



LINKING GENDER INEQUALITY AND VIOLENCE AGAINST WOMEN: ISTANBUL CONVENTION

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BUZZ WORDS

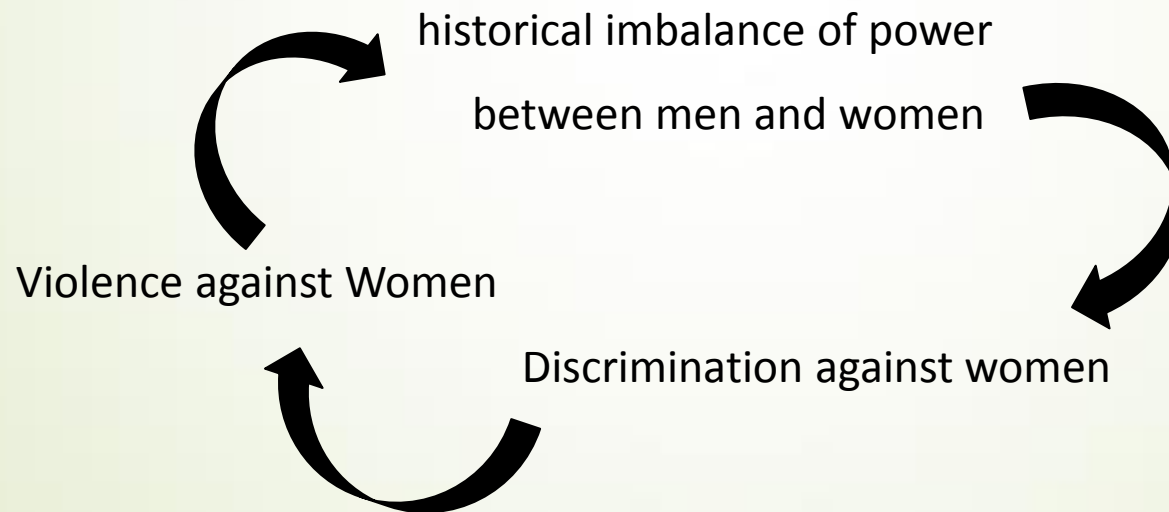
- ▶ Human Rights
- ▶ Access to Justice
- ▶ Women
- ▶ Violence Against Women
- ▶ Domestic Violence
- ▶ Standards



**Council of Europe
Convention on Preventing
and Combating Violence
against Women and
Domestic Violence
(Istanbul Convention)**

The Istanbul Convention: Significance

- ▶ first ever legally binding document that establishes structural connection between violence against women and gender inequality
- ▶ is a complex treaty in that it is a human rights treaty, a criminal law treaty, and a treaty advocating effective gender equality



The Istanbul Convention: History

- adopted on 7 April 2011: opened for signature 11 May 2011

- entered into force on **1 August 2014**

- **to date 18 ratifications:**

Albania, Andorra, Austria, Bosnia and Herzegovina, Denmark, Finland, France, Italy, Malta, Monaco, Montenegro, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, Turkey

- **20 other states signed**


- Belgium, Croatia, Cyprus, Estonia, Georgia, Germany, Greece, Hungary, Iceland, Lithuania, Luxembourg, Netherlands, Norway, Romania, Marino, Slovakia, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom

Violence against Women (VaW): International Framework

- few early human rights instruments dealt with VaW
eg. protective, humanitarian approach in Geneva Conventions
- since 1970's, significant advances in women's human rights and violence against women
- 1979 CEDAW - global standards for gender equality and non-discrimination
- changes in the approach to VaW:
 - 'private matter' → 'public concern'
 - 'humanitarian' approach → 'rights-based' approach
 - 'criminal law matter' → 'human rights issue'
- CEDAW Convention and work of CEDAW Committee have been 'game changers' in this process

'human rights violation'





CEDAW (1979) & General Rec. 19 (1992)

CEDAW

- reflects **universal standards**
- has **no specific provision** or **binding prohibition** on VaW or DV

General Recommendation 19 (1992)

- defines **violence against women** as **a form of discrimination** against women
- considers VAW **a human rights violation** because it prevents women from enjoying their rights and freedoms
- has been the foundation for other international legal and policy documents on VAW



Regional Instruments on Women's Rights and VaW

- ▶ **Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (1995) “Convention of Balem do Para”**
women's 'right to be free from violence' in public and private spheres
- ▶ **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2005) “ Maputo Protocol”**
women's rights treaty; covers VaW with reference to cultural practices and stereotypes
- ▶ **Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2014) “Istanbul Convention”**
exclusively on VaW and DV; defines VaW as 'violation of women's human rights and a form of discrimination against women'

The Istanbul Convention: What does it do?

- ▶ defines key concepts (eg. gender, violence against women, domestic violence)
- ▶ lists specific types of violence against women (VaW) ; defines them in line with international standards; requires their **sanctioning** by states
- ▶ obliges states to **Prevent** offences, **Protect** victims, **Prosecute** perpetrators and have integrated **Policies (4P)** through
 - criminal and civil law provisions
 - improved service delivery, resource allocation
 - cultural transformation measures
- ▶ establishes a two-pronged **international monitoring mechanism**
 - independent body of experts (**GREVIO**)
 - political body of officials (**Committee of the Parties**)



The Istanbul Convention: What does it do?

- calls for **empowerment of women** through holistic policies and comprehensive measure
- **codifies** 'soft law' (CEDAW GR 19) and case-based jurisprudence (ECHR decisions eg. Opuz vs. Turkey)
- covers both **peace and conflict** situations
- defines '**sexual orientation**' and '**gender identity**' as impermissible grounds of discrimination
- recognizes the **greater risk** faced by groups of women who are subject to intersectional discrimination (**eg. migrant women, women with disabilities**)
- calls for **effective cooperation** of state agencies with **civil society organizations**
- **encourages** measures to cover **other victims of DV** (men, children, elderly)



The Istanbul Convention: Women's Access to Justice

Are women able to access the justice system? Are the laws responding to and providing redress to problems faced by women (e.g. violence)? Can women exercise their human rights to the fullest?

Common **barriers** to women's access to justice:

- discriminatory laws
- social and cultural patterns: stereotypes, prejudices and patriarchal culture
- gender-bias in the justice system
- lack of financial and other resources

Istanbul Convention


- aims at **making women feel secure** about approaching the legal system
- focuses on victim's human rights and safety; **victim centered protection**



The Istanbul Convention: Women's Access to Justice


Obligations for states

- to put in place **non-discriminatory legislation**; define specific crimes legally
- to develop **gender sensitive policies** for equality and empowerment of women
- to promote **changes in social and cultural patterns** of behavior; train professionals; raise awareness
- to ensure **effective protection and support services for victims** (e.g. shelters; hotlines; support and counselling)
- to ensure that the justice is **economically accessible** and does not cause **secondary victimization**
- to have **civil protective measures** (e.g. barring orders; restraining orders)
- to **ensure due diligence** (e.g. ex-parte and ex-officio proceedings)
- to ensure **compensation for victims**
- to **prohibit mandatory alternative dispute resolution**
- to integrate **risk assesment** and **risk management** into the system



The Making of the Istanbul Convention: Some Personal Impressions and Assessments

- ▶ not a simple global 'norm diffusion' exercise but **a learning process for all**
- ▶ **complex interaction of actors** along and across multiple axes and challenges
political undertones, legal system differences, financial concerns
gender expertise vs. legal training of experts
- ▶ overall **commitment to eradicate VaW and DV in Europe**



The Istanbul Convention: present and future...

- ▶ **strong on fundamental principles** (ie. VaW is human rights violation)/ allows for **flexibility at national implementation level**
- ▶ expands and strenghtens some existing gender equality norms; **complements CEDAW** in a most-needed area
- ▶ provides **a clear road map** and **an operational recipe** for implementation
- ▶ is **not region-specific** in content and scope; has **potential to be upgraded to 'global norm'** level
- ▶ needs more **ratifications** and **active civil society support**
- ▶ reservations??



Thank You!