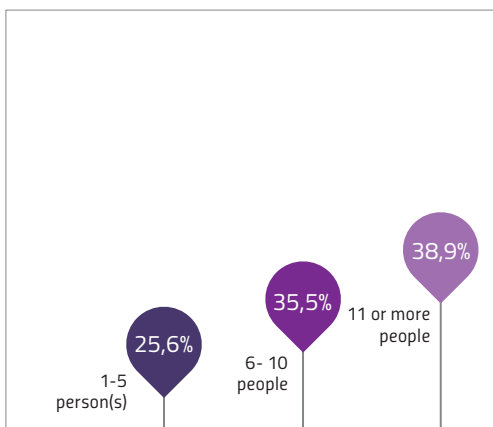


Did you make people around you notice the change you experienced after the neighborhood meeting?

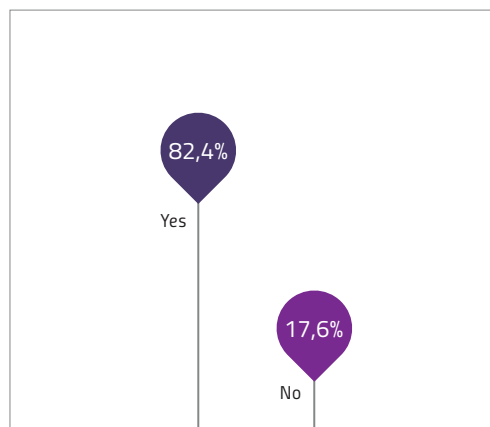


Who were able to notice the change in you after the neighborhood meeting?

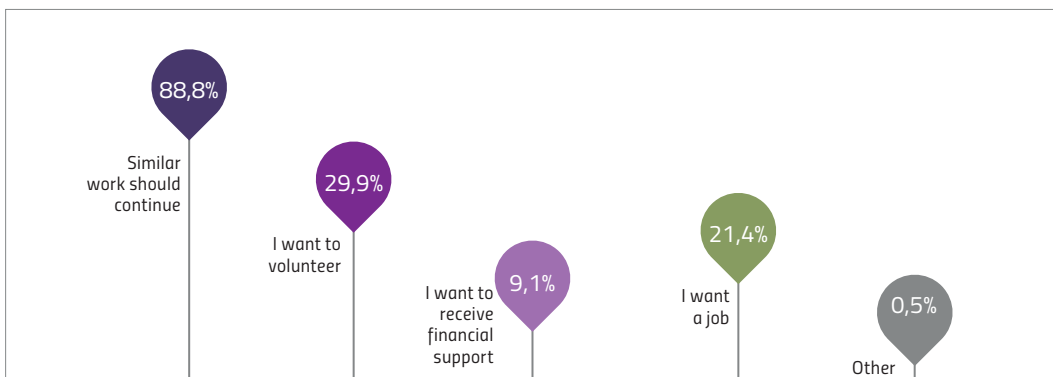
*The respondent might have chosen more than one answer



How many people do you think you were able to influence after the neighborhood meeting?



Do you have any suggestions or requests?



What is your suggestion or request?

**The respondent might have chosen more than one answer*



Small group meetings (Awareness-raising groups)

Small group meetings are closed groups convening for discussing the topics related to gender as well as gender-based violence and discrimination in detail. Each group lasts for 5-7 weeks and meetings are held one day per week for 4 hours.

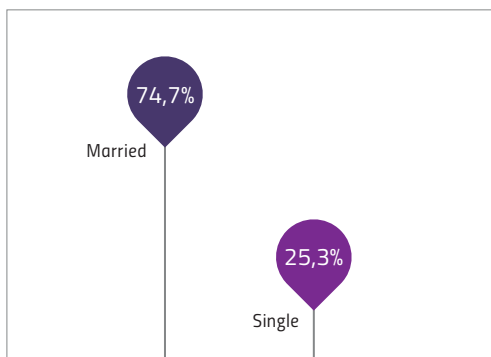
Women who attend these meetings question their traditional roles as women and cultivate new methods and strength to change it. Each woman, through the awareness raising and support they experience, become almost like a neighborhood representative in their own social circle and continue their relations with KAMER.

Small group meetings undergo evaluations by the follow-up work carried out immediately after completion of each group, as well as after six months and one year later. In these evaluations, it is usually observed that most women say, "I feel I am reborn."

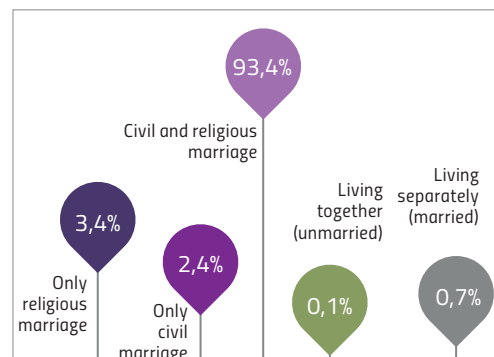
In two-years span of who's GUILTY? II Project, participation of 2.000 women to small group meetings was planned. However, the participation was five times higher than the planned. As a result, 9.500 women attended small group meetings in two years.

This increase in the participation rates is believed to occur due to women's positive influence and encouragement of each other to participate as well as due to the fact that these meetings were held after the inactive period between 2015 and 2017 caused by armed conflicts in the cities, FETO Coup Attempt and the subsequent declaration of State of Emergency Rule.

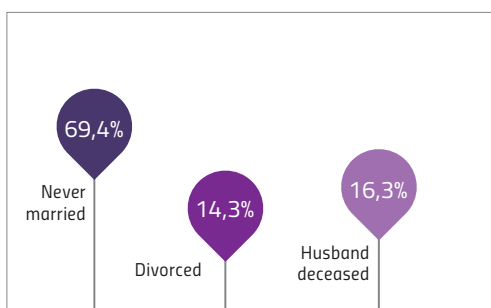
The results of the follow-up and evaluation carried out to identify the profile of the participants and assess the impact of the small group meetings are presented below:



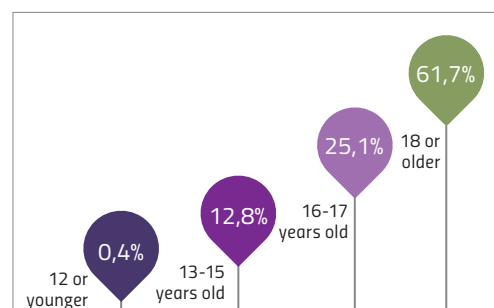
Marital Status



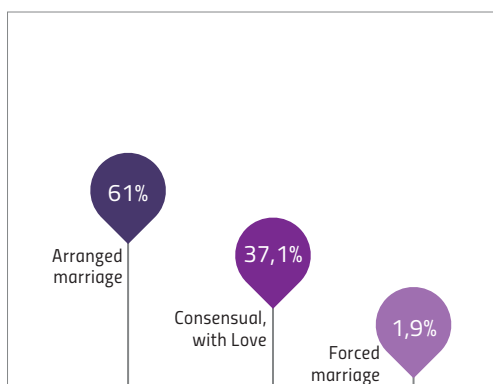
If married, type of marriage



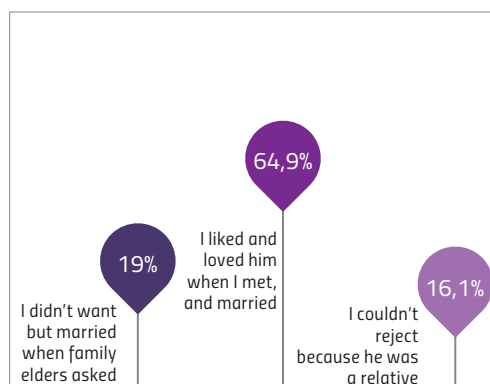
If single;



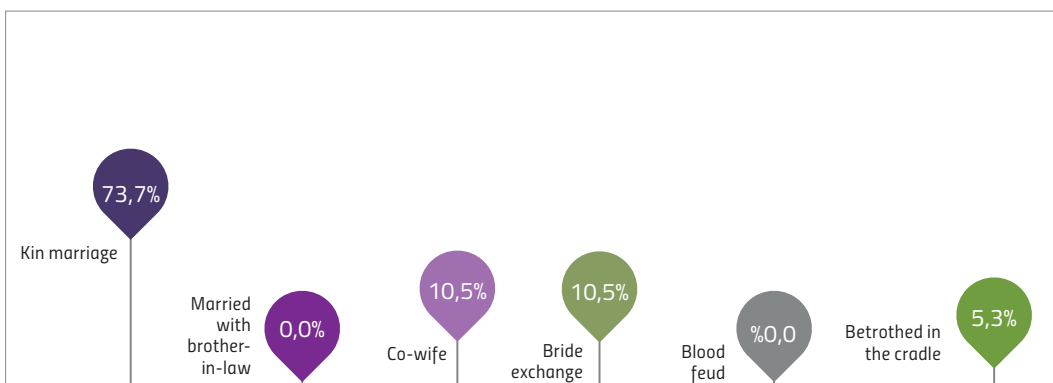
Age of marriage wedded in the last five years



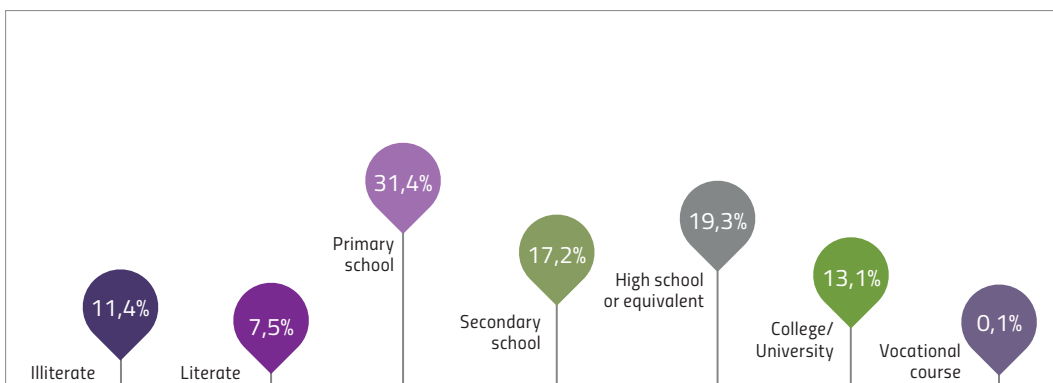
How did you get married?



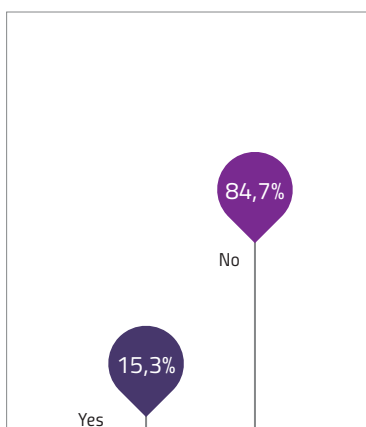
If married by an arranged marriage;



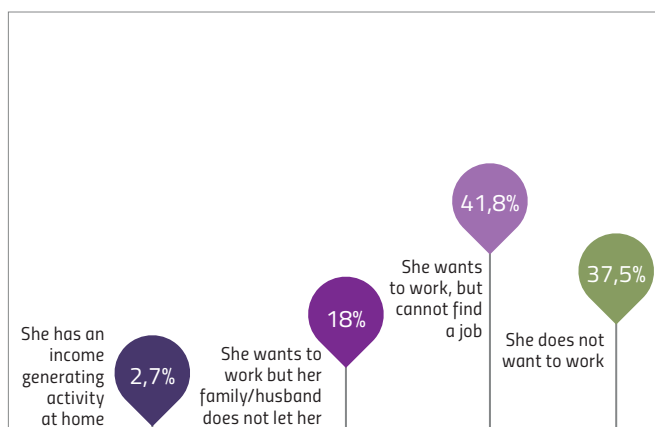
Forced marriages



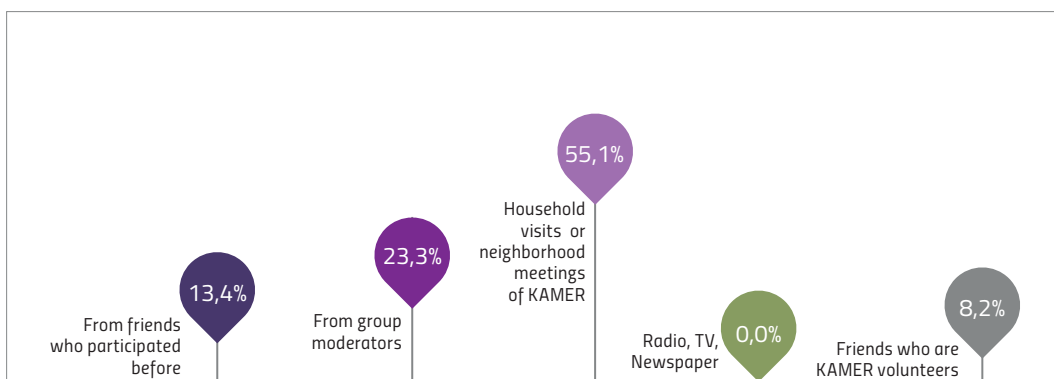
Educational status



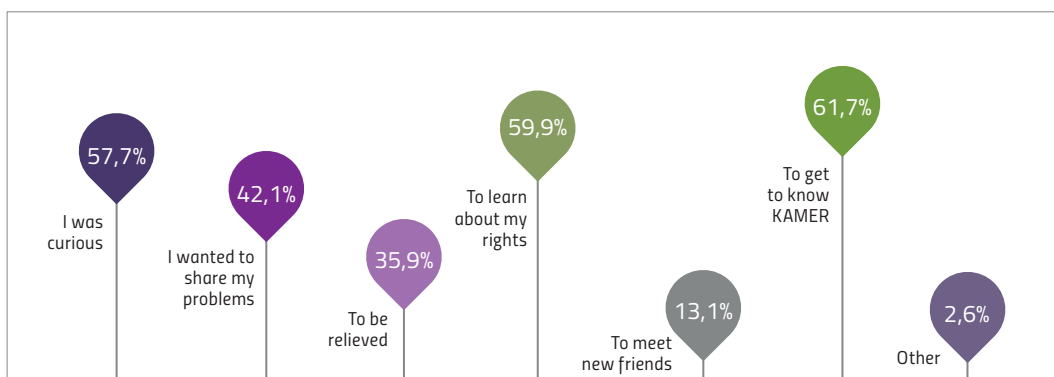
Does she work outside home?



Why doesn't she work outside home?

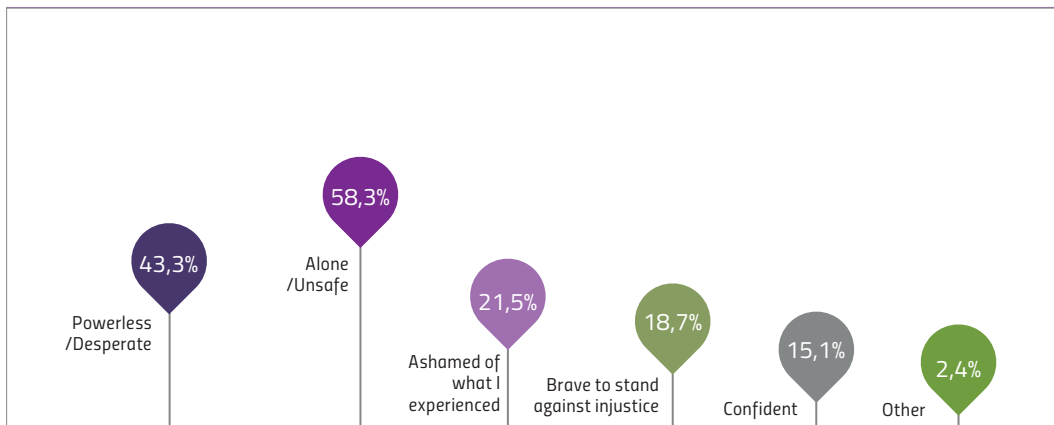


How did you hear about the group work?



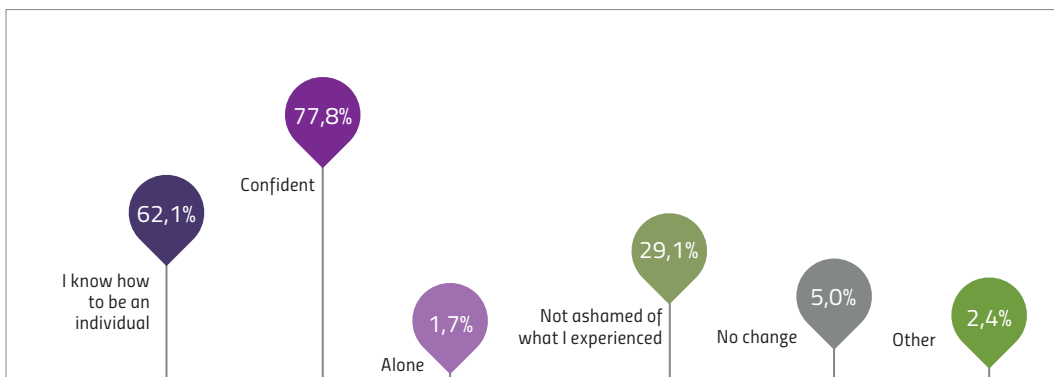
Why did you join the group meetings?

**The respondent might have chosen more than one answer*



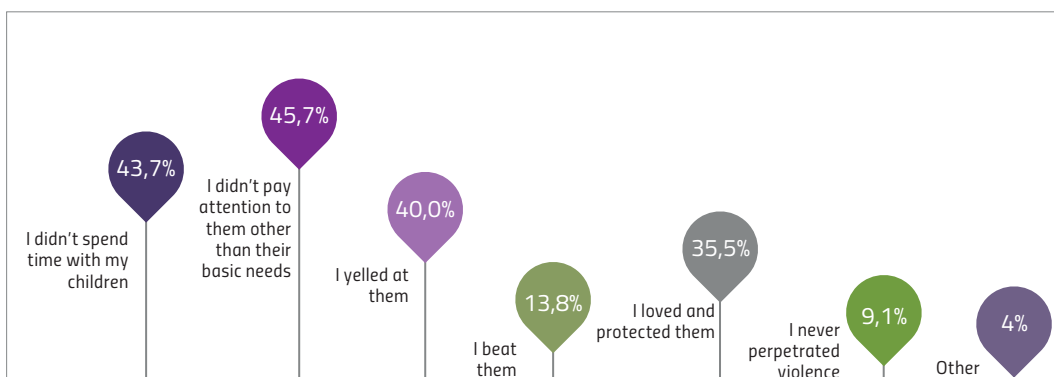
How did you feel before attending the group works?

**The respondent might have chosen more than one answer*



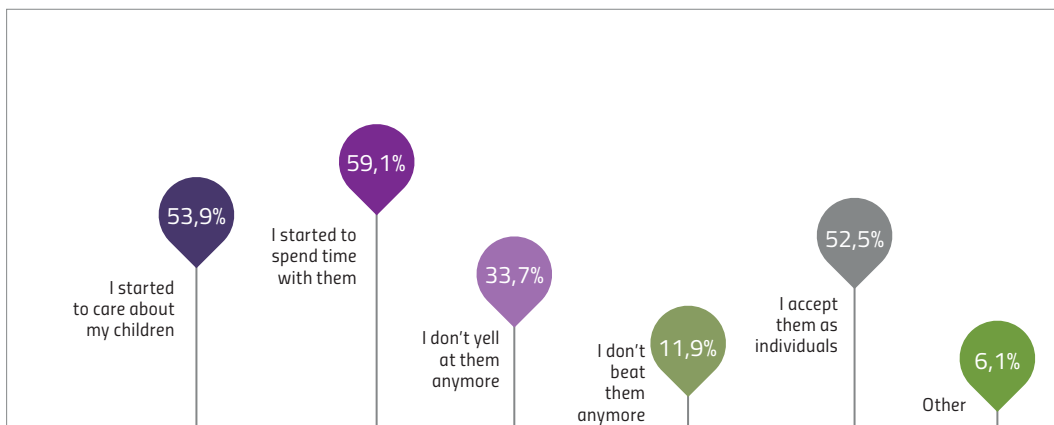
How do you define yourself after the group work?

**The respondent might have chosen more than one answer*



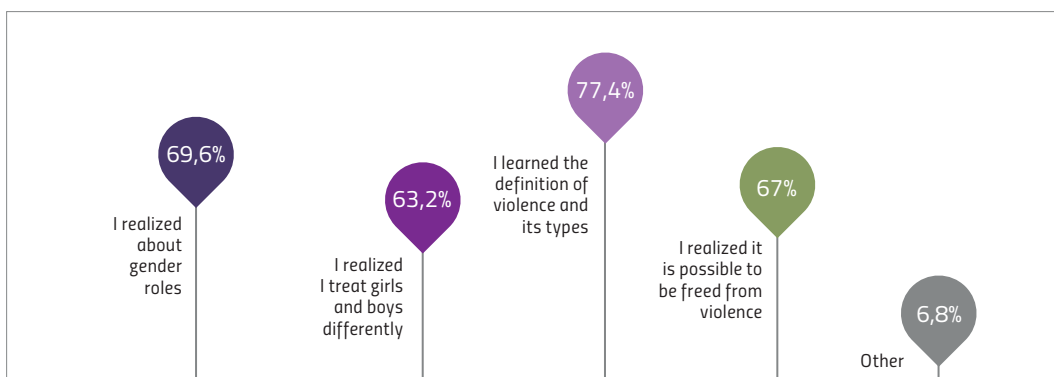
How was your communication with your kids before the group work?

**The respondent might have chosen more than one answer*



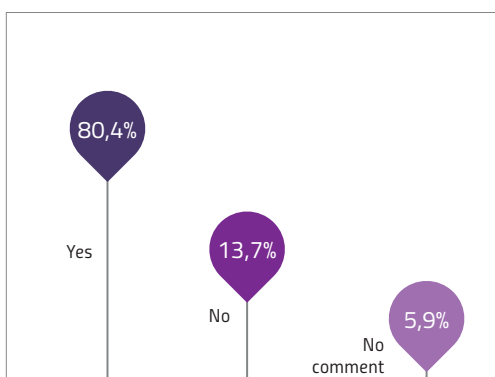
How did your communication with your children change after the group work?

**The respondent might have chosen more than one answer*

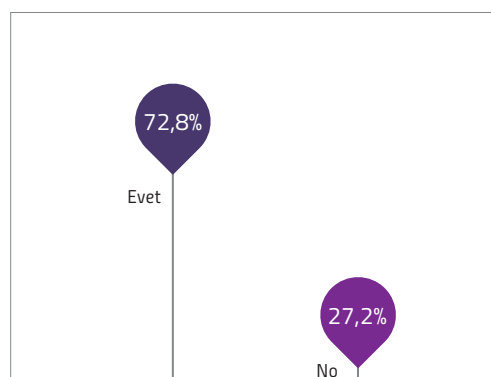


What are the topics you experienced awareness during group meetings?

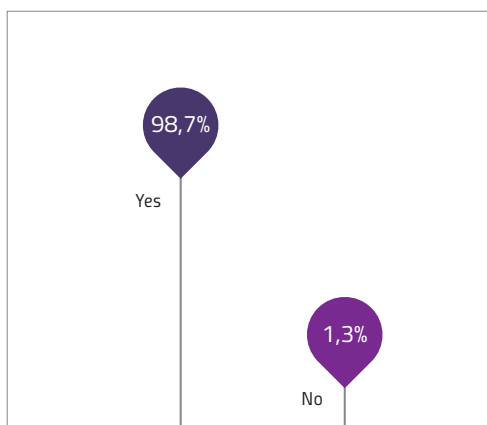
**The respondent might have chosen more than one answer*



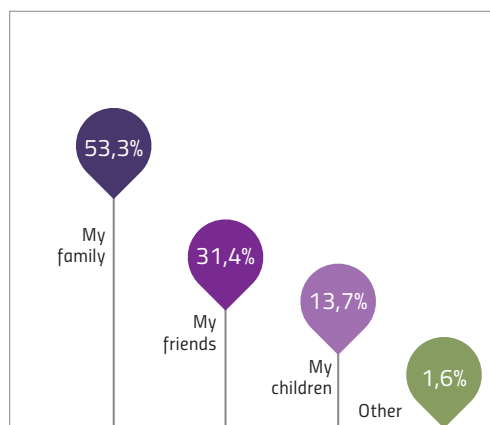
Is there a change you want to make in your life after the group meetings?



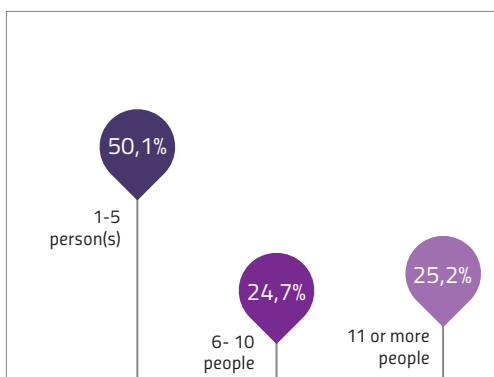
Did you accomplish your plans?



Did you make people around you realize the awareness you experienced in the group meetings?



Who were able to notice the awareness you experienced in the group works?



How many people do you think you influenced?



Monitoring violence

KAMER assists all women who requests support to get out of the violence they endured through the Emergency Support Centers and Emergency Help Center available 7/24 present in all KAMER offices.

All women, who apply to Emergency Support Centers, are initially informed about gender-based violence, discrimination, their legal rights and the opportunities that are available to them.

The current data shows that of only ¼ percent of women, who apply to Emergency Support Centers, benefit from all forms of support offered to them to stop the violence they endured. Only %1 of women who continue receiving support could apply to courts.

Researches on Turkey reveal that women who are subjected to violence choose not to make a move due to fear as well as due to impunity for violence against women

The processes of women receiving support to get away from the violence is monitored, the problems are determined, reports are prepared, and these reports are shared with the relevant authorities to point to problematic areas.

KAMER team follows the order of directives in the “Manual on KAMER’s Methods for Standing up against Violence” during interviews with women. In these interviews:

- Women are told that they are not alone and that violence against women is a problem for all women.
- Women are told that perpetrators of violence should be embarrassed, not the person subjected to it. In this way, KAMER team supports women in dealing with the feeling of loneliness and embarrassment that are common among women who are subjected to violence.
- Then, women are informed about the legal rights and opportunities that are granted by the law and international agreements.
- Women leave with a future appointment if

there is not a case of emergency. They take some time to think about what they learned and how they want to proceed. All women who receive support is monitored either by accompanying the person or by giving a reference when needed. In this way, the pace and quality of the support is monitored and reported.

Under the title “Emergency Support Centers”, the issue of “honor killings” is also studied.

The difference between honor killings and other forms of femicides is that women are put on trial in family councils, found guilty and the family council decides where, when, how she will be killed and by whom. Therefore, the only guilty person is not the murderer, but also sometimes the perpetrators are also the victims. The real guilty people are male members of the family who are a part of “family councils”.

The Turkish Penal Code before its amendment in 2005 granted sentence reductions for crimes committed in the name of “honor”. If the perpetrator was a minor, a second sentence reduction was applied. No sanctions were issued to the members of “family councils” who decided the murder.

In those days, activism carried out by women’s movement prioritized honor killings as a significant problem of Turkey. Besides, Turkey’s candidacy for European Union membership had already started. As a consequence, Turkish Penal Code was amended. In the Penal Code put in effect after 2005;

- Sentence reductions granted to crimes committed in the name of “honor” killings were removed.
- A provision stating that the instigators are as guilty as the perpetrators was introduced. Thus, the members of family councils were also deemed as guilty parties.

The amendments in the Penal Code, the increase of social awareness and sensitivity, and

the potential of women's organizations to support women have reduced the number of this type of murders.

KAMER's observation is that the reason for the decrease in the number of honor killings is mostly due to change of the Turkish Penal Code. Because;

- Women who are under the risk of death continues to apply.
- Compared to the past, it is easier for women, who are under the risk of death, to apply to women's organizations or other official institutions because families tolerate women to leave especially if rumors circulate.

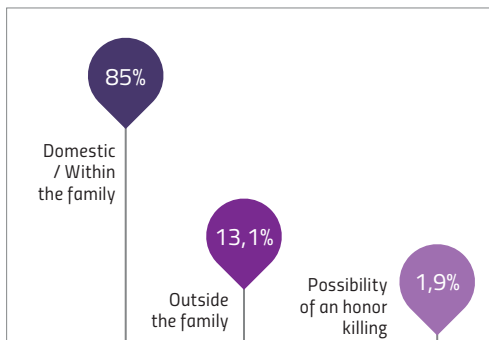
The impunity for violence against women is the most important problem in Turkey. Especially in recent years, that the women who start exer-

cising their rights under Law no. 6842 are murdered instill great fear among women.

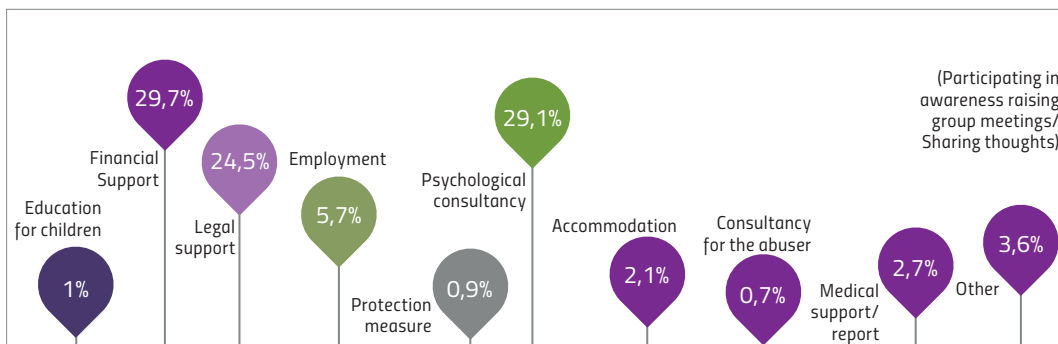
When the high rate of women subjected to violence is compared to the number of women who look for support to be freed from violence, it is determined that most women are aware of the violence but %67 percent of these women remain inactive due to fear.

Within the who's GUILTY? II Project, it was planned to monitor the supporting processes of 1.000 women who took steps to break away from violence they experienced. However, 2.900 women were monitored in two years.

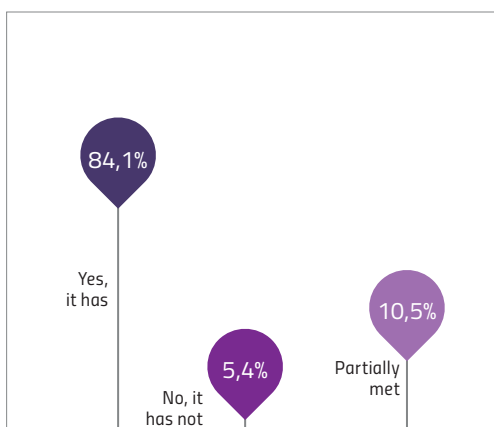
Follow-ups and evaluations were conducted to assess the support services women received to get rid of the violence they experienced. Some of the results from these evaluations are indicated below:



Type of Violence



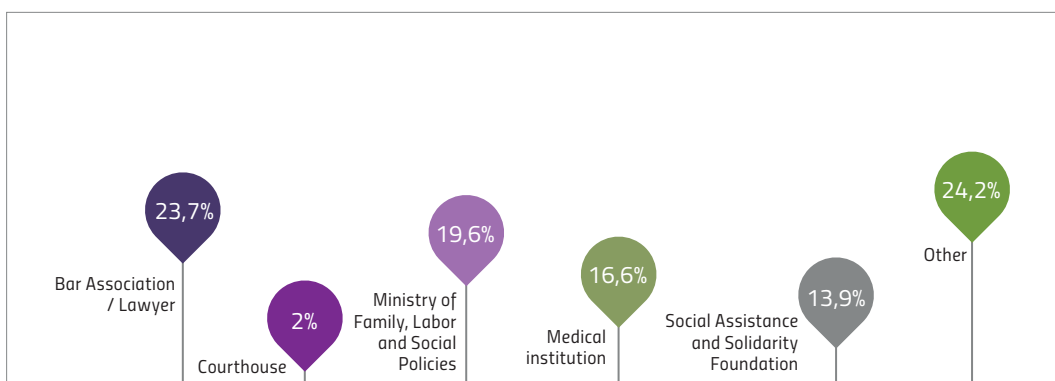
What was the your initial demand?



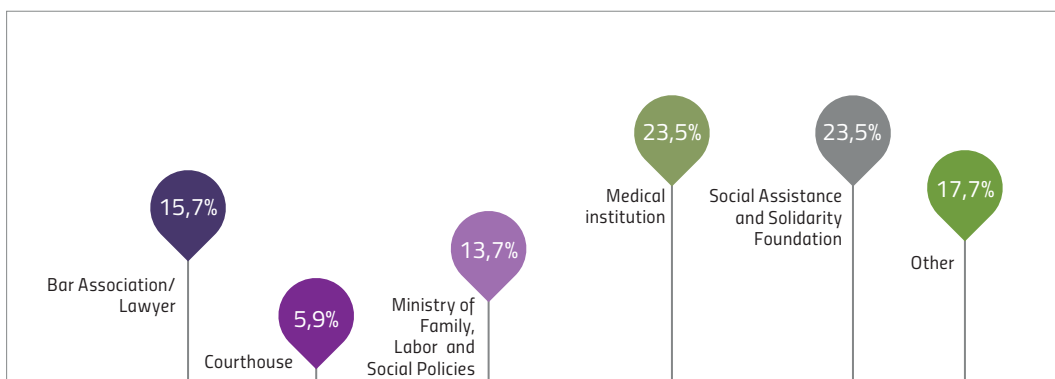
Has your request been met?



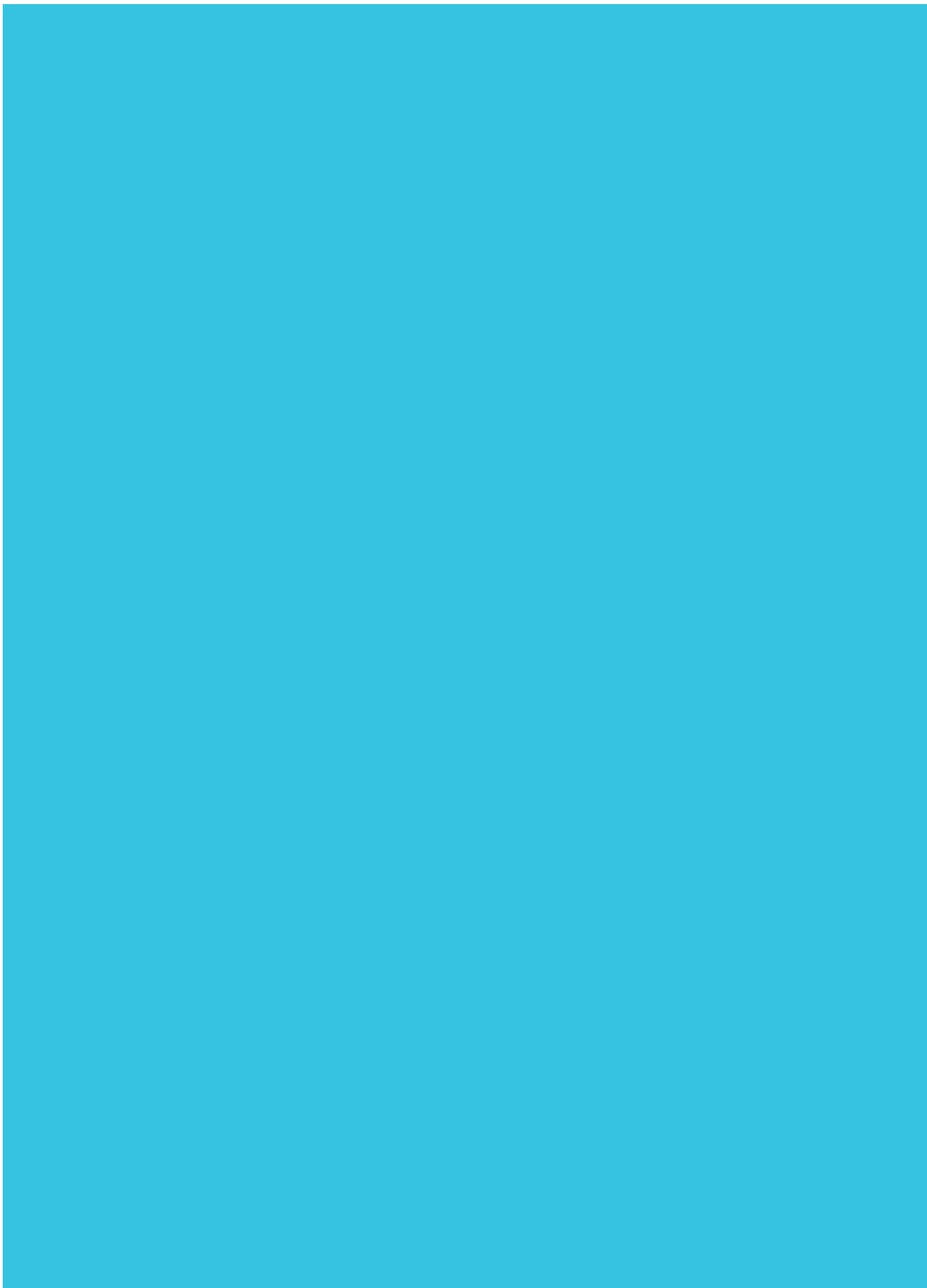
Have you been directed to somewhere else other than KAMER?



To where have you been directed from KAMER?



Distribution of institutions taking indifferent attitude



KAMER Foundation Diyarbakır

Address: Ali Emiri 3. Sok. Es-Şal Apt. Kat: 1 No: 1
Yenişehir/Diyarbakır

Phone: 0412 228 1053

KAMER Foundation Adıyaman Office

Address: Malazgirt Mah. Eski Zey Yolu Cad. No: 82 Kat: 1 Daire: 1 Merkez/Adıyaman

Phone: 0416 214 4453

KAMER Foundation Ağrı Office

Address: Kazım Karabekir Mah. Eski Karakol Sok. Efeler Plaza Kat: 1 No: 4 Merkez/Ağrı

Phone: 0472 215 1015

KAMER Foundation Batman Office

Address: Ziya Gökalp Mah. 1717. Sok. Black and Red Residence Zemin Kat Merkez/Batman

Phone: 0488 213 9677

KAMER Foundation Bingöl Office

Address: Yenişehir Mah. Haydar Ünsal Cad. Buket Sok. Tuma Apt. Kat: 2 No: 6 Merkez/Bingöl

Phone: 0426 241 5001

KAMER Foundation Bitlis Office

Address: Hüsrev Paşa Mah. Ahmet Eren Bulvarı Kahyaoğlu Plaza No: 37 Kat: 2 Daire: 12 Merkez/Bitlis

Phone: 0434 226 2057

KAMER Foundation Elazığ Office

Address: İzzetpaşa Mah. Kazım Bayar Cad. No: 9 Demet Apt. Kat: 1 No: 1 Merkez/Elazığ

Phone: 0424 237 8551

KAMER Foundation Erzurum Office

Address: Aşağı Mumcu Cad. Otel Dilaver Karşısı Hürriyet İş Merkezi Kat: 1 No: 5 Yakutiye/Erzurum

Phone: 0442 213 0033

KAMER Foundation Gaziantep Office

Address: 75. Yıl Mah. Yeşilvadi Bulvarı, Bulvar-kent Sitesi Bağımsız Bina No: 10 Şahinbey/Gaziantep

Phone: 0342 349 9767

KAMER Foundation Hakkâri Office

Address: Dağgöl Mah. Pagan Cad. Ahmet Korkmaz Apt. Kat: 2 No: 3 Merkez/Hakkâri

Phone: 0438 211 0007

KAMER Foundation Iğdır Office

Address: Cumhuriyet Mah. 503. Sok. Ağgöl İş Merkezi No: 11 Kat: 2 Daire: 8 Merkez/Iğdır

Phone: 0476 227 1994

KAMER Foundation Kars Office

Address: Ortakapı Mah. Karadağ Cad. No: 60 Duygu Apt. Kat: 2 Daire: 2 Merkez/Kars

Phone: 0474 212 8059

KAMER Foundation Kızıltepe Office

Address: Tepebaşı Mah. 659. Sok. No: 35/D Kızıltepe/Mardin

Phone: 0482 312 0312

KAMER Foundation Malatya Office

Address: Saray Mah. Sarayım Sok. Demirel Apt. Kat: 3 No: 3 Battalgazi/Malatya

Phone: 0422 324 0567

KAMER Foundation Mardin Office

Address: 13 Mart Mah. 13 Mart Cad. Yağmur Apart. Kat: 1 No: 2 Yenişehir/Mardin

Phone: 0482 212 2353

KAMER Foundation Şanlıurfa Office

Address: Mimar Sinan Mah. 119. Sok. Özgür Apt. No: 50 Daire No: 6 Haliliye/Şanlıurfa

Phone: 0414 313 9556

KAMER Foundation Şırnak Office

Address: Yeşilyurt Mah. Uludere Cad. MB2 Blok 8
Zemin Kat No: 5 Merkez/Şırnak
Phone: 0486 502 5070

KAMER Foundation Siirt Office

Address: Yeni Mah. Cengiz Topel Cad. Andera
Park Karşısı 1563. Sok. Kızıllan Apt. Kat: 6 No:
18 Merkez/Siirt
Phone: 0484 224 3494

KAMER Foundation Tunceli Office

Address: Moğultay Mah. Hamam Sok. Atölyeler
Karşısı Merkez/Tunceli
Phone: 0428 212 4431

KAMER Foundation Van Office

Address: Şerefiye Mah. 6. Sok. İrfan Baştuğ Cad.
Faruk Levent İş Merkezi A Blok Kat: 4 No: 30
Merkez/Van
Phone: 0432 212 1665