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Why Violence Against Women is such politically controversial issue? The Polish Struggle to Ratify the Istanbul Convention

1. Introduction

Gender-based violence and Violence Against Women is well known and empirically documented phenomenon that nowadays in criminology and human rights' discourse does not raises any doubt. Gender-based violence in every of its each manifestation is a good example of cultural violence. Yet it took feminists and human rights advocates several years to have VAW and domestic violence recognized by public authorities as matter of public concern and action.

Why Istanbul Convention?

Very briefly, *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence* from 2011 (the Istanbul Convention) would be the first international legally-binding document potentially open to any country in the world to provide a comprehensive set of measures to prevent and combat VAW and DV. It recognizes VAW as both a violation of human rights and a form of discrimination. It also establishes a clear link between achieving equality between men and women and eradicating VAW. It provides for criminalization of specific offences such as stalking, sexual harassment, forced marriage, female genital mutilation, forced abortion and forced sterilization and ban of cultural defense in cases of GBV.

The Convention also addresses the approach required to tackle VAW and DV effectively calling for all the relevant agencies, services and non-governmental organizations involved to work together in a coordinated way. The Convention sets the obligations for Member States in the field of data collection and designing integrated policies across all sectors and available measures („3P approach”: prevention, protection and prosecution; implying changes in substantive law in field of investigation, prosecution, procedural law and protective measures, migration and asylum laws).

2. The Polish struggle to sign the Convention

Although the Istanbul Convention was opened to signature in April 2011, the Polish public debate around Istanbul Convention started in spring 2012 with the statement of Minister of Justice at the time Jarosław Gowin (who represents the conservative wing in Civic Platform and is close to Catholic Church) that he was not going to sign the Convention

because of the gender definition included in the Convention¹. According to him, the Istanbul Convention was „an expression of feminist ideology” (which apparently he evaluated pejoratively) and undermined the traditional role of the family (within society), jeopardized the institution of heterosexual marriage and was promoting same-sex partnerships. He said that essentially he was against any violence against women, and Poland had already done a lot to protect women from domestic violence, but the most troublesome for him and his partisans was article 12 of Convention. This article holds States to combat stereotypical gender roles, which, according to him, would lead to discouraging women from fulfilling their roles as mothers and wives, and what was in contradiction with the Polish Constitution. He added that he did not reject all postulates of Convention, but just its ideological basis.

The statement of Mr Gowin has been strongly supported by all right-wing politicians, media and the hierarchy of the Catholic Church along with catholic organizations². The bishops said that they do not foster violence against women, but the definition of gender ignores the natural biological differences between men and women and assumes that we can choose our gender, which they strongly disagree with.

Mr Gowin’s statement immediately received high media coverage and launched a discussion. The reaction of groups of activists, some media and politicians was really robust. The coalition of several women’s organizations launched a petition to Prime Minister to sign the Convention. All polish feminist celebrities took a stand. There has been even created a group on Facebook „We are for the Convention on preventing and combating violence against women”³. Agnieszka Kozłowska-Rajewicz the Government Plenipotentiary for Equal Treatment expressed quite opposite views and said that the Convention should be ratified (not signed, but ratified) as soon as possible⁴. She agreed with Mr Gowin that virtually Poland has many postulates of Convention already implemented. The only thing left to do was to abolish prosecution on demand in rape cases (provision 44.4 of Convention).

Finally, the Prime Minister Donald Tusk declared just after statement of his Minister of Justice that he was in favor of the Convention and the he would sign it. But meanwhile he postponed several times the date of signing. At the beginning of July 2012 he promised to do it within three weeks’ time, but then he postponed it till „after holidays”. In the interview in *Polityka* magazine⁵ he said that for him and his politics combatting violence against women is an issue far more important than exaggerated ideological concerns of some right-wing politicians.

Finally, the Convention has not been signed until December 18, 2012. In *June 2013* the Parliament passed a *law changing the prosecution mode in rape cases* (from now on is *ex officio*), which is made Polish law practically compliant with provisions of the Convention.

¹ <http://www.rp.pl/artykul/859029-Gowin-krytykuje-konwencje-o-przemocy-wobec-kobiet.html>
(Rzeczpospolita from 12 of April 2012)

² http://wyborcza.pl/1,75478,12072112,Gowin_nadal_przeciwno_konwencji_o_przemocy_wobec_kobiet.html

³ <http://www.rp.pl/artykul/910654-Biskupi-za-ochrona-kobiet--ale---.html>
<http://ekai.pl/analiza/x56500/konwencja-ws-przemocy- stanowi-zagrozenie-dla-instytucji-rodziny/>
<http://www.rp.pl/artykul/17,866586-Organizacje-katolickie-przeciwnie-ratyfikowaniu-konwencji-o-przemocy.html>

⁴ http://wyborcza.pl/1,76842,12099455,Konwencja_zwalcza_przemoc_a_biskupi_konwencje.html

⁵ <http://www.facebook.com/#!/popieramykonwencje>

⁶ <http://www.rp.pl/artykul/930326-Konwencja-w-sprawie-przemocy-juz-we-wrzesniu-.html>

⁷ <http://www.polityka.pl/kraj/wywiady/1528583,1,wywiad-donald-tusk-o-planach-rzadu.read>

Needless to say, that change also had been preceded by discussion among criminal law scholars. Many of them argued that prosecution on demand was better protecting rape victims. As for today, the Convention has not been yet ratified.

3. Observing the debate around the Convention

Development of the debate around Convention in Poland showed some common features that we can find in other debates around women's issues, which are no limited only to Poland and which shape social consciousness alike public policies on the subject.

A. The rise of awareness

There is one good thing about the debate that shouldn't be overlooked. A strong opposition and controversies about signing the Convention either the hold off of Prime Minister has triggered a strong reaction of advocates of the Convention. The debate received high media coverage and made ordinary people, experts and politicians take a stand. For the first time the issue of DV and VAW has become such a hot topic. There is no doubt that the debate raised social awareness on the subject and showed that after all, the government decided to support the convention⁶.

B. VAW as a part of political game

The whole discussion and a sort of distant stance of the Prime Minister shows that actually there were other things at stake than solely the concern for women and their welfare. In fact the question of signing or not the Convention has been highly instrumentalized and politicized. The same could be observed with debates on the legalization of abortion, in vitro-fertilisation, and lately same-sex partnerships.

The thing is that the Convention has become part of the political game within the Civic Platform itself and a kind of struggle of power and political influence between the Catholic Church and more secular and liberal groups in society. On the one hand Gowin represents the conservative and strong fraction in Civic Platform that often disagrees with the politics of Donald Tusk. On the other hand, for some years a struggle how strong the say of the Catholic Church is in Polish politics. It is about symbolic power. And the issues of women's rights, reproductive rights, legalization of same-sex couples are the battlefield.

What led to this instrumentalization is that, for the government and most of the mainstream politicians, the problem of violence against women, domestic violence and discrimination is not a priority (and never was), nor even a serious social problem to tackle.

C. Fear of „gender”

What seems to confirm my view is that, as even Minister of Justice said, from practical point of view ratification and enforcing the Convention wouldn't cause many difficulties. Many of the provisions we already have in our legislation. The Convention or its provisions is not the problem, the problem is so-called „ideological basis of Convention” that, according to Minister Gowin and the Catholic Church, is feminism and „gender” construct.

It turned out that some politicians (male ones mainly), church hierarches and journalists, representing conservative institutions and views were scared of VAW as a construct and its public recognition. That fear is maybe even bigger than a fear of women to

be victims of GBV. The politicians and leaders speaking out for „traditional values”, „the protection of Polish family” saw the ratification of the Convention as a plot (conspiracy) aimed at the very core of Christian civilization and Polish national identity. A real man does respect a woman. A real man does not batter a woman. Recognizing that violence against women is a structural phenomenon somewhat linked to ‘masculinity’ concept and patriarchal organization of our (every!) society and widespread problem is troublesome to some men. But apparently this is not the main obstacle to adhere to the Convention

The biggest issue appeared to be with the „gender” construct. According to Mr Gowin (who holds the Ph.d degree in philosophy) accepting gender construct and committing to eradicate prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for men and women (article 12.1 of the Convention) would lead to legalization of same-sex marriages and jeopardize polish society. Thus it turned out that the deeper reason of the reluctance to sign the Convention is the homophobia and fear of „emasculatation” of some men. It was worth to sacrifice and reject whole Convention on protection women from GBV, just to avoid accepting gender construct. Women, their safety from GBV, a public responsibility to protect them is not a priority or important problem for male-dominated politics.

It is kind of irony and really paradox (showing that the opponents of the Convention did not read it and do not know its context) that Convention does mention culturally specific manifestations of VAW (FGM, FM, HRV) and had been drafted to address these serious problems in migrant-receiving countries. However due to small number of migrant communities in Poland these practices are seldom if ever existent and what is more are not even ‘related’ to our „catholic civilization”.