

Language and Violence in the context of Defamation Against Women

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Abstraction

Gaining importance, violence is a personal, societal and social problem that is progressively receiving more media coverage. The violence particularly faced by women, be it domestic or social one, through utterances, expressions and language use is unfortunately at the heart of life. These actions which are apparently against the women but have also an impact on the society alienate the family members from each other, impeding psychological and social life, and thus, inflict a deep wound in society as the family is the first social environment where the feelings are expressed. In particular, “verbal abuse” that is different from “physical abuse” never skips anybody it reaches.¹ Such attitude and behaviours casting supporting roles to supplement men through intimidating women and destroying their independent characters result in women getting used to the incidents and coming to terms with the defamation which is in fact a crime. Right at this point, this study aims to examine the place of language and verbal attitude in such behaviours that suppress women and increase the risk of violence, in context of the defamation laws governed in Turkish Criminal Law.

Key words: *Language, Violence, Women, Defamation in Turkish Criminal Law.*

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¹ Filiz Bingölçe, Dil Dayakları: Türkiye’de Kadına Yönelik Aile İçi Şiddetin Ortak Dili, Birleşmiş Milletler Nüfus Fonu Türkiye Yayınları, Ankara 2006, s. 3.

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I. Introduction

Violence which is an innate basic characteristic of a human being manifests itself in almost every field in various types and forms through the things learned in social life. Such behaviours we encounter today in individual and social aspects generally come into existence within the family, the foundation of a society, mostly in emotional, physical, sexual, verbal and economic forms.

In liberal economies, given the consumption era, unfavourable and hard living conditions, sexuality and imbalances lead people to violence. The violence used against children in a family, later on becomes evident in life and then in mass media.²

The women face violence in any part of their life, regardless of their education level and whether they come from a modern or conservative circle.³

Following questions lay the foundation of our study: Are these acts of violence a deserved fate or ill fate resulting from being weak? Why is it so important? Why can most of them not be prevented and even increases? How these acts of violence threaten our future? Why are the women being the victims of violence somehow so important? With regard to the subject matter of our study, what is the place of Turkish Criminal Law in terms of preventing violence reaching women through language?

This study first provides an overview regarding violence and types of violence, then a link between violence and language. Finally, crime of verbal insult is discussed, and the place in Turkish Criminal Law of the verbal abuse the women are exposed to is examined.

II. Violence

A. Overview

Violence is defined by Turkish Language Society as follows, “*extremism in emotions or behaviours*”⁴; by World Health Organisation (WHO) as follows, “*the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation*”⁵; by Law no 6284 on Protection of Family and Prevention of Violence Against Women as follows, “*The acts which results or will probably result in person’s having physical, sexual, psychological or financial sufferings or pain and any physical, sexual, psychological, verbal or economical attitude and behavior which include the treat, pressure and arbitrary violation of person’s freedom as well and conducted in social, public and private space*”⁶.

² Nalan Demirergi/ Cüneyt İşcan, Mahmut Öngören,/ Figen Yanık, Bu Ne Şiddet, 1994, s. 12.

³ Mor Çatı Vakfı, Adaletin Cinsiyeti: Erkek Şiddeti ile Mücadelede Hukuki Deneyimler, İstanbul 2014, s. 32

⁴ Şiddet, Türk Dil Kurumu Sözlüğü,

http://www.tdk.gov.tr/index.php?option=com_bts&view=bts&kategori1=veritbn&kelimesec=298685, Erişim Tarihi (E.T) 14.03.2016.

⁵ Definition and typology of violence, World Health Organization (WHO), <http://www.who.int/violenceprevention/approach/definition/en/>, E.T. 14.03.2016.

⁶ 08.03.2012 Gün ve 6284 Sy. Ailenin Korunması ve Kadına Karşı Şiddetin Önlenmesine Dair Kanun, RG 20.03.2012, No: 28239, <http://www.resmigazete.gov.tr/eskiler/2012/03/20120320-16.htm>, E.T. 14.03.2016.

WHO puts violence under 3 groups:⁷

1. Self-directed violence; suicide and self-directed abuse,
2. Interpersonal violence; behaviours against family (child, spouse or the elderly) or partner or the society (acquaintance and stranger),
3. Collective violence; behaviours with social, political, economic purposes.

Definition of violence against women in Article 1 of Declaration on the Elimination of Violence against Women announced through United Nations General Assembly Decision of 20 December 1993 No 44/104⁸ reads, “any act or any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.

B. Types of Violence

Violence is not only a problem for the one inflicting it and the one being exposed to it, but also a serious problem effecting society and the world.⁹ Thus, acts of violence need to be examined in terms of their social, cultural, psychological and judicial aspects. Today appearing in various forms, violence indicates how close we live to it. Violence which we face either in the forms of concrete acts in various norms and conditions or intangible acts coming into existence verbally is often inflicted against women and children in family environment.¹⁰ Violence does not require continuity; i.e. if a women face such acts even once, then it means she is exposed to violence.¹¹

Being a graduate of primary school or university does not affect women’s being exposed to violence. Regardless of their social and cultural life or coming from a conservative environment, they face acts of violence in their childhood, marriage, divorce or old age.¹²

In Article 2 of Declaration on the Elimination of Violence against Women, the following examples are given including but not limited to;

“a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

⁷ WHO, 2002, s. 5.

⁸ <http://insanhaklarisavunuculari.org/dokumantasyon/files/original/fb8f42f8f89bab6ac55bb5b18b159d54.pdf> , E.T. 14.03.2016.

⁹ Füsün Sokullu Akıncı, “Kriminoloji ve Viktimoloji Bağlamında Aile İçi Şiddete Genel Bir Bakış”, Suçla Mücadele Bağlamında Türkiye’de Aile İçi Şiddet: Ülke Çapında Kriminolojik-Vitimolojik Alan Araştırması ve Değerlendirmesi, 2003, s. 7.

¹⁰ WHO, World Report on Violence and Health, 2002, s. xx.

¹¹ Hacettepe Üniversitesi Nüfus Etütleri Enstitüsü, “Türkiye’de Kadına Yönelik Aile İçi Şiddet Araştırması”, TC Aile ve Sosyal Politikalar Bakanlığı Kadının Statüsü Genel Müdürlüğü, Ankara 2015, s. 50.

¹² Mor Çatı Vakfı, Adaletin Cinsiyeti, s. 32

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c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs."

According to WHO, nature of violence acts can be physical, sexual or psychological or involve deprivation or neglect.¹³ Domestic violence which may be in different forms of act cause many continuous problems.¹⁴ Particularly in the event of the family, acts of violence often remain secret, and when disclosed, it is ignored by the society as it is believed to be the private space of husband and wife.¹⁵

Such acts have long been ignored or deemed ordinary since the women keep acts of violence confidential, blame themselves or they are ignored by the police or physicians.¹⁶ However, today violence is accepted as a violation of human right, and handled as an important public health and women's health issue. Therefore, fight against violence against women gains importance.¹⁷

a. Physical Violence

The women is weaker, indigent and oppressed according to the intrinsic opinion of the society about gender. Such strength inequality between the genders results in violence against women.¹⁸ Such unequal strength between the persons and the desire to outmanoeuvre the other turn into aggressive behaviours aiming at managing, hurting and beating up the other, and results in physical violence.¹⁹

Physical violence may result in injury, concussion, slapping, maltreatment, beating up, sweeping, pushing, hair pullig and even death.²⁰ We are of the opinion that physical violence is defined as the type of violence most frequently seen in the family as its consequences are reported to the police, physicians and media the most.

It is known that 37 in every 100 married women are exposed to violence in any part of their lives. Some acts such as slapping are apparently not one-off reactions, on the contrary the husband or partner of the woman make a habit out of such acts.²¹

b. Sexual Violence

In Turkey, a country with traditional structure, family is very important as it is almost inevitable part of the society.²² The people get together for solidarity, helping each other, continuity

¹³ WHO, 2002, s. 6.

¹⁴ Patricia Easteal, *Wife Battering: Attitudes of Community of Victims and Service Providers*, Canberra, 1988 (Zik. GRABOSKY, *Victims of Violence*, Canberra, 1989, s. 13.) aktaran: Sokullu Akıncı, s. 7.

¹⁵ Feride Yıldırım Güneri, "Aile İçinde Kadına Yöneltilen Şiddet", *Evdeki Terör: Kadına Yönelik Şiddet*, İstanbul, Mor Çatı Kadın Sığınağı Vakfı, 1996, s. 87-88

¹⁶ Gülser Öztunalı Kayır, "Kadına Yönelik Şiddetin Araştırılması Sorunları", *Geleceğin Elimde*, Mor Çatı Yayınları, s. 18.

¹⁷ Güneri, s. 88.

¹⁸ Öztunalı Kayır, s. 19.

¹⁹ Burçak Şevkin, Müzakere (problem çözme) ve Arabuluculuk Eğitim Programının İlköğretim 4.-5. Sınıf Öğrencilerinin Çatışma Çözüm Stilleri ve Saldırganlık Eğilimleri Üzerindeki Etkilerinin İncelenmesi, Dokuz Eylül Üniversitesi, Yayınlanmamış yüksek lisans tezi, İzmir 2008, s. 43.

²⁰ Hacettepe Üniversitesi, s. 50.

²¹ T.C. Başbakanlık Kadının Statüsü Genel Müdürlüğü, *Türkiye'de Kadına Yönelik Aile İçi Şiddet*, Ankara 2009, s. 48

<http://www.hips.hacettepe.edu.tr/TKAA2008-AnaRapor.pdf> E.T. 19.03.2016.

²² Bilge Öztan, *Aile Hukuku*, 5. Bası, Ankara 2004, s.4; Sulhi Tekinay, *Türk Aile Hukuku*, İstanbul 1990, s. 1.

of their generation and satisfaction of their sexual instincts.²³ When aggressiveness underlying the sexual instincts turns into a man's desire to subordinate the woman even sexually, it results in aggressive behaviours.²⁴

Forced sexual intercourse, obliging the woman to have sexual intercourse even if she does not want, forcing her to sexually insulting or humiliating actions are types of sexual violence.²⁵ Sexual actions which make another person feel uncomfortable fall under sexual harassment as long as they do not violate physical integrity. If they violate physical integrity, then they will be considered sexual assault.²⁶

Sexual abuse of women out of her desire, either directly or indirectly may occur not only physically, but also in the forms of jokes, swearwords, either in writing or verbally.²⁷

c. Economic Violence

Being a mother, a traditional role assigned to the women, is not considered as a duty which the women can fulfil while working outside the home and working as a housewife at home.²⁸ Or the belief that the women cannot save their honour while working outside the house are among the reasons preventing their business life.

Economic violence is inflicted by using money as a tool for sanctions, threats or control.²⁹ These attitudes include "Impeding woman's working or cause her to quit her job, not giving money for home expenses, confiscating her income"³⁰ or forcing the woman to contribute to his family's budget, spending her income in gambling and for alcohol, not meeting the needs of woman and children, leaving the woman and children in need although the man has an income.³¹

Economic violence means not only not supporting the woman economically, but also impeding her working and thus dispossessing her own economic freedom.³² In an environment where it is the man to decide whether the woman can participate in working life or not (family or couple), the woman is not satisfied spiritually either.³³

In addition to social and individual factors, the women are also exposed to economic violence resulting from the deficiencies in government practices.³⁴ Inequalities in labour make;

²³ AnaBritannica Genel Kültür Ansiklopedisi, C. 1, İstanbul, s. 228; Birsen Gökçe, "Aile ve Aile Tipleri Üzerine Bir İnceleme", Hacettepe Sosyal ve Beşeri Bilimler Dergisi, C. 8, S.1-2, 1976, s. 49.

²⁴ İbrahim Balcıoğlu, Şiddet ve Toplum, İstanbul 2001, s. 36.

²⁵ Hacettepe Üniversitesi, s. 50.

²⁶ Durmuş Tezcan/Mustafa Ruhan Erdem/Murat Önok, Teorik ve Pratik Ceza Özel Hukuku, Ankara 2010, s. 377-378.

²⁷ Mor Çatı Vakfı, Erkek Şiddetine Karşı Kadın Dayanışması, İstanbul 2012, s. 33.

²⁸ Aysel Ersöz Günindi, "Kamu Yönetiminde Yönetici Olarak Çalışan Kadınların Geleneksel ve Çalışan Kadın Rollerine İlişkin Beklentileri", 20. Yüzyılın Sonunda Kadınlar ve Gelecek (iç), Edit: Oya Çitci, TODAİE Yayınları, Ankara 1998, s. 257 aktaran; Veda Bilican Gökkaya, "Türkiye'de Kadına Yönelik Ekonomik Şiddet", C.Ü. İktisadi ve İdari Bilimler Dergisi, C. 12, S. 2, Sivas 2011, s. 107.

²⁹ Güneri, s. 88-89.

³⁰ Hacettepe Üniversitesi, s. 51.

³¹ Doğan, 1224.

³² İpek İlkaracan, "Kentli Kadınlar ve Çalışma Yaşamı", Bilanço 98: 75 Yılda Kadınlar ve Erkekler, İstanbul 1998, http://www.kadinininsanhaklari.org/static/yayin/wwhr/3_12.pdf, E.T. 20.03.2016, s. 12.

³³ İlkaracan, s. 13.

³⁴ Gökkaya, s. 104.

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constraining them to low-income, unfavourable and low-status jobs; no arrangement on workers' rights and social security for types of works performed at home.³⁵

Individual, social or government practices discriminating women, the environment seeing economic violence natural result in economic poverty.³⁶

d. Verbal Violence

Verbal violence is a type of violence where language is used as the most effective tool with the purpose of psychological pressure.³⁷ The researches show that the types of violence the women are encounter the most is physical violence and verbal violence.³⁸ The women mostly do not recognise that they are exposed to particularly verbal violence.³⁹

Unlike physical violence, verbal violence does not cause any physical pain; however, the words have an impact on our feeling and results in devastation just like fists. Being suppressed, getting used to insults, accepting swearwords as a part of her life, the woman accepts such oppression normal over time. As a result of those, she may suffer from psychological problems such as inability to rely on others, depression, lack of confidence, hardship in building a relationship and even suicide.⁴⁰

Woman is an important figure in society not only as an individual, but also as a wife, mother and employee. As she is an individual affecting particularly the family, it is correct that the violence faced by the woman have a fundamental impact on society, as well.⁴¹ Even though the cultural differences, violence obviously continue in every culture at full severity.⁴²

Verbal violence is not just towards the women. It is often used towards children, as well. Verbal violence frequently seen within the family makes it easy for young children to unearth their already-existing feelings. Reviling, humiliation, mocking are the most common types of conflict that the school-age children also face as verbal violence causing psychological pressure.⁴³ A society which is inured to the fact that the family abuses its parental rights, it holds for the purposes of care, protection and supervision, through verbal violence will also deem normal the insults against women throughout her life-time.

III. LANGUAGE

A. Overview

³⁵ Nazik S. Işık, "Türkiye'de Kadın Hareketi ve Kadına Yönelik Ekonomik Şiddet", *Aile İçi Şiddet, Kadın Çalışmaları Dergisi*, C. 2, S. 4, 2007, s. 117.

³⁶Gökkaya, s. 109.

³⁷ Nazife Aydınöğlü, "Kadın ve Dil", *Uşak Üniversitesi Sosyal Bilimler Dergisi*, C. 8, S. 1, 2015, s. 217.

³⁸ Hasibe Ebru Kaymaz/ Ahmet Öztürk/ Erman Bağcıoğlu, "Aile İçi Şiddete Maruz Kalan Evli Kadınların Psikiyatrik Değerlendirilmesi", *Gaziantep Medical Journal*, S. 20(1), 2014, s. 15.

³⁹ Zeynep Demir Akçer, "Aile İçi Şiddete Maruz Kalan Kadınlar Diyarbakır Örneği", *Dicle Üniversitesi Sosyal Bilimler Enstitüsü Yüksek Lisans Tezi*, Diyarbakır 2006, s. 25.

⁴⁰ Akçer, s. 25.

⁴¹ Pınar İlkaracan/ Leyla Gülçür/ Canan Arın, *Sıcak Yuva Masalı: Aile İçi Şiddet ve Cinsel Taciz Kadının*, İstanbul 1996, s. 37.

⁴² Demiregi vd., s. 11.

⁴³ Abbas Türnüklü/ Emin Karip ve diğerleri, *Sınıf Yönetimi*, Pegem Yayıncılık, Ankara 2005, s. 203.

Language is a means used by the people for thinking and expressing what they think. The people who have to live together, produce together and share what they produce are in need of communication and performs this by means of language.⁴⁴

As the language, a means of communication, becomes socialised, it turns into a cultural tool revealing how the person perceives the world and sees the people. The thoughts communicated by writing or verbally come into existence through the use of language.⁴⁵

B. Language as a Type of Violence

Having an important role in society and used by the people as a means of communication, language turns into violence through words from time to time.⁴⁶ Use of violence through language is the simplest method used particularly with the aim of discouraging and damaging the strength and resistance, both materially and morally, of a person or a group or a society and causing fear.

Having a cultural content and being a means of communication, language turns into an open threat, command or challenge when encounters with violence which is the symbol of primitiveness and barbarity, i.e. uncivilised approach.⁴⁷ The type of violence which occurs through use of language is also called verbal, emotional or psychological violence.⁴⁸ The reason why we use the word *language* in our study is that we believe that the language is not expressed just through voices and utterances. Making the thoughts concrete through non-verbal expressions, i.e. being put them down on paper or coming into existence through mimics as body language, is also a language use.

When their personal or societal demand for legal remedy are not met, the people cannot remain being indifferent to the incidents they encounter and often counteract such incidents through violence with the aim manifestation of the imbalances arising from the world they live in.⁴⁹ When violence is inflicted to someone else through speech-acts, this time the words happen to perform the act of violence.⁵⁰

Any person displaying aggressive behaviours with the aim hurting the other⁵¹ often resorts to insulting, reviling and humiliation instead of physical violence with the fear of ostracisation, even though his feeling underlying such behaviour is instant and uncontrollable. Right at this point, language, i.e. words, writings and mimics, turns into acts of violence.

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⁴⁴ İmran Karabağ, *Dil ve Şiddet: Geçmişten Günümüze Bir Kavran İncelemesi*, İstanbul 2010, s. 9.

⁴⁵ Türk Dil Kurumu, www.tdk.gov.tr.

⁴⁶ Semiha Kavak, "Dil Şiddet Yaratır mı?", <http://www.edebistan.com/index.php/semihakavak/dil-siddet-yaratir-mi/2011/02/>, E.T. 30.04.2016.

⁴⁷ Karabağ, s. 18 vd.

⁴⁸ 14/1/1998 Gün ve 4320 Sy. Ailenin Korunmasına Dair Kanunun Gereçesi, RG 17/01/1998 , No:23233.

⁴⁹ Remzi Koçöz, 'Şiddet' Üzerine!, Ankara Barosu Dergisi, Yıl: 69, Sayı: 2011/1, s. 245.

⁵⁰ Karabağ, s. 20.

⁵¹ Suna Kaymak Özmen, "Aile İçinde Öfke ve Saldırganlığın Yansımaları", Ankara Üniversitesi Eğitim Bilimleri Fakültesi Dergisi, Ankara 2004, C. 37, S. 2, s. 28.

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The people borne into, live in, acquire their identity and conscious in language; communicated through language and make the world they live in meaningful. Use of language excludes and marginalises the women, triggers violence and becomes a subject matter of law.⁵²

Most of the time, the woman has the leading role in violence acts which are covered by print and visual media every day and which result in sometimes death, but more often in humiliation, abasement and staining honour. Such part, maybe larger than those covered in media, occurs right next to us, in our family, in our neighbour's house and in our society, which we do not want to be aware of. The women are not only exposed to such acts of violence at the men's side, but also to violence through language by her mother, sister or friend, all of whom are their fellows likely to be most dangerous enemy.

Apart from biological differences between men and women, the meaning assigned to and expectation from women by the society deepens the gap between two sexes. Such differences which are also apparent in language use of men and women reflect social identities and personalities of the people.⁵³

The women have often been obliged to live in a language created by men. The women have been defined with a language talking *about* them, *on the basis of* them and *via* them, they have been talked about by the others and become both object and part of the language.⁵⁴ At a point which turns into violence against women, both the language used by women and the language used about the women reveals her place, value or insignificance.⁵⁵

The reason why the women are exposed to scorching and violence-inclusive words stems from their women modal established and never-forgotten in society. What comes to mind about women is generally sexist connotations which highlight the sex of the women.⁵⁶ That is why the people, replace the word "woman" with any other word with the aim of avoiding various feelings about and connotations of the word "woman", which is common in any part of the world and in any language.⁵⁷ What makes the word woman this scary is that the woman is perceived as a sex object who is inferior, dangerous or which just reminds sexuality, which reveals how low the prestige of the women is in society.

Another reason is that the believe of low place and value of the women in our culture when compared to men are reflected in idioms and proverbs. And such expressions are also important for women's humiliation through psychological pressure and being exposed to verbal violence is settled.⁵⁸ Some expressions such as "karı kılıklı" (pussy-whipped), "karı gibi kıvrırma" (dance like a woman), "kız kurusu" (spinster) and some sexist proverbs such as "oğlan doğuran övünsün, kız doğuran dövünsün" (one who gives birth to a boy, proud yourself; one who gives birth to a girl, bewail!), "hırsızlık bir ekmekten, kahpelik bir öpmekten" (stealing starts with one bread,

⁵² Türkan Sancar, "Dilin Kadına Yönelik Şiddet Üzerindeki Etkisi", Ankara Barosu Hukuk Kurultayı: Feminizim ve Hukuk, Hayat Adalet ve Kadın, Kadın ve Hukuk, 2006, s. 179.

⁵³ Zühal Akünal Okan, "Dil ve Cinsiyet: Reklam Dili Çözümlemesi", Çukurova Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, C. 5, S. 5, 1998, s. 187.

⁵⁴ Sibel Irzık/ Jale Parla, Kadınlar Dile Düşünce: Edebiyat ve Toplumsal Cinsiyet, Derleyenler: Sibel Irzık/ Jale Parla, 5. Bası, İstanbul 2014, s. 8.

⁵⁵ Aydınöğlü, s. 218.

⁵⁶ Aydınöğlü, s. 177.

⁵⁷ Doğan Aksan, Her Yönüyle Dil, Türk Dil Kurumu Yayınları, Ankara 1998, s. 98 aktaran: Aydınöğlü, s. 219.

⁵⁸ Bingölçe, s. 5-6.

prostitution starts with one kiss), “kadının saçı uzun, aklı kısadır” (woman is the one who has long hair but short intelligence), “kadının şerri, şeytanın şerrine eşittir” (the evil of the women equals to the evil of the devil), “hayvanın erkeğine para verirler, insanın dişisine” (money is paid for male in animals, but for woman in human beings) put the women in a negative and secondary position.⁵⁹

We believe that what is most widespread violence against women through language is the humiliating swear words, insults, jokes and words which highlight the sex of the women.⁶⁰ It is not limited these, even in novels⁶¹ the women have always been referred to as the consumer, the one seducing the men and been doomed to such ill fate created by the society and embedded in her subconscious.⁶²

Even stories having an important role in shaping the society indicates how far the basis of violence and discrimination against women goes. While aiming at preparing the children for adult life, the stories, with the messages between the lines, normalise the pressure on women with the codes embedded in the lower-self in childhood and shapes the men’s ego accordingly.⁶³ For instance; wolfman instead of wolf and also rape in the first version *Little Red Riding Hood*; the princess waking up while in a glass coffin with kiss of the prince in *Snow White*; gives sub-messages of waking up not because of love but because of sexuality since the prince is attracted to her and the glass coffin represents virginity.⁶⁴ And women have always been worth to pay attention always visually.

In addition, as covered in media, the women are put on the agenda in terms of their relationship in the family or with a man. As the impact of such news, the woman is perceived as a forever dependent person and rarely as an individual and such approach prevents development of gender equality.⁶⁵

The expressions on women frequently encountered in the politics as well which cause women seem worthless, dishonest, at the disposal of men and characterless indicate that the perception of women in every segment of society is on the basis of inequality and discrimination.⁶⁶

As a result of such established culture, we believe that the aim of using the word “madam” instead of “woman” is to cover sexual identity of woman and eliminate existing social

⁵⁹ Bülent Özkan/ Ayşe Eda Gündoğdu, “Toplumsal Cinsiyet Bağlamında Türkçede Atasözleri ve Deyimler”, C. 6, S. 3, 2011, s. 1137 vd.; Aydınöğlü, s. 220 vd.

⁶⁰ Türkan Yalçın Sancar, *Türk Ceza Hukukunda Kadın*, Ankara 2013, s. 77.

⁶¹ Aka Gündüz, *Ben Ölmedim-Kokain*, Akşam Matbaası, İstanbul 1933.

⁶² In his novel “*Vukuat Var*” published in 1976, Orhan Kemal defines woman, in his following statement, as a weak and flaccid creature who complements the man socially and culturally and who cannot survive without man: “*The woman whose partner takes good care of her often does not care for God. But once her husband dies, the pole making her stand upright falls over, the ceiling collapses. It does not matter ho hard you try. Besides, mostly nothing can be done. The woman fastly looses her ability to do anything and thus, starts to wrinkle.*”

⁶³ Melek Özlem Sezer, *Masallar ve Toplumsal Cinsiyet*, 5. Basım, İstanbul 2015, s. 20 vd.

⁶⁴ Sezer, s. 21.

⁶⁵ Akünal Okan, s. 191.

⁶⁶ Chariman of Language Foundation said that the expression “knelt before someone” which is recently put on agenda in the context of insult to woman minister means “to throw oneself in front of somebody in order to remove the obstacles in front of him/her”. However, we believe that from the point of majority of the society and reasonable human profile, it includes an insult since it is an expression that humiliates and evaluates the woman in terms of her chastity by the society.

More information about news: <http://odatv.com/turkcede-onune-yatmak-ne-demektir-0604161200.html>, E.T. 01.05.2016;

<http://www.haberler.com/ak-parti-li-kadinlara-hakaret-eden-chp-li-baskan-8373059-haberi/>, E.T. 01.05.2016;

<http://www.sabah.com.tr/gundem/2016/04/05/kilicdaroglundan-kadin-bakana-hakaret>, E.T. 01.05.2016.

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discrimination and inequality through assigning her a good meaning.⁶⁷ We are of the opinion that, until it is accepted that the existing role of the women in society is naturally different, the attempt to make her a more valuable and respected person will not come to an end, and the efforts of finding alternative discourse will continue.

IV. Defamation in Turkish Criminal Law

A. Overview

Language is not only a mirror reflecting the structure of the society, but also a means which play an effective role in creating and continuing social polarisations and gender inequality.⁶⁸ Turning from an innocent means of communication into a cause of gender inequality through words, language sets the limits of thought and reveals how the people perceive physical and social reality.⁶⁹

At the point where the language heads towards the individuals, humiliating or degrading⁷⁰ the person's honour, dignity and reputation⁷¹ not only closely interests the person concerned but also the legal order. Therefore, Turkish Criminal Law section titled "*offenses against honour*" article 125⁷² governs "defamation" as an offense. However, such offense is examined in this study in the context of verbal/language violence that the women are exposed to.

B. Protected Legal Value

Everybody has a moral personality in addition to their material personality. Referring to a person in the society with good qualities, his/her fame and reputation makes him/her feel honoured and confident, and makes him/her on his/her feet.⁷³ Turkish Criminal Law aims, through

⁶⁷ Robin Lakoff, "Language and Woman's Place", *Language in Society*, C. 2, S. 1, 1973, s. 58.

⁶⁸ Akünal Okan, s. 189.

⁶⁹ Benjamin Lee Whorf, "A Linguistic Consideration of Thinking in Primitive Communities", *Language, Thought, and Reality: selected writings of Benjamin Lee Whorf*, editör J. B. Carroll, Cambridge, Mass.: Technology Press of Massachusetts Institute of Technology 1956, s. 65.

⁷⁰ Ahmet Caner Yenidünya/ Mehmet Emin Alşahin, "Bireyin Şerefine Karşı Suçlar", *Türkiye Barolar Birliği Dergisi*, Ocak Şubat 2007, Ankara, s. 43 vd.

⁷¹ Doğan Soyaslan, *Ceza Hukuku Özel Hükümler*, 10. Baskı, Ankara 2014, s. 300.

⁷² "(1) (Amendment: 29/6/2005 – 5377/art. 15) Any person who acts with the intention to harm the honor, reputation or dignity of another person through concrete performance or giving impression of intent, or the person who attacks honor, reputation or dignity of another person through reviling is sentenced to imprisonment from three months to two years or imposed punitive fine. In order to punish the offense committed in absentia of the victim, the act should be committed in presence of (ihtilat) at least three persons.

(2) The offender is subject to above stipulated punishment in case of commission of offense in writing or by use of audio or visual means directed to the victim.

(3) In case of commission of offense with defamatory intent;

a) Against a public officer because of his duty,

b) Due to disclosure, change or attempt to spread religious, social, philosophical belief, opinion and convictions and to obey the orders and restriction of the one's religion,

c) By mentioning sacred values in view of the religion with which a person is connected, the minimum limit of punishment may not be less than one year.

(4) (Amendment: 29/6/2005 – 5377/ art. 15) The punishment is increased by one sixth in case of performance of defamation act openly.

(5) (Amendment: 29/6/2005 – 5377/ art. 15) In case of defamation of public officers working as a committee due to their duty, the offense is considered to have committed against the members forming the committee. However, in such case, the provisions of article on successive offences shall apply."

⁷³ Soyaslan, s. 301; Mehmet Emin Artuk/ Ahmet Gökçen/ Ahmet Caner Yenidünya, *Ceza Hukuku Özel Hükümler*, 13. Baskı, Ankara 2013, s. 479.

defamation, at avoiding any attack against moral values of the person and protecting his/her right to dignity.⁷⁴

Honour means the person's social value, dignity and reputation.⁷⁵ What is violated by the person is not the honour itself. It is the value and reputation the person has in his/her social life.⁷⁶ When his/her social value is violated, the person may have a moral pain stemming from the humiliation he/she has felt. At the same time, his/her reputation may disappear or be damaged.⁷⁷ Thus, legal order aims, through defamation, at ensuring respect for social personalities of the individuals.

For instance, if a female teacher is exposed to humiliating words by her spouse, partner or households in the presence of her students, that may damage her reputation in the society or weaken her social relations. That may eliminate her reliability and title in the eyes' of the students. Because honour is double-sided in terms of objective and subjective reflection. What matters is not just the sadness the person feels because of the insult he/she has been exposed to, but also what others think or may think of that person.⁷⁸

C. Offender and Victim

a. Offender

Offender of defamation may be any real person. There is no feature exclusive to this offense in terms of the offender. The offender must be a real person who is alive.⁷⁹ Any letter including an insult left from a deceased person is not considered defamation.⁸⁰

Offender may be a public officer. However, in the event of on-the-job offence, this will not result in any increase in punishment.

Pursuant to Article 11 of Press Law No 5187, in the event of a defamation through press, the offender is the owner of the work. However, if the owner of the work is not known, or if he/she does not have criminal capacity during the publication or if he/she cannot be tried in Turkish Courts since he/she is abroad; for periodicals, the director and production direction, chief editor, editor and press consultant are responsible. As for the non-periodicals, the publisher or, if the publisher cannot be determined, then the pressman is responsible.

For Turkish Radio and Television Corporation personnel, the one who writes the text, sets the sound and the one who actually directs and controls the broadcasting are responsible, regardless of whether the broadcasting is live or not.⁸¹ The anchorman reading an already produced text does not have any criminal liability.⁸²

⁷⁴ Nur Centel/ Hamide Zafer/ Özlem Çakmut, *Kişilere Karşı Suçlar*, C. 1, İstanbul 2007, s. 211.

⁷⁵ Sahir Erman, *Hakaret ve Sövme Suçları*, İstanbul 1989, s.1; Türk Dil Kurumu Online Sözlük, http://www.tdk.gov.tr/index.php?option=com_gts&arama=gts&guid=TDK.GTS.57224c830431f5.00371348, E.T. 27.04.2016.

⁷⁶ Nevzat Toroslu, *Ceza Hukuku Özel Kısım*, Ankara 2013, s.100 vd.

⁷⁷ Toroslu, s. 101.

⁷⁸ Toroslu, s. 101.

⁷⁹ Faruk Erem, *Türk Ceza Hukuku*, C. 4, Ankara 1985, s. 536.

⁸⁰ Mine Arısoy, "Hakaret", *Türkiye Barolar Birliği Dergisi*, S. 72, Ankara 2007, s. 155.

⁸¹ 2954 Sayılı ve 11.11.1983 Tarihli Türkiye Radyo ve Televizyon Kanunu, 18221 Sayılı ve 14.11.1983 Tarihli RG., madde 28.

⁸² 2954 Sayılı Kanun madde 58/ 2. ve 3. fıkralar.

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The attacks through private radio and television are not governed in Law no 3984. We are of the opinion that, as required by the principle no perfect crime and punishment, those who perform the act will be directly the responsible.⁸³

b. Victim

Victim of the offense is the real person who has been insulted.⁸⁴ Legal persons cannot be the victim of such offense. Victim may be a public officer. If such offense is attributable to the public officer's performing his/her duty, it will be deemed qualified form which will increase the punishment.⁸⁵

The persons who have been punished for various offenses or deemed dishonoured in public are deemed worth to be protected by law. Even if any act or word attributed to a person is true, this will not entitle anybody to insult to that person.⁸⁶ Therefore, calling a prostitute "prostitute" and a robber "robber" will also be deemed defamation.⁸⁷

Saying something about the illness or deficiency of a person may constitute defamation. For instance, saying blind, lame, insane is defamation.⁸⁸ Even if the name of the victim is not clearly uttered, it is an adequate reason that the victim is inferred from the words used.⁸⁹

Same act may constitute more than one defamation act. In such a case, the victims may file a complaint separately. It is a successive offense in terms of the offender, and pursuant to article 43/2 of Turkish Criminal Law, the punishment will be increased by a certain ratio.⁹⁰ If the insult targets a certain group of persons, but the victim cannot be determined; for example, if the target is the lawyers or all the villagers, there will be no offense since the victim is not known. However, as the group narrows; for example, when a family, sect, school, i.e. a certain group is insulted, there will be more than one victim of the same act, and the punishment of the offender increases.⁹¹

Insulting a person may also constitute an offense against another person. For instance, if it is claimed that the child is a product of the illicit intercourse, another person will also be provoked. In such a case, a single act will result in more than one victim, and thus, the provisions regarding successive offense must be applied.⁹²

In some cases, the victim may be insulted through indirect implicit statements or questions, rather than direct statements. In such a case, defamation should be deemed to exist, provided that casual relation remains. For example; the following statement should be deemed defamation, "Everybody says that you are a burglar, but I do not agree."⁹³

⁸³ For the same opinion see Ali Parlar / Muzaffer Hatipoğlu, 5237 Sayılı Türk Ceza Kanunu Yorumu, Ankara 2007, s. 973

⁸⁴ Centel/ Zafer/ Çakmut, s. 223.

⁸⁵ Ali Parlar/ Muzaffer Hatipoğlu, 5237 Sayılı TCK'da Özel ve Genel Hükümler Açısından Sulh Ceza Davaları, Ankara 2007, s. 197.

⁸⁶ Toroslu, s. 105-106.

⁸⁷ Erol Çetin, Yeni Türk Ceza Yasasındaki Hakaret Suçları, 2. Baskı, Ankara 2007, s. 16.

⁸⁸ Yenidünya/ Alşahin, s. 47.

⁸⁹ TCK madde 126.

⁹⁰ Parlar/ Hatipoğlu, Sulh Ceza Davaları, s. 197.

⁹¹ Parlar/ Hatipoğlu, Sulh Ceza Davaları, s. 198.

⁹² Arısoy, s. 161.

⁹³ Devrim Aydın, "Türk Ceza Kanununda Hakaret Suçu", Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi Özel Sayı: Prof. Dr. Nur Centel'e Armağan, C. 19, S. 2, İstanbul 2013, s. 886.

D. Material Components of the Offense

Turkish Criminal Law governs how the act is committed through “*concrete performance or giving impression of intent or reviling*”.

While committing the acts listed in the Law, dignity, honour and reputation of the person must have been damaged. However, while determining this is objective result, the average manners and customs of the society are taken into account, rather than whether the victim has actually been offended or not.⁹⁴ The acts which are not deemed humiliating by the society but the victim displays over-sensitiveness will not be considered an offense.⁹⁵

Concrete performance or giving impression of intent means looking for an act whose accuracy or inaccuracy can be proved.⁹⁶ Supplementary conditions such as place, subject the way it is committed must have been directed towards the victim.⁹⁷ For instance, when somebody is called a robber, the offense is not committed through *concrete performance or giving impression of intent*. It is defamation through reviling. However, if the one says ‘you have stolen gold from Ayşe’s house’, the person is deemed to have committed defamation, by referring to the concrete act.⁹⁸

Reviling means expressing a negative judgement about a person.⁹⁹ Reviling is committed through describing the body or disease with the words expressing an unfavourable quality or habit by mentioning about characteristics to the victim. For instance; it is defamation to damage the social dignity, honour and reputation of the person by calling him/her despicable, blind, lame, drifter, impertinent.¹⁰⁰ Another type of reviling is swearing.¹⁰¹

a. Insulting in the Presence of the Victim

Defamation is deemed committed in the presence of the victim only if the victim is informed of the defamation is person. The offender and the victim do not necessarily come face to face.¹⁰²

Article 125/2 of Turkish Criminal Law reads, “(2) ... *commission of offense in writing or by use of audio, written or visual means directed to the victim*”. So the act requires punishment as if it is committed in the presence, provided that it is committed with the listed means. For example, the victim must have been addressed, it must have been directed to the victim, and the victim must have been the first to be informed of it in order that any defamation via mail, text or phone is considered.¹⁰³

⁹⁴ Centel/ /Zafer/ Çakmut, s. 226.

⁹⁵ Durmuş Tezcan/Mustafa Ruhan Erdem/Murat Önok, Teorik ve Pratik Ceza Özel Hukuku, 9. Baskı, Ankara 2013, s. 418.

⁹⁶ Yenidünya/ Alşahin, s 51.

⁹⁷ Yargıtay 18. Ceza Dairesi, 21.12.2015 Tarih,10261 Esas, 13961 Karar.

⁹⁸ For the same example see, Y2CD, 31.10.2007, 11657 E.,14078 K.

⁹⁹ Erman, s. 69.

¹⁰⁰ Parlar/ Hatipoğlu, s. 200; İzzet Özgenç, Türk Ceza Kanunu Şerhi, 2. Bası, Ankara 2005, s. 855.

¹⁰¹ Erol Çetin, Yeni Türk Ceza Yasasındaki Hakaret Suçları, 3. Bası, Ankara 2008, s. 23.

¹⁰² Toroslu, s. 114.

¹⁰³ Parlar/ Hatipoğlu, s. 200.

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Committing the defamation in the presence or absentia of the victim matters in terms of how many persons are involved by the act, with the aim of punishing the offender. For instance, while it is an offense when directed towards the victim in the presence of him/her; at least three persons must be communicated to make it reach to the victim if it is committed in the absentia of the victim.¹⁰⁴

b. Defamation in Absentia of the Victim

Article 125/1 of Turkish Criminal Law reads, “...*In order to punish the offense committed in absentia of the victim, the act should be committed in presence of at least three persons (ihtilat).*”

Turkish Language Association defines *ihtilat*, “meeting and talking in person”¹⁰⁵, and as its legal meaning; regarding the formation of an offense, communicating with at least three persons either all together or in different places.¹⁰⁶ For example; if the offender talks about the victim with three persons and such persons spread the word, this will not be an offense. However, fail, if the offender talks about the victim with three persons and specifically asks such persons to spread the word, this will be *ihtilat*.¹⁰⁷

At least three persons condition is important for the defamation in the absentia to occur. If the offender has talked to somebody about the victim and other two persons have heard about it incidentally *ihtilat* (dual conversation) does not occur.¹⁰⁸

E. Moral Component of the Offense and Result

For the defamation to occur, the offender must have a general intention. The motive for committing the offense does not matter. The offender must be aware of the fact that his concrete act or his giving impression of intent or reviling towards the victim will humiliate the victim in the society.

Even if the victim does not feel sadness dues to the act directed to him/her, it constitutes an offense. What is important is that the act is humiliating and derogatory from an objective point of view.¹⁰⁹

F. Illegality Component and Qualified Forms

Any act in the form of exercising the right to enlighten the historical events, notification and complaint, claim and defense, announcement and criticism is not illegal. Any act performed with the consent of the victim and which are in the form of fulfilling the duty do not include defamation, either.¹¹⁰

¹⁰⁴ Parlar/ Hatipoğlu, s. 200.

¹⁰⁵ Türk Dil Kurumu Online Sözlük,

http://www.tdk.gov.tr/index.php?option=com_gts&arama=gts&guid=TDK.GTS.57240194ce2591.52511803, E.T. 30.04.2016.

¹⁰⁶ Mustafa Albayrak, Türk Ceza Kanunu Öz Kitap, 15. Bası, Ankara 2016, s. 768.

¹⁰⁷ Albayrak, s. 768.

¹⁰⁸ Y4CD, 03.04.2001, 2588 E., 3542 K.

¹⁰⁹ Sahir Erman/ Çetin Özek, Ceza Hukuku Özel Bölüm, İstanbul 1994, s. 290.

¹¹⁰ Toroslu, s. 118.

Right to notification and complaint, Article 74 of Turkish Constitution of 1982¹¹¹ and article 128 of Turkish Criminal Law introduces for all citizens the right to communicate, either orally or in writing, any notification or complaint to the competent authorities about themselves or the public. However, right to notification or complaint must be an actual act, there must be any connection between concrete grounds and negative assessments, notification or complaint must be filed with the competent body¹¹². For instance, in the event of any complaint filed for the actual event with the claim of assistance provided for kidnapping his/her daughter, there will be no defamation.¹¹³

Defense immunity means that the words including insults uttered by the persons to each other regarding the lawsuit within the scope of right to legal remedies and right to a fair trial are not subject to prosecution.¹¹⁴ However, in the event of any insult, even if it is real, about an event irrelevant with the lawsuit, defamation will occur.¹¹⁵

Right to notification of the press arises from the Constitution as a result of both notifying and being notified of a real or accurate event including public interest.¹¹⁶ However, the way how the news is expressed should not be humiliating or derogatory in a way to damage personal rights.¹¹⁷

Victim's consent is any person's right to free disposal of his/her own honour and dignity. However, there will be no defamation in the event of consent, either implicit or explicit, provided that the limit is respected.¹¹⁸

Qualified forms requiring imposition of more punishment compared to defamation are governed in paragraphs 3 and 4 in Article 125 of Turkish Criminal Law.

Excusatory causes exclusive to defamation and qualified forms requiring imposition of less punishment are governed in Articles 127, 128 and 129 of Turkish Criminal Law.

G. Prosecution, Competent Court, Sanction and Statute of Limitation

As a rule, prosecution of defamation is subject to the complaint by the victim. However, if the victim is a public officer, defamation he/she is exposed to due to his/her duty is *ex officio* investigated and prosecuted by Public Prosecution Office.¹¹⁹

The time granted for filing a complaint is six months, which starts the day when the victim knows or is informed of the act and offender. In the event of defamation committed through printed works, it is obligatory to file a lawsuit within two months for daily periodicals and within four months for other printed works.¹²⁰

¹¹¹ 2709 Sayılı ve 07.11.1982 Tarihli, 1982 Türkiye Cumhuriyeti Anayasası, 17863 Sayılı ve 09. 11.1982 Tarihli RG.

¹¹² 04.12.2004 Tarih ve 5271 Sayılı Ceza Muhakemesi Kanunu, 17.12.2004 Tarih ve 25673 Sayılı RG, madde 158.

¹¹³ Y4CD, 24.03.1992, 1579 E., 2197 K.

¹¹⁴ Artuk/ Gökçen/ Yenidünya, s. 498.

¹¹⁵ Toroslu, s. 119.

¹¹⁶ 1982 Anayasası madde 28.

¹¹⁷ Artuk/ Gökçen/ Yenidünya, s. 502; YHGK, 13.01.1988, 1987 E., 47405 K.

¹¹⁸ Parlar/ Hatipoğlu, s. 205.

¹¹⁹ TCK madde 131.

¹²⁰ 5187 Sayılı ve 09.06.2004 Tarihli Basın Kanunu, 25504 Sayılı ve 26.06.2004 Tarihli RG, madde 26.

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Criminal courts of peace are charged with hearing defamation cases including the qualified forms.¹²¹ Statute of limitation for defamation is eight years.¹²²

Sanction of defamation is imprisonment from three months to two years and imposed punitive fine.¹²³ However, in the event of qualified forms, the minimum limit of punishment may not be less than one year.¹²⁴ The punishment is increased in case of performance of defamation act openly and if the offense is committed through press and use of any one of publication organs.¹²⁵ If the offense is committed against any public officer, the punishment will be increased by a certain ratio.¹²⁶

V. CONCLUSION

Violence begins with language. It is embedded in our conscious and results in the rise of all other types of violence. Verbal violence is at utmost importance considering this fact. These accusations that the women are exposed to appears, at first, in the form of verbal violence, but then it is followed by physical violence.

Violence is certainly a serious problem not only for the aggrieved women but also for the men, children, the elderly and even for the animals. However, considering woman weak, at all times, via language, humiliating her and placing them like a second-class person give her an identity in need of higher protection and talking.

We believe that the women being the victim of all acts of violence of any kind is not a result of their weakness or the belief in they are less valuable, inferior, illetrate or weak compared to men. It is an ill fate caused by the thoughts embedded in the minds through the dominant culture of the society, traditions, stories, proverbs and idioms.

Adequate effort is obviously not taken with the aim of stopping the violence and taking necessary measures. The researches, verbal and written statements do not go beyond revealing the situation. The media which is easily accessible by all segments of the society covers shows, caryoons and series constaining violence, rather than those preventing violence. What is demanded and wanted is obviously determined via rating, and the shows are seleceted accordingly, but what is broadcasted directly promotes violence.

Violence acts of the politicians or celebrities containing physical violence or mostly insults are repetedly shown in TVs, and thus, we are inured to such acts. According to us, such insults are quite normal and encountered in every family, home, and even in schools and at work. In a nutshell, violence becomes a part of life. From this point of view, it results in a violence society and thus, threatens our future by creating potential criminals.

¹²¹ 5235 Sayılı ve 26.09.2004 Tarihli Kanun, 25606 Sayılı ve 07.10.2004 Tarihli RG, madde 10 ve 14.

¹²² TCK madde 66/1-e.

¹²³ TCK madde 125/1-2.

¹²⁴ TCK madde 125/3.

¹²⁵ TCK madde 125/4.

¹²⁶ TCK madde 43/1-2.

As for the language violence, what the women encounter the most are humiliation, derogatory acts and words damaging honour and dignity. Considering what the women in solidarity with Purple Roof Women's Shelter Foundation regarding violence against women say, when a woman is exposed to physical violence she is also exposed to insulting and psychological violence most of the time.¹²⁷

Defamation governed in Turkish Criminal Law is very important for preventing the violence reach the women by means of language. It is not a type of offense whose victim is only the women, but in this study it is discussed only in terms of the women. It is aimed, through defamation, at protecting the reputation of the people. However we believe that those who are the aggrieved party of the offense and in need of protection are not only real persons but also legal persons. For instance, considering the such segment of the society that is reached through the insults against women groups, women-oriented foundations and associations, legal value protected against the offense in Criminal Law should have a broader scope. Nevertheless, if the words containing violence are directed towards a group, instead of an individual, hate crime will emerge in the event of any humiliation or belittlement due to religion, ethnicity, race, sex and politics¹²⁸. This distinction is important in practice in terms of determining the punishment to be imposed on the offenders.

Words, "stupid, fool, retarded,..." become no longer derogatory for the woman and she is forced to get used to such words. However, in the scope of the defamation which is elaborated in this study, such acts or words constitute an offense even if the woman gets used to hear them every day as it will damage her status in the society. Even if the person who is exposed to the words, "Replace this woman, she is no longer useful for you, she is fat"¹²⁹ is really fat, this constitute defamation as these words damage the dignity, honour and reputation of the woman in the society.

Women often encounter insulting words about chastity. It is very common that the women face the acts and reviling such as; she cheats on his husband¹³⁰ provokes the men,¹³¹ has relationship with others¹³². Unless "men language" and paternalistic mind which prevail in both legal system and judicial decisions change, the violence language against the women in the society will not change.

The offense occurs if the woman is insulted in her presence, or if the offender wants the insult be widespread so that it is heard by the woman after communicating to at least three different persons in the event the woman is insulted in the absentia of her. However, we believe that the condition of three persons involved in the defamation in the absentia and the desire to make the insult widespread is an arrangement which reduces the implementation of the offense and results in the claim by the offender that he has not committed such offense.

If the woman gives her consent for being exposed to the words containing insult, then no offence occurs, as required by the provision of *victim's consent*. Nevertheless, we believe that this should be deemed defamation as the status of the woman in society not only represents her as an individual but also all the women. Because defamation governed in Turkish Criminal Law is at

¹²⁷ Mor Çatı Vakfı, Adaletin Cinsiyeti, s. 30.

¹²⁸ TCK madde 216/2.

¹²⁹ Mor Çatı Vakfı, Adaletin Cinsiyeti, s. 30.

¹³⁰ Y4CD, 27.01.2015, 24278 E., 2221 K.

¹³¹ Y4CD, 26.05.2003, 20559 E., 4674 K.

¹³² Y4CD, 22.04.2003, 18689 E., 2769 K.

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utmost importance for women in terms of preventing discrimination, eliminating the ostracism feature of the language, preventing creation of male dominance and its dissemination.

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