

## “RECORDED” ROBBERY IN THE “UNRECORDED” SPHERE

When I started this study first, I commenced with the idea of preparing a report. However, I thought that an extended qualitative work is better to emphasize administrative fine practices and problems appearing afterwards, rather than a report. A work solely on administrative fines and the problems that trans sex workers experience related to them had not been published until today. So I think that this book is a beneficial source for those who want to study on the matter.

This book, which will be functional for contributing the works of many non-governmental organizations, public institutions related to the issue, legislators, legists and media, contains problems that trans sex workers experience on administrative fines, economical background of these practices, what the state aims through these practices, illegalities during implementations, impact of social oppression towards trans sex workers on arbitrary practices of the authority and demands of trans sex workers against these practices. I hope that this book will have an effect on ending administrative fines imposed on trans sex workers and other sex worker groups and abuse of rights which comes after these.

“Write, of course. I don’t know how it affects but to me, it will be effective to make even one person hear us. Maybe it will work for new lubunya’s, in the future. I am convinced that it will definitely be helpful.”<sup>2</sup>

1 It means trans woman in Lubunca which is a sub-culture language spoken by trans sex workers. It is being used as including all LG-BT’s lately

2 Interview with Selin, 15 January 2014, via phone.

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of “Taxation” Towards  
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# **“RECORDED” ROBBERY IN THE “UNRECORDED” SPHERE: Administrative Fine Practices as a Means of “Taxation” Towards Trans Sex Workers**

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**RED UMBRELLA SEXUAL HEALTH AND HUMAN RIGHTS ASSOCIATION** is a sex workers non-governmental organization. The aim of the establishment is being the voice of sex worker women, men and trans individuals to make the authorities and public hear their stories of violation of rights, developing mechanisms to protect them from violence and hate crimes and strengthening their capacities, making the needed services of prevention, protection, diagnosis and treatment in the areas of sexual health and reproductive health accessible to them and advocating to change the relevant legislation which causes criminalization of sex workers in accordance with the requirements and demands for rights of sex workers.

**KEMAL ÖRDEK** has been advocating the rights of sex workers and LGBT (Lesbian, gay, bisexual, trans) since 2008. Kemal Ördök, who contributed to various works of LGBT non-governmental organizations and groups, continues to conduct studies on LGBT rights and sex workers' rights locally and internationally.

Kemal Ördök is founding president of Red Umbrella Sexual Health and Human Rights Association and also co-president of Trans Europe, that is the umbrella organization of trans non-governmental organizations and supporters in Europe, since 2011. Since May 2012, Kemal Ördök has been working as the policy executive of Global Sex Work Projects Network which advocates internationally in sex workers' human rights area as well. Male sex workers, brothels, administrative fine practices and violence based on sexual identity are the recent research interests of Kemal Ördök who had conducted studies in LGBT and sex work area at Global Coalition of Sexual Rights and Reproductive Health.

# CONTENTS

<b>ACKNOWLEDGEMENT</b> .....	X
<b>INSTEAD OF PROLOGUE:</b> <b>Where Did This “Misdemeanor” Issue Emerge From?</b> .....	X
<b>ADMINISTRATIVE MEASURES FOR “ENDING PROSTITUTION” OR THE LAWLESSNESS SAGA</b> .....	X
<b>“MAN DRESSED UP AS WOMAN” OR “IMMORAL IDENTITIES”:</b> <b>Criminalization Of An Identity By The State</b> .....	X
<b>IMPUNITY AND LAWLESSNESS IN THE PENALTY PRACTICES:</b> <b>“Police Thinks Himself As God And Does Not Listen To You”<sup>3</sup></b> .....	X
<b>THE POINT WHERE ADMINISTRATIVE FINE PRACTICES GET:</b> <b>Violence, Poverty And Sexually Transmitted Infections</b> .....	X
<b>“COMMUNITY SUPPORTED” HATE OPERATIONS</b> .....	X

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3 Interview with Cemre, 14 January 2014, via phone.

**INSTEAD OF EPILOGUE:**

**“Unbearable Charm Of Attacking Trans Sex  
Workers” And Demands .....**



on the matter, this work wouldn't be possible. So I thank my dear friends, trans sex workers that interviewed with me so much.

Media news I mentioned above, legal counselling and direct legal support for trans sex workers, monitoring, reporting and documenting works all together indicate a strong trans rights movement. In addition to trans sex workers who accepted to be involved in this study and interviewed with me, all trans sex workers that put the matter of administrative fines into agenda, objected this injustice through various ways, raised voice, stood up for their rights, deserve a big appreciation. If advocacy works of trans human rights activists didn't exist, there would be opportunity for me to reach a media news or a report.

I want to thank not just trans sex workers and trans human rights advocates but also all LGBT and sex workers' rights activists, non-governmental organizations, lawyers and everyone against discrimination who bring trans sex workers' demands of rights and meet with the sufferer in this liberation movement. Lastly, I prepared this publication, in the name of Red Umbrella Association, by aiming to make it an advocacy tool on the issue of arbitrary and illegal administrative fines imposed on trans sex workers by the police forces. I want to thank Red umbrella Sexual Health and Human Rights Association for its supports to this publication which is prepared as a campaign tool for raising awareness on and ending this ongoing discretionary practices.

## **INSTEAD OF PROLOGUE:**

### **Where did this “misdemeanor” issue emerge from?**

For long years, I have been conducting advocacy studies on violations of rights that trans sex workers are exposed to. With non-governmental organizations or independent projects I got involved, I have conducted activities increasing visibility related to trans individuals' experiences of violation, poverty, economic marginalization, social exclusion and so on. In December 2012 when we decided to establish Red Umbrella Association, while talking on various issues, I remember I said the following on Law on Misdemeanors to my dear friends who are now holding the title of founder of the association: “After establishing the association, maybe the administrative fines on trans sex workers is the issue which is in need of mentioning most. The reason is simple; this matter is not only a matter of voucher or collecting money. This matter is the matter of impoverishing trans sex workers. This matter is the matter of representing trans women as “misdemeanant” to the society and criminalizing them. This matter is the matter of public revenue obtained from “unrecorded” sex work area. And probably the most significantly, this matter is the matter of bringing trans sex workers close to violence and homicides.”

Indeed, I witnessed many trans sex worker friends of mine had been disturbed by the police with various reasons for many times while eating at a restaurant, walking on the street in the daytime, sitting at their homes or working on the streets. I have heard both the stories of trans sex workers whose homes were invaded and who got insulted by the police while sitting with their boyfriends at home and proper cries of trans individuals who got stopped and put under arrest by the police while they were walking their dogs. I listened and sometimes I witnessed personally how a trans, who had been harassed by the police while waiting customers in the street, had been taken to the police station and kept there arbitrarily until morning, had got arrested again right after leaving the police station; what a trans, who had to wait for customers on the street for longer time in the middle of all sorts of violence for earning the “usurped” money after administrative fine was imposed on three times in one night, went through.

I saw with my own eyes, witnessed how trans sex workers resisting these arbitrary and essentially lawless treatments of the police had been subjected to violence; how criminal complaints of trans sex workers exposed to the torture and maltreatment of the police had been ignored; how trans human rights activists, who had gone to the police stations with trans sex workers to denunciate, were threatened by the police; how the police could tell a trans sex worker who had wanted to denunciate after administrative fines that “if you denunciate, you can never work on that street, I’ll ruin your life in this city”, how authorities have been encouraging police officers to discriminate with “score cards” used for the points of catching “transvestites”.

As a sex worker, I personally became a victim of police violence. Similar to my past experiences of police violence that I encountered because of opposing arbitrary treatments that my trans sex worker friends had been exposed to, I confronted insult and assault of the police while cruising this time.

I witnessed the despair of trans sex workers who had consulted Red Umbrella to object the administrative fines imposed on them. I met people who have been discouraged with administrative fines since 2007, saying that they cannot go cruising anymore and brooding on how to earn money. I listened to the story of trans sex worker who had been kicked and beaten with nightsticks and stayed at the hospital for five days after rejecting to go to the police station by saying that the administrative fine practices are lawless and I witnessed victimization of trans sex worker breaking her leg while trying to escape the police because of bad financial status.

Victimizations have increased and diversified within years. Law on Misdemeanors aimed at trans sex workers which was enforced just in the metropolitans of Turkey before, is now being enforced intensively in all cities where trans sex workers live. We have been receiving a new victimization report almost every day.

Every enforcement causes more social labeling for a trans sex worker. Trans sex workers, who are already identified as “guilty”, “diseased”, “sinner” and notions alike by the social perception, meet with

discriminatory despot face of the state via ongoing enforcements of the police. Trans sex workers are tested through debt burden, pushed to poverty and an illegality generates many illegalities.

Until today, LGBT non-governmental organizations, sex workers, human rights activists conducted different works on administrative fines imposed on trans sex workers via Law on Misdemeanors and Highway Traffic Law in order to raise awareness and visibility. Monitoring, reporting and documentation works regarding the issue are done, legal counselling support for mistreated is provided, advocacy work related to the matter is carried out in the presence of international foundations, lobbying endeavors towards decision makers and legislators in Turkey related to discriminative character of implementation and problematic sides of legal legislation are held. Despite these valuable studies, no special work on this “misdemeanor” issue being the excuse of systematic harassment of trans sex workers practiced by the police was not prepared. I saw the necessity of a work investigating the parts of Law on Misdemeanors and Highway Traffic Law targeting trans sex workers, discriminative practices of police department, socio-economic dimensions of the issue, the relationship of administrative fines with violence, sexually transmitted infections, other discrimination forms, marginalization and criminalization of trans identity and other regulations surrounding sex work and which implementations towards non-trans sex workers are caused by it. Since this necessity became an obligation both for me as a sex worker and my trans sex worker friends.

In parallel with the viewpoint of “Victimization of a sex worker is victimization of all other sex workers and victimization of sex workers is an obstacle to social peace” that we, as Red Umbrella Association, mentioned after establishing, we are aware of important responsibility of preparing this publication and delivering it to concerned individuals and institutions as a means of campaign and advocacy. I hope this study will be a helpful tool of advocacy for works on abolishing administrative fines specifically and widespread systematic violation of rights that trans sex workers are exposed to in general.

What you call “misdemeanor” is our identity, our trans existence. What you call “misdemeanor” is our job, our only way to stand. If identities are assumed as having “misdemeanor”, the rights to work are limited within “misdemeanor” frame and a victimized group wholly became the object of “witch hunt” in a country, it means democracy and justice in that country are over or have never existed. We want peace, freedom and justice. Trans sex workers do exist, we want from you to be aware of that and end discrimination. We do not want prejudiced democracy and unfair justice but equal order for everyone.

**Kemal Örddek**  
**21 January 2014, Ankara**

## METHODOLOGICAL FRAMEWORK

Being the voice of sex workers is Red Umbrella's first aim. Preparing publications in which sex workers do not take place, are not present in planning process or publications ignoring sex workers' demands or problems is a turbulent approach for us. For this reason, I consulted sex worker friends first while conducting this work for Red Umbrella. I paid attention to their opinions and asked them what they are planning to reach with this study.

In two and a half months period before the preparation of this publication, I interviewed with twenty sex workers from eight cities of Turkey. I could not conduct face to face meetings with all sex workers outside Ankara because of financial impossibilities. However, some opportunities for face to face meetings emerged with the ones travelled to Ankara for various occasions and during my visits to other cities for joining events. The rest were interviewed via phone or e-mail.

Trans sex workers I conducted interviews with live in Ankara (8), İstanbul (3), İzmir (2), Mersin (3), Sivas (1), Diyarbakır (1), İzmit (1), Antalya (1). I could not have the chance to reach more trans sex workers because of the problems like time constraint and financial insufficiency; but I must state that the number of interviewees we were planning to reach when decided to prepare this publication was already 20. In my opinion, interviews with 20 people represent a powerful background in terms of representation for supporting the arguments in this study since this is not a publication assisted by a quantitative research but showing a pure qualitative characteristic. Additionally, the publication uses media news, interviews and various general reports including other issues in addition to administrative fines and on the interviews with trans sex workers since 2007, although it was prepared by using interviews with 20 trans sex workers. So the power of this publication shouldn't be thought as reflecting only the interviews with 20 trans sex workers.

I especially paid attention to interview with trans sex workers who

are on “çark”<sup>6</sup>, in other words searching for customers on the streets. The reason of that is that I have been encountering the reality of administrative fines imposed mostly on trans sex workers who are searching customers or having sex in open areas. In addition to this, I interviewed with trans sex workers who do not “çark” or who find customers through internet. Likewise certain parts of information on violation of rights we have received within several years are the stories of trans sex workers who experienced house raid by the police and subjected to administrative fines via Law of Misdemeanors. That is, economical violence aims at not only trans sex workers working on the streets but also the ones working at their homes.

Interviews I conducted are semi-structured interviews. I specifically preferred to leave space for them to tell their real life stories, their explanations and to direct my questions. In this way, I both pursued information that I wanted to obtain through my questions and noted details which I could not explore their relationships with my questions and my attention did not catch until interview. In short, new enquiries and answers were attached to my questions with every interview.

During the preparations of this publication, in addition to interviews with trans sex workers face-to-face or via phone or e-mail, human rights reports of LGBT organizations since 2007, after-event publications and publications on interviews or viewpoints of the participants, media news, statements of police units, Turkish deputies’ attempts about the issue, reports and letters of different international non-governmental organizations regarding the situation in Turkey, interviews with individuals specifically and sources alike were examined in detail. Moreover, I interviewed with lawyers who gave support to trans sex workers on the issue in the past.

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Going out to streets to find customers in sub-culture language called Lubunca that is spoken by the trans community.

## ADMINISTRATIVE MEASURES FOR “ENDING PROSTITUTION” OR THE LAWLESSNESS SAGA

Administrative fines, along with the initiative of the authority, are always imposed as a means of “veiled threat” on individuals or groups seen as “problematic”. The matter of this book is firstly Law of Misdemeanors No. 5326 dated 2005 as being the legal basis for imposing administrative fines. Similarly, Highway Traffic Law No. 2918 dated 1983 is also among conducive laws for imposing administrative fines and included into evaluations in this book.

Law of Misdemeanors is a law proposing that various acts previously anticipated as legally penalized should be punished with administrative fines or administrative measures like passing property to the public. Particularly in USA and Europe, legal regulations similar to Law of Misdemeanors in Turkey are formed and promulgated considering the claim that regulating the acts constituting “crime” previously as “misdemeanor” now can benefit legally. Turkey was involved in the countries following this tendency since 2005.

The first article of Law of Misdemeanors expresses aim of the code as “protecting social order, public morality, public health, environment and economic order”. In order to reach the stated aim, “misdemeanor” acts the code listed are sorted as follows; unlawful behavior (article 32), panhandling (article 33), gambling (article 34), intoxication (article 35), noise (article 36), molestation (article 37), occupation (article 38), consuming tobacco products (article 39), not announcing identity (article 40), polluting the environment (article 41), putting up a poster (article 42), carrying a gun (article 43). Information on when these acts are accepted as “misdemeanors”, in which conditions administrative fines can be used by the authorities, how and when objection to administrative fines can be made, who to get in contact with and details alike does not exist in the related code.<sup>7</sup>

The first article of Highway Traffic Law states aim of the code as “providing traffic order in terms of security of life and property on

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7 For details of Law on Misdemeanors: Başbakanlık Mevzuat Geliştirme ve Yayın Genel Müdürlüğü web site, [http:// www.mevzuat.gov.tr/Metin1.aspx?MevzuatKod=1.5.5326&MevzuatIliski=0&sourceXmlSearch=&Tur=1&Tertip=5&No=5326](http://www.mevzuat.gov.tr/Metin1.aspx?MevzuatKod=1.5.5326&MevzuatIliski=0&sourceXmlSearch=&Tur=1&Tertip=5&No=5326)

the highways and determining precautions related to all issues of traffic security”. Within this aim, which acts of pedestrians, drivers and other persons stated in the law will be punished legally by legislation officers is expressed in the code in detail.<sup>8</sup>

Mentioned codes within our context are discussed for being a means of administrative fines imposed on trans sex workers. Main aim stated in both codes is mentioned with “social order”, “public morality”, “public health”, “traffic order” and similar ambiguous terms. For most of the legists, the principal matter here which needs to be discussed is not these ambiguous terms that also exist in regulations of European countries represented to Turkey as exemplary through various legislations<sup>9</sup> but the perception of this terms and possible discrimination during the application of it correspondingly with the predominant perception. This possibility transformed into a high probability targeting individuals or groups that authority sees as a threat, from individuals or groups seen as opponents<sup>10</sup> to a group of young street musicians or sex workers. Co-chair of Peoples’ Democratic Party (HDP) and İstanbul deputy Sebahat Tuncel submitted law amendment offer for amending Law on Misdemeanors in 2013 December for exactly the same reasons with the ones mentioned above.<sup>11</sup> In Tuncel’s legislative proposal justification, she stated that “Although the prevalent code concludes misdemeanors with admin-

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8 For details of Highway Traffic Law; Başbakanlık Mevzuat Geliştirme ve Yayın Genel Müdürlüğü web site, <http://www.mevzuat.gov.tr/Metin1.aspx?MevzuatKod=1.5.2918&MevzuatIliski=0&sourceXmlSearch=trafik%20kanunu&Tur=1&Tertip=5&No=2918>

9 Nevertheless, it must be stated that embodying the mentioned ambiguous terms more within the relevant codes and the statements telling that the acts or individuals thought as incompatible with the general moral values of the society will not be punished must be added to the codes.

10 For example, administrative fines imposed on the people casseroling during Gezi protests in June 2013.

11 For the related report: Etkin Haber Ajansı, “*Kabahatler Kanunu’nda Değişiklik Teklifi*” (2013), <http://www.etha.com.tr/Haber/2013/12/14/guncel/kabahatler-kanununda-degisiklik-teklifi/>

istrative fines, what is scientifically correct is approaching the topic within the context of criminal law fundamentals” by touching that definition and extent of some acts forming misdemeanor are left to legislation officer’s initiative. Similarly, Tuncel emphasized imposing administrative fines turned into an institution of vengeance and commented as follows; “Code cannot legitimize will’s act of crime. Code is a law state establishment which exists to provide needs of the society and protect its rights and freedom. Regulation of the existing code legitimizing discrimination towards specific parts of the society and causing intervention to life style is crucial. Legislation officer should be prevented from taking legal action depending on his/her ‘ethical values’ and intervention to social life should be minimized.”

In many countries like Turkey in which sex work is not counted as a crime but every step for sex work is punished by related codes<sup>12</sup>, administrative fines are used as a tool for discouraging sex workers, lowering their visibility in the streets and criminalizing sex work as a whole per se. China, South Africa, Italy, Serbia and various states of America are also countries having that kind of practices. As a matter of fact, law enforcement processes in these countries stating their intentions as providing public order, establishing public morality or public health are garnished with examples of various arbitrariness or lawlessness like the ones in Turkey. In short, sex work area emerges as a sphere which both legal and administrative sanctions want to assimilate as a whole and victimizations of sex workers are reproduced during the legal practices.

In Turkey, using Law on Misdemeanors as a tool for “struggle against prostitution” on sex workers specifically became visible with the implementations in 2007. Especially in metropolitans, there emerged a consistent tendency to enforce Law on Misdemeanors with the initiative of committees for struggle against prostitution. This tendency

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12 For example, sex work in Turkey is not evaluated in crime category with Turkish Penal Code. However statements like “mediating”, “encouraging prostitution”, “providing place”, “benefiting from the income of the prostitute” and so on are causing sex workers to be penalized continuously.

improved through the argument of police units in cities saying that they determined “some women and transvestites prostituting” and “discommoding” “ordinary” people and it turned into a demand for public order units of provincial security directorates to take related precautions. Committees for struggle against prostitution, by using documents on the issue sent from concerned police units as a base, ruled enforcement of Article 32 of Law on Misdemeanors by remarking that Code of Struggle against Prostitution and Sexually Transmissible Diseases<sup>13</sup> give them “the authority to take any precautions for struggling prostitution”. After this progress had existed in cities like İstanbul, Ankara and İzmir, similar strategies were put into place by both police units and committees for struggle against prostitution in other cities of Turkey.

Article 32 of Law on Misdemeanors is as follows;

“Article 32 – (1) Person acting against lawful order is imposed a fine of hundred Turkish liras by competent authorities for procedural acts or for the purpose of providing public safety, public order or public health.

(2) This article can be enforced just when there is a clear provision in the related law.

(3) According to Article 526 of Turkish Penal Code no. 765 dated 01.03.1926, dispatches on other laws are accepted as on this article.”

According to sub-paragraph (e) of Article 4 of Code of Struggle against Prostitution and Sexually Transmissible Diseases, the duty of the committee is “taking necessary precautions to prevent sexually transmissible diseases due to prostitution”.

Decision struggle against prostitution committees took and implementation of law enforcers afterwards may seem reasonable within

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13 For detailed info on the code: website of Başbakanlık Mevzuat Geliştirme ve yayın Genel Müdürlüğü, <http://www.mevzuat.gov.tr/Metin1.aspx?MevzuatKod=2.4.5984&MevzuatIliski=0&sourceXmlSearch=fuhu%C5%9F&Tur=2&Tertip=4&No=5984>

the relevant legislation mentioned above. In the end, board having the authority for and even duty of “struggling against prostitution” has responsibilities determined by the legislation like protecting “public health”, “public moral” and “public order”.

However, some questions stem out of the sequence of authorities and responsibilities clarified above. For instance, the article of Code for Struggle against Prostitution and Sexually Transmissible Diseases, which mentions mission of the committee, states the duty as taking “necessary precautions”, not “all sorts of precautions”. When we look at the decisions taken since 2007, we witness that the committees see themselves as institutions authorized to take “all sorts of precautions”. This means ratifying all kinds of strategies, methods and implementations. Code mentions “necessary” precautions to the committees and the content of these “necessary” precautions is controversial. According to the committees, these precautions are implementation of Article 32 of Law on Misdemeanors whereas they refer something else for the ones who are acquainted with sex work area, comprehend the problems of sex workers and what implementation of Article 32 causes in connection with the aims of the Code. What I intend to say is that; committees see themselves as being authorized for taking “all sorts of precautions” instead of “necessary precautions”, prefer to punish sex workers, and as a result, take biased decisions contradicting with the goals of the Code and cause “public health” and “public order” damaged indeed. In other words, committees and law enforcement officers get behind in the aims of a Code which extremely fell behind in terms of developing, strengthening and promoting sex workers’ human rights.

Hence, the appeal to Ankara 7<sup>th</sup> Administrative Tribunal that lawyer Hakan Yıldırım made for his client in order to make the decision of Committee for Struggle against Prostitution and Sexually Transmissible Diseases dated 15.06.2007 numbered 2007/23 cancelled is approved unanimously on 28.12.2008. In this way, the decision Committee for Struggle against Prostitution and Sexually Transmissible Diseases took in 2007, which states “It is decided to implement article 32 of Law on Misdemeanors with the aims of establishing

public order and general public health”, is cancelled. Objection on administrative tribunal’s relevant decision which the committee had raised to state council was refused and domestic court’s decision was approved. So the decision of Committee for Struggle against Prostitution and Sexually Transmissible Diseases that gives authority to the police was invalidated. In addition to this being an example of juridical success, it was observed that the police had started to use Article 37 instead of Article 32 of Law on Misdemeanors towards trans sex workers in Ankara.<sup>14</sup>

Lawyer Soner Tanrikulu shares his opinions on the reasons why implementation of Article 32 of Law on Misdemeanors in Antalya as follows; “...Article 32 is general, in other words something like what we call omnibus bill. This article tells local governments, district governorate and governorship this: You can introduce a series of bans by justifying public health, public order and public safety within the provincial borders of Antalya. However this needs to be legal and there must be an explicit provision in the code. In Antalya, there emerged an order forbidding hitchhiking within the provincial borders based on this article. Of course, this was an order totally towards sex workers but it was not written in the order. Order just mentions this: Hitchhiking is prohibited for the sake of public order on the grounds that traffic density in main arterial roads may cause wrecks. Now, as for how often hitchhiking takes place in Antalya, who hitchhikes and receives administrative fines on the issue, administrative fines were imposed only on sex workers after hitchhiking had been banned on the basis of Article 32. Article 32 of Law on Misdemeanors must be on an issue in the code, like I mentioned before. Here, there are three aspects; there must be a legal command of authorities for the mentioned misdemeanor got formed but there is not in practice.

Since the prohibition of hitchhiking constitutes separation both in Constitution and in European Convention on Human Rights in terms of freedom of travel. In addition, the command must be announced

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Interview with lawyer Hakan Yıldırım on 24 January 2014, via e-posta and phone.

with reference to procedural acts or public safety, in terms of public order or public health. This also does not exist.”<sup>15</sup>As it can be seen in Antalya example, there are serious objections of legists regarding the implementation of Article 32 of Law on Misdemeanors in other cities as well. However, these objections have not been taken into consideration from the day code was enforced to today.

It is obvious that a legal viewpoint with “struggle against prostitution” strategy, in any case, produces harmful consequences both for society and sex workers. Since acceptance of sex work as a profession and giving the rights of safe working conditions to sex workers, rather than punishing sex workers with legal or administrative sanctions through various regulation samples, creates real “public health” and “public order. Penalization, namely policy of discouraging sex workers by imposing administrative fines via Law on Misdemeanors, is obliged to fail. That kind of implementations trigger police violence against sex workers, push sex workers scared of administrative fines into insecure parts of the city and in the middle of customer-gang violence and cause them not to negotiate on using condoms because of the fear of the police. That is to say; sex workers, their customers and the rest of society are pushed into insecurity, violence and sexually transmissible diseases so “public health” and “public order” break down. Law enforcement officers and committees for struggling prostitution act contrarily with the relevant Code with their precautions and implementations.

That is also a fact that police units impose administrative fines on sex workers by using Articles 36 and 37 of Law on Misdemeanors, apart from Article 32 of Law on Misdemeanors that they address through the decision of struggle against prostitution committees. Article 36 of Law on Misdemeanors is concerned with the topic “noise” and Article 36 states “(1) Fifty Turkish Lira administrative fine is imposed on who causes noise at the level of disturbing others’ peace and calm”. We witness that this article is frequently used against trans sex workers working at their houses. Police forces, who monitor sex workers’

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Soner Tanrıku, “Polis Elini Bedenimden Çek!” Book of 3 March Sex Work Symposium (2013), p. 24-27.

homes with many illegal methods and raid their homes by ignoring various rights including the right of privacy and immunity of residence, impose administrative fines on sex workers via Article 36 on the grounds that they cause noise. In addition to house raids and closings, which are practices prescribed by Code for Struggle against Prostitution and Sexually Transmissible Diseases and Law of Police Powers numbered 2559 in general<sup>16</sup>, trans sex workers are forced into paying administrative fines as well.

In recent years, the article frequently being used against trans sex workers in metropolitans has been Article 37 together with Article 36 of Law on Misdemeanors. Article 37 states that – (1) “Who disturbs others for selling goods or services has to pay administrative fine of fifty Turkish Liras”. When you read this article, it is obvious that it does not remind sex workers. Of course, remembering sex workers after reading this article is counterintuitive. However, police forces start proceedings on trans sex workers in streets via Article 37 of Law on Misdemeanors and impose fines. This practice is an intentional one. In a situation that sex work is not identified as a profession and accordingly cannot be evaluated as selling services, there is no legal explanation for what bases are used to impose fines on sex workers who are on “çark”<sup>17</sup> on the streets. Besides, police forces, acting on impulse and apparently following instructions, increase victimization of trans sex workers by imposing administrative fines via Article 37 whereas enough evidence must exist for the act of “disturbance”.

Apart from Law on Misdemeanors, as I stated before, relevant articles of Highway Traffic Law are also arbitrarily being used against trans sex workers and administrative fines are being imposed. For

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16 For detailed information on Law of Police Powers: website of Başbakanlık Mevzuatı Geliştirme ve Yayın Genel Müdürlüğü, <http://www.mevzuat.gov.tr/Metin1.aspx?MevzuatKod=1.3.2559&MevzuatIliski=0&sourceXmlSearch=polis%20vazife&Tur=1&Tertip=3&No=2559>

17 Used as “Çark” or “çark yapmak/çarka çıkmak” in Turkish slang called Lubunca and it means being on the streets to find customers. Lubunca is a sub culture language trans sex workers use.

instance, Article 68 of the Code states, “Pedestrians on pedestrian roads, passes or carriageways on the required conditions are forbidden to act as endangering or blocking traffic or use these places disrespectfully” and orders a specific amount of administrative fine for the ones who do not respect the law. This article is frequently used against trans sex workers soliciting or negotiating the price on streets. Similarly, many articles of the Code had been used and are still being used against trans individuals driving, walking on streets, waiting customers in their cars and waiting at red lights. Through various cases, we witness that trans sex workers are victimized and the code is abused by police forces totally arbitrarily with power exceeding when they just recognize that individuals are trans or when trans sex workers stand on the side where other pedestrians are and do not even endanger traffic.

### **“If We Pay Our Taxes, Where Are Our Labor Rights?”<sup>18</sup>**

Administrative fines imposed on trans sex workers via Law on Misdemeanors or Highway Traffic Law, in addition to the physical violence against sex workers, appears as economical and psychological violence as well. As I stated before, administrative fines should not be understood as composed of solely vouchers or collecting money. These fines appeared as a new form of “discouraging with violence” strategy, which transformed as a result of trans individuals or their organizations touching the issue of physical violence against trans sex workers committed by mostly gangs, customers and police forces themselves before 2007. Trans sex workers, who was abducted, raped, tortured, “thrown” naked outside of the cities, detained at police stations for days, steeped with hoses, subjected to every type of humiliating treatment before now, objected to these inhuman practices by establishing their own non-governmental organization and getting organized. Trans sex workers facing with various new unjust treatments in this objection and opposition process started to see that terrible forms of treatment took place especially in cities like Ankara, İstanbul and İzmir, while continuing intensely at times, changed their form and articulated to physical violence as forms of administrative

fines.

“In the past, they used to make us get in cars by force, insult us in the car by shouting, throw us outside the cities naked. We used to have to turn back the city by hitchhiking, in all sorts of disgrace. I remember my feet were frozen to death one day. I even stopped a car riding to the city two-three times and I couldn’t come to the city without having sex with them. Now, we do not experience that kind of things much but fines make us suffer a lot this time.”<sup>19</sup>

One of my main claims in this study is that administrative fines, in addition to being an indicator of state’s hate towards sex workers as a social group and sex work as a matter of fact, are a tool for obtaining income. Some kind of “tax” is collected from sex workers intensely, systematically and commonly by imposing fines.

“They collect “ass tax” from us. As if other taxes are not sufficient, they also collect the tax of our genitals. Then they cover up and claim that we ‘disturb’ others.”<sup>20</sup>

Income obtained from “unrecorded” sex work area through fines by justifying Law on Misdemeanors or Highway Traffic Law has enormous extent. State seeks to provide large amounts of cash inflow into “general budget” via continuous administrative fines imposed on sex workers working in the “unrecorded” sphere. In other words, state aims to “kill several birds with one stone”. By imposing administrative fines, on the one hand sex workers systematically get harassed, economically weakened, became open to violence and a considerable amount of input for government budget is being obtained on the other.

Especially trans sex workers working in the “unrecorded” sphere, encounter economic difficulties incessantly because of dynamics surrounding working conditions. In general, sex workers that cannot check into brothels which are the areas of “recorded” sex work, who

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19 Interview with Melda, 28 November 2013, Ankara.

20 Interview with Gökusu, 26 November 2013, Ankara

are excluded from other sectors because of transphobic discrimination and accordingly experience economic marginalization deeply, are punished with fines once again, this time by the government. This situation refers to impoverishing a class that is already the lowest when compared to the rest of society. My assertion is that; state systematically excludes trans people from employment opportunities in the recorded area or does not oppose their exclusion whereas it is targeting to destroy their capacity to support themselves and it attacks sex work area which is the only sphere that they can take shelter in. Impoverishment, as an indirect government policy, usurps the lives of trans sex workers. Moreover, this policy causes trans sex workers to go out on the streets again to regenerate the income they lost after paying fines.

Indeed, this means that government “panders” more for trans sex workers. State causes trans sex workers, that it impoverished via practices of administrative fines, to work in the streets for longer hours, have sex with more customers and accordingly subjected to violence more. In other words, state implicitly commits the crime of “pandering” that Turkish Penal Code openly forbids.

“Fine was imposed on me three times a night. That night, I had earned 200 TL hardly and was tired. I paid 246 TL for three fines; 82 TL each. And I had to go on the streets again to earn that money, shall I starve? That night, I needed to stay in the streets from 10:00 p.m. to 04:00-05:00 in the morning. In the following two days, I could not stand because of muscle pain...”<sup>21</sup>

“Everybody used to talk about pimps in the past, girls used to bribe compulsorily. Now, we bribe the government. The greatest pimp is the state.”<sup>22</sup>

I have already mentioned how huge the input generated from administrative fines imposed on sex workers is in general budget of government. In every city, amounts of administrative fines police forces

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21 Interview with Melek, 26 November 2013, Ankara.

22 Interview with Aysun, 26 November 2013, Ankara.

empowered by that city's struggle against prostitution committee impose can vary. This variance can be seen within the quantities of administrative fines imposed on sex workers working in different districts of the same city while it can also be observed for different cities or different groups of sex workers. For example, fine may be 88 TL for a sex worker on the street in some place of Ankara whereas it may be 90 TL for another part of that city. When administrative fine implementations came up in Ankara first in 2007, it was 117 TL for trans sex workers.<sup>23</sup> It then increased to 140 TL and afterwards decreased but continued to vary. Fines imposed through Law on Misdemeanors were 82 TL in Ankara in 2012 and increased to 88 TL in 2013. There are also substantial differences between the amounts of fines the police impose on trans sex workers working in the streets and the ones working at their places. Trans sex worker Mira, who consulted Red Umbrella Association for legal counselling and whose house was raided arbitrarily by the police with the justification of "prostitution", states the amount of administrative fines imposed on her and her friends as 182 TL. These fines imposed during house raids via article 32 of Law on Misdemeanors are based on the decision no. 2008/36 dated 27.08.2008 of Committee for Struggle against Prostitution and Sexually Transmissible Diseases of Governorship of Ankara.

As for quantities of fines, differences between cities except metropolitans like İstanbul, Ankara and İzmir draw attention. Fines imposed by police units, which committees for struggle against prostitution empowered, in "rural" area cities are generally higher. For instance, administrative fines per person in Mersin few years ago were around 140 TL but it is 88 TL now. However, environment where the sanction takes place also affects the difference. Article 36 or 32 of Law on Misdemeanors is used during house raids whereas Article 37 for streets. Another example provides insight on the quantity of fines. A trans sex worker, Cemre, whose home was raided by the police,

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23 For a report on the first period which administrative fines was started to get imposed via Law on Misdemeanors in Ankara; Hürriyet, "Emniyetten Hayat Kadını ve Travestilere Para Cezası" (2007), <http://www.hurriyet.com.tr/gundem/6801499.asp>

says that 347 TL criminal fine was imposed through Law on Misdemeanors.<sup>24</sup> Similarly, trans sex worker Eda, who lives in Antalya, states 169 TL fine per person was imposed on them via Article 32 of Law on Misdemeanors.<sup>25</sup> According to the media news, the amount of fines imposed on trans sex workers in Bursa is 72 TL in 2012.<sup>26</sup> According to a 2010 media report, fines for sex workers is as follows in Erzurum; 280 TL for the first caught, 560 TL for the second and 1.120 TL for the third.<sup>27</sup> A report of a website called Ordu Gündemi dated November 2013 declares fines imposed on sex workers as 125 TL in 2008, 140 TL in 2009, 143 TL in 2010, 154 TL in 2011 and 169 TL in 2012.<sup>28</sup> A remarkable detail is that quantities of fines in cities, in which population of trans sex workers are higher and that they perform human rights campaign, are lower than the other cities. Another significant point is that administrative fines imposed on sex workers since 2007 started as a strategical move in metropolitans and sex workers recently became visible in other cities as well are started to get aimed by implementations and mutual decisions of police units and committees for struggle against prostitution. Shortly, administrative fines grew into a practice targeting sex workers in almost every city in Turkey.

So, how many administrative fine receipts have been written as a result of these practices until today or what is the total amount of these fines? In order to answer this question, I made an application to Turkish National Police within the context of right to information. Unfortunately, I received a reply like this: “Department of Coordination

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24 Interview with Cemre, 14 January 2014, via phone.

25 Interview with Eda, 12 January 2014, through phone.

26 Relevant report: haberler.com, “*Bursa’da Fuhuş Pazarlığına Polisten ‘Trafığı Aksatma’ Cezası*” (2012), <http://www.haberler.com/bursa-da-fuhus-pazarligina-polisten-trafigi-3898417-haberi/>

27 Relevant report: Erzurum Ajans, “*Erzurum’da Kadına ve Erkeğe Para Cezası*” (2010), <http://www.erzurumajans.com/3619-erzurumda-kadina-ve-erkege-para-cezasi.html>

28 Relevant report: Ordu Gündemi, “*Ordu’da 5 Yıl- da Fuhuş Kesilen Para Cezası*” (2013), [http://ordugundemi.com/haber\\_4331\\_orduda-5-yilda-fuhusa-kesilen-para-cezasi.html](http://ordugundemi.com/haber_4331_orduda-5-yilda-fuhusa-kesilen-para-cezasi.html)

and Operation information system does not have data on this content so covering your demand is not possible.”<sup>29</sup> To be honest, I did not expect this answer. Since my questions for TNP were quite clear and I thought there must be a record for them. For instance, “How many administrative fines were imposed on persons described as ‘known lady’ or ‘transvestite’ from the day Law on Misdemeanors went into effect?” or “What is the total amount of administrative fines imposed on persons described as ‘known lady’ or ‘transvestite’ from the day Law on Misdemeanors went into effect?” Another significant reason of my confusion is police departments of various cities publishing monthly reports of the quantities of administrative fines imposed on sex workers on their web sites many times. When we have the chance of obtaining information about how many people received fines, detail info on total amount of these fines through the websites of the police departments, why TNP doesn’t have this information? It is impossible to understand. Moreover, it is surprising to see what are recorded as inputs to state’s general budget and that an input item with high amounts like this not recorded or “no data” on this matter. State both generates high income on sex workers and do not need to inform about the source of this income.

After the failure on obtaining information from Turkish National Police, I started to research internet news and declarations of provincial security directorates. It may not give country-wide ideas but I thought it can provide opinions regarding the size of “tax” burdened on sex workers. For example, a declaration made by Erzurum Police Department in July 2013 states 415 practices were held via Article 32 of Law on Misdemeanors within six months of the year and 75.530 TL was collected for general budget through these implementations.<sup>30</sup> A statement made by Bursa Police Department in August 2012 mentions that “fines amounted 4.392 TL were imposed on 61 prostitutes

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29 Answer to my application to Turkish National Police to get information on 3 January 2014 (20 January 2014).

30 Relevant news: “*Sokakta Fuhuşa Para Cezası*” (2013), <http://haber.kanald.com.tr/Haber/Yasam-34/Sokakta-fuhusa-para-cezasi-47202.aspx>

and transvestites in the last week”.<sup>31</sup> According to the declaration of Antalya Public Security Branch Office in February 2013, administrative acts were held towards “transvestites and prostitutes” 3.060 times within the year of 2012 and fines valued at 517.140 TL in total were collected.<sup>32</sup> Information on Antalya Gündem news portal also says “administrative fines amounted to a million TL were imposed on 900 transvestites within the year of 2013.”<sup>33</sup> During narration of the news, opinions of district governor of Antalya Muratpaşa district were also asked and he confirmed that fines had been imposed on 900 “transvestites” as well. However, it is not possible for total quantity to be a million since fines were imposed through Article 32 of Law on Misdemeanors and 169 TL. Of course, an absolute judgement is not easy to reach when we consider the news does not explain the amount of fine per practice.

According to Ordunun Gündemi news site, “administrative fines amounted to 61.931 TL were imposed on prostitutes hitchhiking roadsides from 2008 to 2013.”<sup>34</sup> With regard to the press release of Ankara Police Department held in May 2013, “fines valued to 44.000 TL were imposed on 500 people who hitchhike to prostitute via Article 37 of Law on Misdemeanors within the month of April, 2013.”<sup>35</sup>

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31 Relevant news: Haberler.com, “*Bursa’da Fuhuş Pazarlığına ‘Trafığı Aksatma’ Cezası*” (2012), <http://www.haberler.com/bursa-da-fuhus-pazarligina-polisten-trafigi-3898417-haberi/>

32 Related report: Sabah, “*Kaldırım Fuhuşu Bezdirdi*” (2013), <http://www.sabah.com.tr/Akdeniz/2013/02/24/kaldirim-fuhusu-bezdirdi>

33 Relevant report: Antalya Gündem, “*Travestilerden Bir Milyon!*” (2014), <http://www.gundemantalya.com/haber/Travestilerden-bir-milyon/404362>

34 Related news: Ordu Gündemi, “*Ordu’da 5 Yılda Fuhuşa Kesilen Para Cezası*” (2013), [http://ordugundemi.com/haber\\_4331\\_orduda-5-yilda-fuhusa-kesilen-para-cezasi.html](http://ordugundemi.com/haber_4331_orduda-5-yilda-fuhusa-kesilen-para-cezasi.html)

35 Ankara Police Department Press and Public Relations Branch Office, “*Asayiş Şube Müdürlüğü Ahlak Büro Amirliği Tarafından Yapılan Operasyonlar*” (5 Mayıs 2013), <http://www.ankara.pol.tr/Haberler/Sayfalar/Bas%C4%B1n-A%C3%A7%C4%B1klam>

According to the same press release, “administrative fines were practiced on 75 individuals that were identified as prostituting via Article 32 of Law on Misdemeanors” within the month of April of the year 2013.<sup>36</sup>

All these administrative fine practices, although they represent data involving specific cities, show a systematic and intense “taxation” system continuing through Articles 32, 36 and 37 of Law on Misdemeanors exists for Turkey in general. When we take a glance at the sum of administrative fines on even city basis, annual income earned on trans and non-trans sex worker women appears extremely high. When considering administrative fines implemented quite possibly by the police via Highway Traffic Law in addition to Law on Misdemeanors, it must be highlighted that the magnitude of economic violence against sex workers constitutes an uneasiness source.

One of trans sex workers, I interviewed with in consideration of administrative fines imposed, rightfully asked me this question: “If we pay our taxes, where are our labor rights?”<sup>37</sup> Despite the fact that they are not classified as tax, imposing fines through the mentioned regulation turns into a sort of “taxation” tool because of its systematic character. Sex workers working in an “unrecorded” area, reproach after their incomes were seen as “unjust enrichment” or “pretax income” by the state and also stayed under an “uncontrolled” attack: “We are ready to pay tax, at least there must be a certain proportion for it. However they impose fines by using Law on Misdemeanors every minute and these fines do not have an end. Every day there is a new fine, we go out on streets without knowing how much fine we will have to pay tomorrow.”<sup>38</sup> Selda’s answer to my question asking “So do you want to work on the streets again in return of paying tax?” is clear: “Why shall I work on the streets if I pay tax? It will receive our taxes and do not improve our working conditions, how

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as%C4%B1\_10-05-2013.aspx

36 Same source with the previous footnote.

37 Interview with Melda, 28 November, 2013, Ankara.

38 Interview with Selda, 5 December, 2013, Ankara.

does something like that happen? If I pay tax, I want my rights as well.”<sup>39</sup>

Every lira added to state’s budget is repressing trans sex workers, who cannot receive their labor-based rights despite that sort of indirect “taxation” system, who are forced to stay in “unrecorded” sphere and who are obliged to more violence and streets while their earnings are being taken from them, into despair. An important part of interviewees are “in debt”, they have to pay to the government for the previous fines. Trans sex workers, whose daily lives are affected seriously because of these debts, continue living with fears of “how can I pay this money?” or “if I cannot pay, will my bank account be closed or will my money at the bank be withdrawn in relation to my debts?” One of my interviewees, Göksu, has a debt of 40.000 TL to the government and cannot earn money like they used to be because of her age. Moreover, Göksu stated that they still receive fines by the police when out on the streets. Göksu asks: “What am I supposed to do now? On the one hand old age and illness and there are poverty and debt on the other. I wanted to commit suicide many times, I feel depressed.”<sup>40</sup> Another interviewee, Çiğdem, has a debt amounted more than 10,000 TL and another one, Ecem, has 7.000 TL.

When mentioning the issue of administrative fines imposed arbitrarily on trans sex workers via Law on Misdemeanors or Highway Traffic Law as a kind of “taxation” system, we shouldn’t ignore the draft law on collecting taxes from sex workers working in “unrecorded” area being prepared with consideration of recent media news by The Ministry of Finance and Turkish National Police.<sup>41</sup> According to the report of Bedirhan Özyiğit from Gazete Habertürk, Turkish National Police and The Ministry of Finance are cooperating to conduct preparation of draft law necessitating “unrecorded” sex workers to pay 2-4 % of their incomes to government as taxes. Considering the

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39 Interview with Selda.

40 Interview with Göksu, 26 November, 2013, Ankara.

41 Related news: Gazete Habertürk, “*Fuhuş Operasyonu*” (2013), <http://ekonomi.haberturk.com/ekonomi/haber/888780-fuhus-operasyonu>

same news, draft is being prepared through Article 9 of Tax Procedure Law. Article 9 of the law says: “Prohibition of the incident bringing tax by law does not remove amenability and tax responsibility.” In other words, although sex work in “unrecorded” sphere is evaluated within the “crime” category according to government policies, it is projected for sex workers to pay tax because it is a type of income.

There are many points to criticize with regard to the mutual work of TNP and The Ministry of Finance. First of all, sex workers are continuously, arbitrarily and lawlessly punished with fines on the streets or home raids via Law on Misdemeanors or Highway Traffic Law. These fines address huge amounts going into state’s case; namely a type of “taxation” system. My second objection point is how the proportion of tax is determined; it is not possible to comprehend. The third problem about the draft is; although tax will be collected from sex workers in “undeclared” sphere, their rights as workers will not be given. On which basis state seizes some parts of sex workers’ incomes in the “undeclared” area without improving their working conditions and providing security for workers, delivering their social securities, providing necessary arrangements for all sex workers in the “unrecorded” area by describing sex work as a profession? It is not possible to understand. Definition of “prohibited incident bringing tax” that Article 9 of Tax Procedure Law mentions cannot contain sex workers in the “unrecorded” area; because sex work is not banned with laws. Lastly, an important question for the state is; when taxation with the mentioned proportions of sex workers starts to work and will arbitrary and lawless fines on sex workers by using Law on Misdemeanors of Highway Traffic Law stop? If not, doesn’t it mean double taxation of sex workers and also isn’t this situation unconstitutional? In consideration of all these evaluations, sex workers are seen as generating revenue by the state and practices which are not applied on other individuals are imposed on sex workers as a form of open discrimination.

Citizen becomes impoverished while the state is getting wealthy. Poverty turns into a more determinative aspect for daily experiences of trans sex workers. Poverty brings many other violations of rights,

social exclusion, transphobic hate assaults already being frequent, fear, psychological, physical and sexual insecurity and injustice along. In general, administrative fines imposed on trans sex workers are state's strategy of making them invisible, leave them alone with violence, blowing up social phobia towards trans sex workers, domination and control of the bodies of trans sex workers and benefiting from a social group under risk. These reasons alone reveal the necessity of struggling against administrative fines together with trans sex workers.

## **“MAN DRESSED UP AS WOMAN” or “IMMORAL IDENTITIES”: Criminalization of an Identity by the Government**

In this section that I discuss criminalization of trans identities within the context of administrative fines, I claim that the practices of police forces towards trans individuals cannot be approached solely within the scope of “preventing prostitution” policies. Trans women experience all sorts of discrimination in their daily lives particularly in Turkey. Many kinds of discrimination permanently and intensely continue targeting trans individuals from their relationships with family members or peers to schools, from business life to military service or sex work. Intensities and types of discriminations trans women experience is becoming more complex with new sorts of discriminations and discrimination becomes “fate’s labyrinth” for many trans individual.

“Specific to trans, system contemplates to eliminate all patterns threatening its own existence. Trans identity being out of conventional dichotomy of woman and man identities is labeled as “unnatural condition” with this intention. Mentioned labeling exists in every area from jurisdictional decisions to syllabi and from army practices to discourses of politicians.

Another characterization continuously brought up through the way of perceiving trans identity is “contradiction to public morality”. Considering what the system thought, having trans identity, in addition to being an ‘unnatural condition’, is a threat to ‘public order’ and ‘moral values’ which are claimed as holding society together. This threat consolidates by remembering trans women with sex work, who meets deep discrimination practices in areas such as education and employment and are obliged to practice sex work in a vicious circle and as a result are assaulted by social sense of decency.”<sup>42</sup>

Above is my explanation of which dynamics accompany social

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42 Kemal Örddek (2012), “Hate Crimes towards Trans Individuals in Turkey”, Hate Speech and/or Hate Crimes, compiler: Yasemin İnceoğlu, Ayrıntı Yayınları, İstanbul.

hate towards trans individuals in my article for the book called Hate Speech and/or Hate Crimes compiled by Prof. Yasemin İnceođlu. As I mentioned in the quote, being trans is perceived as a problem by institutions of the system with regards to threatening social values. As a consequence of this perception, trans identities are treated as “immoral” identities both in the point of views of the society and the political power. Therefore, this cannot be tolerated for the establishment or continuity of “social order”!

Administrative fines appear as an intimidation method against both trans identities becoming visible and the existence of sex work which is a sector associated with trans identities. In addition to prevalent transphobia, face of institutional discrimination as an element consolidating and popularizing social hate comes to light with administrative fines. State discriminates and increases unjust treatments.

In 2010, two trans sex workers on Bađlar Street in Ankara were arbitrarily stopped by the police and they wanted to impose fines through Law on Misdemeanors. When trans sex workers indicating arbitrariness of this practice asked the justification of fines, the answer was “you are being transvestite”. This incident shows that state sees sex work identical with the concept of “transvestite” which represents an identity. On the other hand, “transvestitism” is a crime and this crime is a reason for punishment according to the mentioned policemen. Polices’ perception of sex work and “transvestite” as inseparable nictitates at the discrimination trans women systematically come across in employment areas except sex work on the one hand, manifests the intent to punish trans identity along with “preventing sexually transmissible diseases infecting through prostitution” on the other. In other words, trans identities are being criminalized and operation to discredit an identity and accordingly a social segment is being held.

A suitable example of administrative fines being an intentional “lynch” operation for trans sex workers in particular is the practice known as “bonus system”. Famous practice called “bonus system” is associated with former İstanbul Provincial Police Chief Hüseyin Çapkın. When he had been the chief of police in İzmir previously,

“bonus system”, which had caused police suppression of trans sex workers to increase, was started to get practiced in İstanbul as well after Çapkın’s appointment to İstanbul. Trans sex workers previously had been taken into custody by the police to write fines while practicing sex work at nights, were harassed, taken into custody, received fines this time during daytime when eating at a restaurant, shopping in a market, having their hair done at a coiffeur or sitting at a café. This practice had decided to give no respite to sex workers. This system, as being not designed to be practiced only within the hours they work but designed to damage their whole daily lives, had transformed into a “witch hunt” with custodies and fines. Trans women no longer could go out and could walk without feeling fear.

In a period bonus practice was at peak, an interview of Radikal with trans activists Ebru Kırancı and Demet Demir clearly reveals what “bonus” practice causes:

“Last day, they were taking a friend out of the grocery store. In the past, they had been taking while hitchhiking in relation to Law on Misdemeanors. Now it is reflected in everyday life. There is no right to live. We are afraid of going out on the streets now. If there is a police officer in a uniform, we try not to pass in front of him. They impose fines via Article 37 but people don’t walk around in night-work clothes. Many of our friends are being taken from side streets but police write down the name of main street in the report like they were there. These fines used to be written in the night while hitchhiking in the past. Not like this, in the daytime. Most of our friends do not have social security. Do not have money either. I know a person that received fines nine times. I wore long-sleeved shirt in this hot weather. I didn’t wear tank top to maintain a low profile.”<sup>43</sup>

“Many friends are mentally depressed. They are caged at houses. Is walking on the street or shopping a misdemeanor? They imposed fines on two friends and wrote ‘men walking around dressed up like

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43 Interview with Ebru Kırancı, Radikal, “Çapkın’dan İstanbul Polisine ‘Travestiyi Eve Hapsetme’ Bonusu”(2009), [http://www.radikal.com.tr/turkiye/capkindan\\_istanbul\\_polisine\\_travestiyi\\_eve\\_hapsetme\\_bonusu-955056](http://www.radikal.com.tr/turkiye/capkindan_istanbul_polisine_travestiyi_eve_hapsetme_bonusu-955056)

a women' in the report.”<sup>44</sup>

In the period when bonus system practices were intensely discussed, another disgrace was added to the history of Istanbul Police Department; a “score card” discovered at Department of Preventive Duties. One page document representing a photo of “Departments of Preventive Duties Score Card” which had been indicated as taken at a police station in İstanbul started to be seen in social media within the first half of the year 2012. This document was an indicator of declaring trans society and trans women as criminal by the state via using police forces. “Trans identity” or “sex worker women” who are not classified in the category of crime/criminal by Turkish Penal Code are illegally announced as “criminal”. Beyond being announced, being harassed continuously by the police with claims of crime, experiencing administrative fines, experiencing maltreatment which is one of intimidation tactics of police became daily experiments with this “card” and “bonus system”.

Statements “transvestite” and “known lady” exist as they are seen explicitly in the mentioned score card. Points varying from 10 to 20 are foreseen to be given to commissioned officers in return of “catching” persons in both categories. The point to take into account is that mentioned phrases express identity of a specific social group or profession rather than a criminal act. In other words, being “transvestite” is a crime according to this score card and they must be caught! Similarly, being “known lady” also constitutes crime and accordingly the police must take legal action against these persons! Apart from both categories, we also see the expression of “law on misdemeanors” at the bottom of the score card. Since the relevant code, as I mentioned before many times, is systematically enforced on basically trans and non-trans sex workers, the police taking action against “transvestite” or “known lady” most probably via Law on Misdemeanors have higher points. So policemen who catch and

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44 Interview with Demet Demir, Radikal, “Çapkın'dan İstanbul Polisine 'Travestiyi Eve Hapsetme' Bonusu” (2009), [http://www.radikal.com.tr/turkiye/capkından\\_istanbul\\_polisine\\_travestiyi\\_eve\\_hapsetme\\_bonusu-955056](http://www.radikal.com.tr/turkiye/capkından_istanbul_polisine_travestiyi_eve_hapsetme_bonusu-955056)

take action against “transvestite” or “known lady” are “rewarded” as a result of raising scores. These practices and perspective are a total scandal. In strong state of law that guarantees human rights, it is not possible for policemen to use that kind of broad authorities, which are not encouraged by law, against members of social groups at risk. However, both this score card and long standing practices of the police show that law and human rights do not exist for trans and non-trans sex worker women in Turkey.

In 2012, the Republican People’s Party (CHP) İstanbul deputy Melda Onur tabled a motion on aforesaid “bonus system” and score card for Minister of the Interior İdris Naim Şahin to reply.<sup>45</sup> In the concerned parliamentary question, Onur asked questions like whether the mentioned score card is in practice, how the scoring system works, relying on which legislation Ministry of the Interior define “transvestite” as crime, what the term “known lady” refers to and what the extent of Law on Misdemeanors is. Answers to these interrogations came from İstanbul Governor Hüseyin Avni Mutlu. Mutlu stated that policemen in charge do not act arbitrarily during the practice of “bonus”, no procedural act is practiced on transvestites/transsexuals unless they get involved in procedural events, no investigation is held on them because of their sexual “choice” and if traffic and highway safety is in danger legal actions are taken on persons no matter they are transvestites or not.<sup>46</sup>

The reply of Hüseyin Avni Mutlu not only accepts “bonus” practice but also expresses that this practice is a legitimate and “functional” one. Similarly, the question of “relying on which legislation the identity of “transvestite” is determined as a crime” was not answered. Regarding this question, only allegation of “jeopardizing traffic safe-

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45 For CHP İstanbul representative Melda Onur’s parliamentary question; <http://www2.tbmm.gov.tr/d24/7/7-4219s.pdf>

46 Report on the reply of Hüseyin Avni Mutlu for Melda Onur’s parliamentary question: Agos, “*Polis Puan Cetvelindeki ‘Bilinen Bayan’ Terimi Resmi Olarak Açıklandı*” (2012), <http://www.agos.com.tr/haber.php?seo=polis-puan-cetvelindeki-bilinen-bayan-terimi-resmi-olarak-aciklandi&haberid=1452>

ty” is used and it is stated that “people’s sexual ‘choices’ are not an interrogation element”. Considering the answer as a whole, state stated the obvious.

Governor Mutlu’s answer to the parliamentary question reminded me the reply of Ankara Provincial Police Chief of that period to my question at a meeting I personally got involved. In that contact, when I specified that practices of Law on Misdemeanors had become a lynching campaign, the answer I received was that: “Our police don’t practice discrimination against the people expressed as transvestite. However, don’t expect us to tolerate prostituting transvestites.” In response I mentioned that almost all trans women are pushed to prostitution because of discriminations they encounter in various areas and accordingly making a distinction between “trans” and “sex worker” became difficult, a reckless glance was my only answer. State shortly declares that: “Don’t get involved in prostitution and we do not touch you.” This response represents that every sort of lawless and arbitrary practice against sex workers is accepted as legitimate in the presence of the state. Likewise, it is an indirect statement of targeting almost all trans women through the claim of “fighting with prostitution” will continue. Since trans women will proceed working in sex industry as long as social attitude and policies towards trans stay the same.

Another example of state overtly aiming at trans identity is a decision taken by İzmir Konak District Police Department on November 4, 2006. Decision is like that: “Within the context of our works towards people called transvestite and ending all negativities that they cause; 5 different places detected as being used solely or mutually by transvestite people and lady people were closed according to the commission decision and these people were precluded, practices of referring to commission were held for 5 district places and closing will be held soon; within the scope of our works gaining momentum recently, the district is cleaned from these people to a large extent but, as an indicator of our present stability and for securing peace and safety of the local community by precluding transvestite people who still exist in the area, ladies prostituting, glue-sniffers/thinner-addicts, persons

called psycho who try to settle in the area at nights and other people coming to the area in relation to transvestite people, conducting an extensive IMPLEMENTATION is decided by creating fixed holding points and charging Motorized Units and Foot Patrols on the points and mentioned routes in enclosed everyday between 21.30 and 02.00 starting from Saturday, November 4, 2006 until a further order is made.”<sup>47</sup>

Similar with the previous examples, authority determined keeping “transvestites” under control even if they don’t commit an offense as its duty and introduced its power towards this. This practice does not have legality, for sure. Spying individuals continuously just because of their trans identities and inspecting them, closing the streets of houses they live or work for entries and exits, confining their freedom of travel and action are practices that are arbitrary and lawless as well as stigmatizing, othering and inhuman. These practices are the ones to control trans sex workers spatially by the government and intimidate them. Unfortunately, trans sex workers still experience practices of the police based on intimidating and discouraging because of their sexual identities or sexual expressions.

During the interviews with trans sex workers, I obtained information about the police going to sex workers working on the streets and asked id numbers of them within several months in various cities. Some of my interviewees confirmed that the police came to them and asked their id numbers while they were waiting for customers on the street. Afterwards, I asked other interviewees from other cities whether they experienced such situation in order to comprehend what this practice corresponds to. Trans sex workers, who state that they encounter such practice of security forces in specific districts of the cities like İzmir, Mersin, İstanbul and Antalya, said that they have to work with question marks in their minds. These questions are scary for trans sex workers who have never experienced such practices before because some of them think that the police may impose administrative fines via Law on Misdemeanors or Highway Traffic Law without even visiting them. One of trans sex workers who was

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Human Rights Report of LGBTTT Individuals 2009,  
LGBTTT Rights Platform, p. 30.

asked for their id number, got this answer when they asked the police why: “We receive your id numbers because we want to be quick to protect you when something happens to you”.<sup>48</sup> It is obvious that this response is not satisfactory. Since police going to the members of a specific social group and asking their id numbers without any reason can simply be understood as “profiling”. When there is no judicial case or reasonable doubt, policemen going to sex workers and demanding their id information is not within the authority of the police. We do not know whether the incident is profiling or happened to impose fines without informing the individuals but it is apparent that the practice is unethical and unlawful. Analogue of the strategy of security units to keep trans sex workers spatially under control in İzmir which is mentioned in the above paragraph can be seen in the practice of demanding id information that appeared in various cities recently.

## **IMPUNITY AND LAWLESSNESS IN THE PENALTY PRACTICES: “Police Thinks Himself as God and does not Listen to You”<sup>49</sup>**

In this chapter, I will mention police forces’ attitudes towards trans sex workers during penalty practices and lawlessness examples from their implementations. Such a governmental practice towards trans sex workers either through initiatives of police forces or as a result of the decisions of struggle against prostitution committees or via Law on Misdemeanors or Highway Traffic Law is open to the cases of exploitation and violence, misconduct and power exceeding at any rate. Majority of my interviewees state that they object the practice of administrative fines in principle but police created its own law beyond these practices so they became seriously aggrieved. In other words, trans sex workers feel discomfort because of arbitrary practices of the police apart from administrative fines that are imposed by taking advantage of Law on Misdemeanors.

Foretated authority of police forces while practicing through Law on Misdemeanors or Highway Traffic Law is stopping the person, stating the crime act to the individual, making out a receipt to him/her in where the act occurred as mentioned in the Code and release the person. There is no authority apart from these and every counter practice is an example of lawlessness. When we look at the implementations towards trans individuals in Turkey in general, unfortunately the situation represents that police exceeds power and malpractice and the cases they exploit individuals many times are not exceptional but systematical.

Most of the interviewees say that penalty practices are a means of “retention” or “depriving of freedom” for the police. Ideally, police forces should release the person after making out a receipt to him/her who is claimed to practice a criminal act. However, in many cases, the police take sex workers to police stations they work for and retain them for few hours to handle a practice which normally must take few minutes. Time matters for a sex worker since every minute

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49

Interview with Cemre, 14 January, 2014, via phone.

lost means losing a customer. The police, by taking them to the police stations, “cuts their connection” with streets, limits their freedom and performs an implementation which isn’t mentioned in the Code. In short, police represents an example of lawlessness. Lawyer Soner Tanrikulu from Antalya tells these regarding custodies: “Law on Misdemeanors isn’t different than traffic ticket. I mean, they stop you on the street, announce the crime act, prepare an official report on it and fine on this report. This is what has to be done indeed. However, this is applied towards sex workers like this; at first they take them into custody, take them to police stations unjustly and make them wait for a long time there. Documents are being prepared in three, four hours and after all they impose fine and release.”<sup>50</sup>

“One night when I was on the streets again, police came and make me get in the car by force. Maybe you know, there is a part like cage at the backside of police cars where they huddle criminals. They call this coop. They came and put me in coop by force, took me to the police station. One of them assaulted me for saying their acts are lawless. That night, I stayed at the station at least for 3 hours.”<sup>51</sup>

In addition to being retained lawlessly by the police, interviewees mentioned that they had been exposed to maltreatment by the police when under custody. They stated that they had been insulted and encountered humiliating speeches all the time by the police when they stopped them and put in the car, during the time in the car and at the police station. Trans sex workers continue to experience social exclusion and humiliation extremely by the officials of the state as well. This circumstance demonstrates trans sex workers, who have to work in unsafe and risky areas, are subjected to “unsafe” conditions by the police, who must “give a sense of security” in ideal conditions, as well. For most of the time, the police become primary practitioner or encouraging actor of violence.

“One night, a policeman that had imposed administrative fine on me

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50 Soner Tanrikulu, “Police, Take Your Hands Off My Body!”, March 3 Sex Work Symposium Book (2013), p. 27.

51 Interview with Sevda, 15 December, 2013, Ankara.

before came to me and wanted to make me get in the car again. I did not and started to scream because I couldn't take it anymore, can there be penalty each and every night? I shouted 'this is injustice' and I said 'you can't do it'. He took out his baton and started to strike in the middle of the street and in front of everyone's eyes. Other policeman also came and started to assault me. People around reacted then they stopped. I was lying in a pool of blood. They took me to the hospital, I stayed there for a week. Police beat me and left. They didn't start proceedings."<sup>52</sup>

Related to police's negative attitude towards sex workers, attempt to take into custody without reason, detaining, preventing freedom of travel, this dialogue between a trans sex worker and the police wanting to take them into custody in Fatih, İstanbul:

“Trans sex worker: What is going on? What did I do?

Police: .....

Trans sex worker: Show me a reason, what did I do that you're taking into custody?

Police: Don't cause any trouble!

Trans sex worker: Leave me, I am going home. It is not right for you to do this.

Police: You will come with us to the police station.

Trans sex worker: Why? Give me a reason. I am citizen of Turkish citizen. Not an enemy. There are a lot of people walking on the street. Did I kill someone? Tell me my crime.

Police: You are endangering traffic.

Trans sex worker: (showing people on the same pavement) These walking here are putting traffic in danger?

Police: (turning to the other cop) Call in for back up.”<sup>53</sup>

As is seen in the above dialogue, policemen did not answer any reasonable question of trans sex worker who wants them to show a reason. The victim states that she is also a citizen like others and asks on what basis walking on the streets can be accepted as crime but police do not answer. The arbitrariness and lawlessness of the practice is shown through this dialogue. The police calls for back up, make trans sex worker get in the car by force and accordingly represent why administrative fine practice is a violence for trans sex workers.

As one can see in the mentioned incident, the police don't avoid committing violence against trans sex workers reacting administrative fines. Police officers, who can't tolerate even a verbal reaction, do everything to take trans sex workers' money made with various efforts during all night. They intimidate trans sex workers reacting to this lawlessness with violence. Many trans sex worker stay silent to be taken to the police station in order not to be subjected to police violence. That is to say, trans sex workers frightened with violence hope to finish procedures immediately and go out on the streets again. This violence threat appears as an extremely intense deterrence tool. Some of my interviewees state that police demand bribe from them. Policemen, who say that otherwise they won't let them work on the streets again, demand bribe in addition to present continuous administrative fines.

Another lawless practice is not giving receipts of fines to trans sex workers in many cities and districts recently. This situation creates a lot of problems. In accordance with the law, receipts of imposed fines must be prepared and given to the person. The police oppose to the law. At the same time, people who commit the crime have the right to object to the criminal courts of peace within 15 days by delivering a request, receipts of fines and id card. Policemen limit trans sex workers' access to justice by not giving them the receipts. Trans sex work-

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In order to watch the full dialogue: Youtube, “*Trans Kadının Polisle Mücadelesi – İstanbul/Fatih*” (2011), <http://www.youtube.com/watch?v=sxxwblcehf8>

ers, who do not have the receipts of fines imposed on them, can't object to penalties and it causes the penalty to become validated. In other words, the police both impose fines in a lawless way and seize the objection right of victim by not delivering the receipts. Along with this objection, making a denunciation about these cops through power exceeding or misconduct is possible with this receipt which has the names and registration numbers of these police officers on it. So the police wrap themselves up in a sort of "immunity" shield by not giving the receipts to trans sex workers. The state acts as an accomplice with officials.

"I've paid 7.000 TL to the tax office until now and I still have to pay a few thousand. The weird thing is I don't have any of the receipts of these penalties. State sends me these fines as a whole via mail after months of the practice. One day, the bell rang, I opened the door and saw lots of notifications on payments of a bunch of fines. I do not even know that these fines were imposed."<sup>54</sup>

"Police stop us while swinging, take our id cards, impose fines, leave. But do not give us receipts. We learn how much they impose on us when we ask to the tax office. They started to impose 90 TL lately, it was less before. If I am citizen, I must learn how much fine I should pay on what grounds directly from the cops."<sup>55</sup>

There is another interesting point regarding receipts made out by the police; there writes "prostitution" as the reason of crime act on official report prepared via Law on Misdemeanors. This situation that we encounter in many cases is the proof of unlawfulness. "Prostitution" does not exist as a crime act within Law on Misdemeanors. To be more precise, "prostitution" is not a listed misdemeanor in any article of Law on Misdemeanors. Notwithstanding, I encountered this expression on administrative fine receipts that trans sex workers had showed me. The term "prostitution" as a crime act appears in some of the receipts delivered to Red Umbrella Association as well. "Prostitution" that isn't evaluated as in the category of crime even in

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54 Interview with Merve, 15 December, 2013, via phone.

55 Interview with Sevtap, 10 December , 2013, Ankara.

Turkish Penal Code, is thought as a crime although there is no article in Law on Misdemeanors and expressed openly in penalty practices. Lawlessness of this situation needs to be emphasized.

While 5 trans sex workers were driving in their car on Bağlar Street in Ankara in 2010, a patrolling police car pulled out in front of them and stopped them. The police claimed that they warned them to stop but trans sex workers declared there was no such a thing and that police suddenly came and stopped them by cutting in while they were moving. When they asked the police on what grounds they had stopped them, police did not represent any reason and said that they would take them to the police station. Trans sex workers, as a response to this illegality, did not get out of the car. Many trans sex workers and human rights activists came to the venue at around 23.00 to support reasonable attitudes of trans sex workers as a reply to this lawlessness. A group in which I was involved, tried to talk to the police officer trying to take action, mention that there is no legal basis of what they were doing and say that their attitudes must change. Number of police officers, which had been 4 at the beginning, increased to 60 in half an hour. Policemen assaulted us, blackjacked and sprayed tear gas on us without any warning. Afterwards, they took trans sex workers who had been in their car into custody by assaulting.<sup>56</sup>

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56 This incident became visible to many international and local institutions with the campaign of Pink Life Association. Press releases were held at home, many legists supported victims during the lawsuit process. Numerous local or international LGBT non-governmental organizations send letters to the concerned authorities in Turkey, protested police violence. For the letters of ILGA-Europe, COC Netherlands, Human Rights Watch, Global Action for Trans Equality and IGLHRC sent to Minister of Justice of that period, Sadullah Ergin, and Minister of the Interior Beşir Atalay; <https://iglhrc.org/content/joint-letter-turkish-officials-upcoming-trial-pink-life-activists>. After this event, Europe Parliament Intergroup on LGBT Rights also prepared a letter to Minister of Justice Sadullah Ergin and Minister of the Interior Beşir Atalay. For statements of Ulrike Lunceke and Michael Cashman, co-chairmen of Intergroup of that period on the issue: <http://www.lgbt-ep.eu/press-releases/turkey-harsh-police-violence-against-trans-activists/> ILGA-Europe examined the incident in detail by visiting the victims in Ankara and prepared a report on it. For

Trans sex workers, who had been assaulted badly during the incident, made an allegation by expressing that the police misconducted, exceeded their authority and use violence against them. As a response, policemen that had maltreated made a counter-allegation as well towards sex workers with the claims of “insult”, “resisting to prevent the duty” and “damaging public goods”. Perpetrator policemen who didn’t get enough with this, visited shopkeepers in the district and forced them to make an allegation as well. When allegations of trans sex workers ended with dismissal of charges, allegation made by perpetrator policemen turned into a lawsuit in about ten days and 3 mistreated trans sex workers were punished at the end of several sessions. One of trans sex workers was condemned to imprisonment of 18 months and the announcement of the verdict was deferred. Another trans sex worker was punished with 6 months of imprisonment and the announcement of the verdict was deferred. The last mistreated trans sex worker was punished with 5 month of imprisonment and district court did not defer the announcement of the verdict for this person. As consequences of the objections made, file of the last mistreated trans sex worker is now being investigated at the supreme court.

In trials of the lawsuit brought against 3 trans sex workers in consequence of criminal complaint of police officers who are perpetrators indeed, we astonishingly watched the “symbolic” violence in prosecution period of jurisdiction. One of the policemen who had been recognized as complainant in the second trial of the case, declared as “there is public compliant about transvestites”. Hakan Yıldırım, lawyer of 3 trans sex workers, who were standing there as defendants but were the injured party indeed, stated to the judge that if there was such a complaint, it must have been proven with the recordings of police radio. However judge, by shocking the people there, expressed in meaning that the police do not need public complaint to “take” “transvestites” and rejected this demand. As is seen, trans sex workers, who had been stopped in a lawless way, whose freedom of

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the statement of ILGA-Europe: [http://ilga-europe.org/home/news/latest/ilga\\_europe\\_s\\_statement\\_on\\_the\\_recent\\_incident\\_of\\_police\\_violence\\_against\\_trans\\_activists\\_in\\_ankara](http://ilga-europe.org/home/news/latest/ilga_europe_s_statement_on_the_recent_incident_of_police_violence_against_trans_activists_in_ankara)

travel has been taken from them without declaring a reason, who had been tragically assaulted by the police and whose criminal complaint had ended with dismissal of charges despite all these unjust sufferings encountered overt transphobia of the jurisdiction additionally and it is stated by a judge that even if there is no complaint about them, they can be taken into custody by the police because of being “transvestite”. This manner and judgement ratifies the police for “transvestite hunt”. Case result shows that every arbitrary and unlawful act of the police towards trans sex workers is promoted.

There is an important point to take into consideration; deferment of the announcement of the verdict. This situation is solely a problem for sure because similar decisions are being made in other legal cases. According to this decision, if “suspected” ones commit the same “crime” within five years after announcement of the verdict, there will be definite judgement on them this time. In other words, if they resist the police again because of lawless and arbitrary fines, if they don’t keep their mouth shut and seek their rights, they will meet with the imprisonment. This means one thing: “You are guilty for seeking your rights and you will be punished if you continue to seek.” This situation causes trans sex workers to panic and not to proceed the search of justice and the arbitrary practices of police to end up with impunity. Judgement supports and promotes the unfair practices of the authority.

Police officers filing a criminal complaint with irrelevant claims against an allegation made against themselves by the injured parties are now a familiar scene for Turkey. This tactic became a method for the aims like making the sufferers withdraw their statements and criminal complaints. So the police withhold the right of access to justice, which is a basic right, from the injured by threatening them in a way through public power. Many trans sex workers were threatened and they abstained from making an allegation against policemen after a crime they committed because of this reason. The incident on Bağlar Street in Ankara in the year 2010 shows us how the police file a criminal complaint against the sufferer via the relevant articles of Turkish Penal Code and try to frighten the sufferer. As a

consequence, 3 trans sex workers, whose one and only action was to lie on the ground to protect their physical integrities and not to be harmed against 60 policemen, were punished with tragicomic claims like “damaging public property”, “insult” and “resistance to prevent duty”. TPC became a tool for punishing the victims, not the criminals.

Increased authority of the police with the changes in Law of Police Powers effectuated in 2010 apparently raised the abuse of rights implied by the police towards various social groups across Turkey. In an environment in which practices of the police can be performed in an uncontrolled way, verbal opposition against malpractice of the police nearly became impossible, rights of the police to use force and weapon strengthened, increased police violence against trans sex workers, as one of the most defenseless parts of the society, stands in front of us as a reality. In such an environment where resisting lawlessness of practices of the police whose authorities were increased with Law on Police Forces became impossible, police violence through Law on Misdemeanors or Highway Traffic Law became easier. It is better to evaluate incidents like the one on Bağlar Street in Ankara in 2010 with this perspective.

As I mentioned before, trans sex workers, that the police took action against via Law on Misdemeanors, can file an application to Penal Court of Peace if the receipts were given to them by the police during the action. However, the judgements of courts on objections for avoidance of these punishments unfortunately vary. Regarding two objections after two identical practices via Law on Misdemeanors, one court may reverse the judgement with a positive confirmation while another may reject the objection.<sup>57</sup> In other words, there is no coordination or mutual viewpoint related to the same practices between court boards. This situation causes jurisprudences contradicting each other. That kind of judgements cause trans sex workers

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57 For the report on annulment decision about administrative fine imposed on a trans sex worker: Muhelif Gazete, “*Travestiye Ceza Yargıdan Döndü*” (2013), [http://www.muhalifgazete.com/haber/58783/travestiye\\_ceza\\_yargidan\\_dondu.html](http://www.muhalifgazete.com/haber/58783/travestiye_ceza_yargidan_dondu.html)

not to trust justice and after some time, injured parties thinking that they will not obtain results for this penalties, renounce seeking their rights. In a report of Amnesty International dated 2011, these statements about objections against administrative fines take place:

“Objections of lawyers on that sort of penalties resulted differently. In some cases, judges canceled fines because of the lack of proofs to practice punishments whereas in other cases, judges rejected objections based on statements of the police although there was no evidence. Many trans women stated that they are no longer paying the fines and don’t prefer to object because of the frequency of penalties. Not paying debts resulted from fines cause them to face the risk of imprisonment and lawsuit. These debts, at the same time, prevent trans women from declaring residence because of the fear of execution, opening a bank account, shopping with credit cards and accordingly continue daily life activities.”<sup>58</sup>

Indeed, some of my interviewees stated that they no longer trust the justice, courts rarely decide on canceling the verdict even if they object so they choose not to object. Trans sex workers having debts amounted to thousands of liras expressed that they registered their own houses to kinsmen, their bank accounts had been blocked, their money was collected from their bank accounts and accordingly they have their hands tied as a result of these debts out of fines.

“I just went to a bank for bank credit to cover one of my urgent needs and they told me that they can’t give me a loan. When I asked why, they said that my accounts were frozen. I encounter that sort of problems because I have debt amounted over 10.000 TL. How can I pay it? I have to work more on the streets but at the moment when I am out on the streets, the police take me to the police station and fine this time. I really do not know what to do.”<sup>59</sup>

Trans sex workers are not the only victims of systematic penalties. Before this study, I witnessed that the customers of sex workers also

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58 “Not an Illness nor a Crime”: Lesbian, Gay, Bisexual and Trans People Demand Equality, p. 15.

59 Interview with Eda, 6 December , 2013, via phone.

had suffered many times in this vicious circle. This unjust suffering is neither on the agenda of human rights activists or society nor on the agenda of majority of the people advocating trans sex workers' rights in particular. However, to me, imposing fines also on customers is a manifestation of a strange policy in the recent years. Regulation, which has been in effect in Scandinavian countries like Sweden since 2003, requiring "punishment for the customers of sex workers",<sup>60</sup> increased its effect in various European countries, Far East Asia, some states of the USA and many African countries since the beginning of the 2000's. According to the model called Sweden Model or End Demand Model, decreasing the demand of sex work is the most efficient and significant way to end sex work. So punishing the clients of sex workers but not sex workers is essential to "end prostitution".

Imposing fines also on the customers of sex workers is definitely seen as a way of frightening them for not buying sexual service again. So the aim may be seen as deterring the clients. However, I insist on the claim that this is being done to obtain a high income from third parties who are in contact with sex workers in "underground" sex work area. When on streets or other places or during home raids, police officers impose fines on trans sex workers along with their customers via Law on Misdemeanors.<sup>61</sup>

Apart from these penalties, interviewees stated that clients are

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60 For detail information on the legislation requiring penalty for customers, briefing document of Global Network of Sex Work Projects (NSWP) called "The criminalization of clients": <http://www.nswp.org/sites/nswp.org/files/Criminalisation%20of%20Clients-c.pdf>

61 Administrative fine practices towards clients started in many cities recently. Not just customers of trans sex workers but also clients of non-trans sex workers have been taking their share. For a report on this matter: Erzurum Ajans, "Erzurum'da Kadına ve Erkeğe Para Cezası" (2010), <http://www.erzurumajans.com/3619-erzurumda-kadina-ve-erkege-para-cezasi.html>

exposed to humiliating treatment by the police when caught. I frequently hear the stories of insulted, assaulted and fined customers.

“The police raided my home and imposed fines on both me and my boyfriend. I told them that he is my boyfriend not a client, they did not believe. Luckily, they didn’t make an allegation on him by claiming that he sells me. I know such cases. Then you become guilty when you are not.”<sup>62</sup>

“When I was on çark and having koli<sup>63</sup> with me, the police insulted and smacked him. He continuously humiliated by saying things like ‘are you faggot, having your ass fucked, aren’t you ashamed of yourself?’ Afterwards he imposed fine amounted to 90 TL on him as well. We always talk about lubunyas but our kolis are also having trouble with these fines.”<sup>64</sup>

Another interviewee states that the police accepts bribe from the customers walking in the area that they wait for clients and some policemen threaten the clients to call their families and leave them alone only when they take bribe from them.

“Honey, they ask sharp questions to customers in the alleyways. They hassle and threaten them. They say things like ‘I’ll call your family if you don’t give me money’ or ‘I will show you up at your workplace’. Some of the customers are married and have a family so they give all the money they have to the police and then they leave without visiting us.”<sup>65</sup>

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62 Interview with Cemre, 14 January, 2014, via phone.

63 “Koli” means “client” in sub-culture language Lubunca which trans sex workers speak.

64 Interview with Sevda, 15 December, 2013, Ankara.

65 Interview with Okşan, 27 December, 2013, through phone.

What trans sex workers that accepted to interview with me show that a group which is not related to Law on Misdemeanors and not accepted as criminal via Turkish Penal Code is also arbitrarily and unlawfully suffered. Buying sexual service is not a crime in Turkey and a decision of struggle against prostitution committees ordering policemen to fine doesn't exist as far as we know. Besides, even if there would be, the legality of this decision would be seriously discussable. Perhaps, fines imposed on the clients of trans sex workers is one of the best example of how the police arbitrarily practice Law on Misdemeanors. Similarly, statements of trans sex workers pointing that the police threaten and mistreat customers and take bribe from them should be evaluated within the other legislations the police depend on and the perpetrators should be punished as necessary.

While state is limitless at the point of lawlessness and arbitrariness through the police forces, it proceeds all sorts of oppressions towards trans sex worker women as well and increases their victimizations via practices of the government. On one hand, irregularity and misuse of the law come into question and efforts to reach justice against arbitrary behaviors of police forces during penalty practices are limited and prevented by threatening or contra-allegations as is mentioned in the previous sections. Policemen committing a crime become "sufferers", sufferer trans sex workers become "guilty", perpetrators are rewarded with impunity.

## **THE POINT WHERE ADMINISTRATIVE FINE PRACTICES GET: Violence, Poverty and Sexually Transmitted Infections**

Although struggle against prostitution committees give authority to practice Article 32 of Law on Misdemeanors to police forces with the claim of “struggle against sexually transmissible diseases transmitted through prostitution” and police forces use Articles 36 and 37 of Law on Misdemeanors as a method for “ending prostitution” towards sex workers, daily life experiences of trans sex workers present the consequences are contrary to these aims. Similarly, although fines are extremely arbitrarily imposed via Highway Traffic Law on trans sex workers who wait for customers on the streets or in their cars, “ending prostitution” that the authority aims doesn’t exist. That sort of policies and practices, as not being interested in the needs of trans sex workers and the data on the field, are fed with social hate and anger towards trans sex workers. Approach to the issue of sex work with a “moralistic” and conservative understanding causes the authority to become distant from the construction of “public order” and “public health” that it aims to reach.

As I expressed with examples with the previous chapters, the period of administrative fine practices appears as the period reflecting transphobic social approach against sex work which police forces fed themselves with. The police with authority and weapons bring up their hates towards trans sex workers through discretionary practices and direct institutional hate to trans sex workers exactly as it is. Periods in which trans sex workers are subjected to police violence appear continuously as mixed with administrative fines. For example, trans sex worker who is the victim of police violence experience this situation because of resisting administrative fines or verbal objection. An important

part of interviewees and police violence cases that reached Red Umbrella Association state that they were assaulted by the police because they have rejected arbitrary practices of the police. Especially when we think that Law on Misdemeanors is being used to discourage and even lynch trans sex workers, we can easily claim that police violence is an organic extension of practices of the police through the relevant code. Both trans sex worker and the police, who plans to impose fine on trans sex workers via Law on Misdemeanors, know that violence will be on the agenda during the practice. Violence transformed into a systematic hateful practice, beyond being an element of deterrence and frightening.

Regarding the institutional violence against trans sex workers in particular, there is no detailed work. However, there are studies which LGBT non-governmental organizations or non-governmental organizations working on sex workers conducted by focusing on more general issues and containing examples of police violence against trans sex workers as well. What concerns me in this study is how police violence during fining processes is reflected to trans sex workers. According to the report of Lambdaistanbul LGBTTT Solidarity Association called “İt İti Isırmaz”: Bir Alan Araştırması – İstanbul’da Yaşayan Trans Kadınların Sorunları (“A Dog Won’t Bite Another Dog”: A Field Research - The Problems of Trans Women Living in Istanbul) published in 2010, 105 out of 116 (90,5 %) trans women stated that they had been subjected to violence by police forces. Similarly, 107 of interviewees (92,2 %) expressed that they had been insulted, humiliated, harassed by police forces. 70,7 % of interviewees of the same study declared that they had suffered sexual violence by police forces.<sup>66</sup> According to

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“İt İti Isırmaz”: Bir Alan Araştırması – İstanbul’da Yaşayan Trans Kadınların Sorunları (2010), p. 25, 29.  
64 Yasayla “Cinsel” Münasebet: Seks İşçilerinin Adli Karşılaşmaları,

the report of Pink Life Association prepared in 2009 and called Yasayla “Cinsel” Münasebet: Seks İşçilerinin Adli Karşılaşmaları (“Sexual” Intercourse with the Law: Judicial Encounters of Sex Workers), 69 of 77 people who connected the association contacted with them with the reason of violence between the years of 2008 -2009. 63 out of 69 (81 %) people stated that they had encountered with violence of police forces.<sup>67</sup>

One of my interviewees, Göksu, referred “sledgehammer team” which has been being mentioned in Ankara for years, had caused great distress for trans sex workers in the first years of practice and proceeds oppression via administrative fines in the recent years. “Sledgehammer” is unit that I had confronted in the sex workers’ environment I am familiar with for years, trans sex workers’ environment that I work with and through the information I received during rights advocacy process and experiences mentioned in human rights reports.

A media report dated 15 August 2001 expresses that “Sledgehammer” was formed to “defusing transvestites”.<sup>68</sup> In the report, it is stated that Hasan Yücesan, who had been nominated as Ankara Chief of Police, wanted Public Security Branch Office to conduct a work on “transvestites” and the generated formula was to establish a special unit which “has melee experts on the sports like taekwondo, judo or karate and every equipment including tear gas in order to defuse transvestites.” Trans sex workers I interviewed with and activists interviewed with the media reported that policemen working for Sledgehammer Team had been systematically torturing trans sex workers and left them out of the cities and “unsafe” places before Law on

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p.14.

67 For relevant report: NTVMSNBC, “*Travestiler İçin Balyoz Timi*” (2001), <http://arsiv.ntvmsnbc.com/news/100005.asp>

68 For the relevant report: NTVMSNBC, “*Travestiler İçin Balyoz Timi*” (2001), <http://arsiv.ntvmsnbc.com/news/100005.asp>

Misdemeanors went into operation.<sup>69</sup> They also mentioned that these practices started to rarefy after the year of 2006 that trans sex workers started to get organized but this time, violence in the cities was combined with administrative fines through the changes of Law of Police Powers and the effectiveness of Law on Misdemeanors.

“On the 1<sup>st</sup> of November in 2008, when I got out of my car near Hoşdere, a white Ford Transit came up to me. They tried to take me into custody. I asked the reason. Then I asked ‘How can I know that you are a policeman, can you show me your id?’ They neither showed their ids nor told me the reason and they gripped my arm and took me into custody without even letting me take my id from my car. After driving around for half an hour, they took me to Kavaklıdere Police Station and told me that they were going to fine in accordance with Law on Misdemeanors. They shut me up when I said that getting out of my car is not a crime. Afterwards they asked me my identity information and I said ‘If you let me, I can go and take my id card from my car.’ However, they didn’t let me. They took us to Esat Police Station because computers of Kavaklıdere Police Station didn’t work. After our id information was verified, they told me ‘Be quiet man!’ while in the car to go back to Kavaklıdere Police Station. I replied: ‘You have no right to talk to me like that. I am a Turkish citizen, I carry the pink identity card that TR gave me and I am a woman, do you think yourselves as superior than women?’ He shouted to me: ‘Shut up man, don’t talk!’ When I said ‘Why shouldn’t I defend myself? Of course, I will’, he said ‘Fuck you, man! We see you as the way God created, were you born as a woman, man?!’ When I responded as ‘I am a woman, no matter what you say’, the driver one stopped

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For the related news: Radikal, “*Behzat Ç.’ye Balyoz’dan Sen mi Bahsettin?*” (2012), [http://www.radikal.com.tr/turkiye/behzat\\_cye\\_balyozdan\\_sen\\_mi\\_bahsettin-1076749](http://www.radikal.com.tr/turkiye/behzat_cye_balyozdan_sen_mi_bahsettin-1076749)

the car and assaulted me in the car. He damaged my hand, tore my hair and hit me on my back. He was attacking both verbally and physically while doing these. At Kavaklıdere Police Station, they fined through Law on Misdemeanors. I asked for my document, he said ‘There is no document for you, you will file an appeal then they will send it to your address.’”<sup>70</sup>

Sharp differences can be detected in the practices of Sledgehammer Team particularly in Ankara in 2008 mentioned above. For instance, the point in question was an intense wave of violence against trans sex workers waiting for clients in their cars or as pedestrians, Sledgehammer practices are becoming effective in the areas where trans sex workers are not organized or organized but have less strong relationships with the ones who are aware of their rights. Similarly, Sledgehammer Team frequently aims at pedestrian trans sex workers on “çark” while it targets the ones in their cars less.<sup>71</sup> Nonetheless, it must be stated that, no matter in which district or as pedestrians or in cars, trans sex workers resisting Sledgehammer Team verbally or physically because of the lawlessness of practices have been being subjected to police violence continuously. Victims reached to Red Umbrella Association or my interviewees stated that penalty practices of Sledgehammer Team still contain ill treatment and all sorts of discretionary practices.

Practices of Sledgehammer Team sometimes cause violence indirectly. All trans sex workers in Ankara that I interviewed

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70 Interview with Fulden, 3 November, 2008, “*Yasayla ‘Cinsel’ Münasebet: Seks İşçilerinin Adli Karşılaşmaları*” (2009), p. 17 – 18.

71 Information on what kind of practices in which specific districts of Ankara Sledgehammer Team has especially wasn’t included in this study. The reason is that trans sex workers in every area are known by Sledgehammer Team and I want to prevent them from becoming target as a group through the sufferers’ statements.

with mentioned that they had been mistreated by physical violence and arbitrary practices of Sledgehammer Team once or more than once. Similarly, we can see that even creating Sledgehammer Team is a message for trans sex workers and this message is related to encouraging, destroying, committing violence against and impoverishing trans sex workers. So trans sex workers announced even the existence of Sledgehammer Team as a form of violence. For example, one of my interviewees trans sex worker Melda said, “To me, even the existence of Sledgehammer is an example of violence. We are scared of Sledgehammer come and take us or fine us every night on the streets, we cannot work.”<sup>72</sup>

Trans sex worker Melek is telling her story of breaking her leg while escaping from Sledgehammer one night; “One night, I saw Sledgehammer on the street again. I am tired of this, every night a new penalty. It turned out that I only work for paying the debts. So I started to escape not to pay this fine. While running, I fell because of my high heels and I broke my foot. When I was on the floor in pain, Sledgehammer came and imposed a fine on me.”<sup>73</sup>

Not only Sledgehammer Team but practices of the police towards trans sex workers across Turkey, we see violence committed against trans sex workers or that trans sex workers become victims of violence because of the nature of practices. In some cases, we know that the police don’t end lynching attempts towards trans sex workers that penalties couldn’t prevent from going out on the streets and even become the provoker in some instances. So police’s careless attitude towards gangs, that were formed to “racketeer” or “destroy” sex workers with a “moralistic” motivation, push trans sex workers into the mid-

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Interview with Melda, 28 November, 2013, Ankara.

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Interview with Melek, 26 November, 2013, Ankara.

dle of violence and cause us to become witnesses of serious violence cases.

We also witness that trans sex workers, who are tired of arbitrary penalties and custodies of the police in the city, are moving to work in less safe parts of the city. It is a reality that this situation causes trans sex workers, who are already working under risk at any circumstance, to be exposed to gang or customer violence more. While trans sex workers are justifiably escaping from practices of the police, they are being tested through their rights to live in the middle of gang or customer violence because of the absence of the police.

Wherever they work, trans sex workers want to agree with their clients immediately and leave not to be fined or attract the attention of patrolmen or other units imposing fines. This condition creates a lack of time that sex workers negotiate with customers or get to know them in order to escape from discretionary practices of the police. When a car stops in front of them, trans sex workers look at the client and try to understand whether he has risky attitudes and try to guess whether there is a risk of violence by examining. That kind of pre-measure is not possible on the streets where the police wait continuously. Trans sex workers, who quickly agree on the price with their customers and get in their cars or take the clients into their own cars for not becoming visible to the police, are becoming more open to customer violence.

Administrative fine isn't a tool for "cleaning the streets" and detaching trans sex workers from the streets as police forces claimed but it is a method forcing them to work on the streets for longer hours. As mentioned before, trans sex workers have to stay on the streets for longer hours to regain the imposed fines and these longer hours return them as more violence. Trans sex workers who stay longer in sight of the police experience more

police violence, fight against lynching attempts and threats of the gangs and exposed to customer violence more.

There is one more point on the relationship between administrative fine practices and violence. That is; fines impoverish trans sex workers by the state discriminating overtly and the possibility of this poverty to indirectly become violence within the group. In other words, administrative fine practices transform into poverty and poverty transforms into violent acts of trans sex workers towards each other. There have always been incidents between trans sex workers working in a specific area and the ones who are new in that area which resulted with physical violence and even severe injuries. In addition to having no other alternative and economic burden on trans sex workers that system created, fines imposed by the police drive them into debt. This turns out to a desire for keeping the number of their clients, accordingly their incomes, fixed. Conflicts between newcomer sex workers or the ones who change their working place and the ones who have been working in that area should be comprehended by considering this economical background. Similarly, some examples emerged like strengthening relationship between trans sex workers and the gangs who plan to earn money on trans sex workers or some trans sex workers and gangs using violence together against other trans sex workers whose income is higher. While the state continues to subdue trans sex workers economically, it also examines them with violence through its practices which can possibly cause them to fall out with each other.

In short, administrative fine practices aren't a rational method to reach "public peace" or "public order" ideals of both police forces and struggle against prostitution committees. Practices of the police progressing through administrative fines increase police, gang and customer violence against trans sex workers. At the same time, they cause rising judicial incidents among

trans sex workers as well. In addition, other citizens in the areas where trans sex workers work are disturbed with increasing visibility of physical violence. This disturbance generally improves as public disturbance towards trans sex workers. So, if an attack to a trans sex workers is made in a street or a fight starts, there is a dominant perception saying that “it’s because of transvestites”. Shortly, what is being constituted is not “public order”, it is “violence order” along with “income order” and “the last victim” is again trans sex workers.

Administrative fine practices of the police are also the ones complicating trans sex workers’ examinations on sexually transmitted diseases. One of the interviewees stated: “Will people think of using a condom while striving against all sorts of violence on the streets?” I am not surprised at this but I am scared. Since if majority of trans sex workers are pushed to think that way, there must be a serious problem related to sexually transmissible diseases. When I jumped on by saying “You say that but both violence and diseases harm your body at the end,” she said, “When you are subjected to violence, you die immediately but if you have HIV, at least you have few months.”<sup>74</sup>

I know that the most parts of what Niran said to me in this interview are staggering for the reader. Majority may ask how she can think that way. However the reality of life is hidden in these statements. Every time trans sex workers go out on the streets, they think whether they will be able to return home. There is violence outside and in such an environment filled with violence, “advice” on sexually transmissible diseases is perceived as a very arrogant attitude. As is mentioned in the previous paragraph, we know that penalty practices of the police push trans sex workers into violence environment, that Niran expressed, in many ways. In this violence environment, we have difficulty

in encouraging them to use tools like condoms to protect sexual health which is the second urgency (for most) after the right to live before presenting them a guarantee on their rights to live. System not just put trans sex workers into a violence spiral but also risks their sexual health.

In order not to deal with patrolmen and be fined, trans sex workers cannot find the time to negotiate on condoms generally. Sex workers who want to decide on the price and leave the street immediately without being caught by the police, stay in a defenseless position towards their customers. Similarly, trans sex workers driven into debt accept the offers of non-protected relationships many times in order to pay their debts to the state and have difficulties to struggle against sexually transmitted infections. In addition to this, as I mentioned above, many trans sex workers who encounter sexual assaults of the police, gang members or customers, continue to have a lot of problems regarding sexual health in this environment of violence which is created by penalty practices. What an interviewee told me is shocking: “One day, the police called me while waiting for customers on the street. He said, ‘Don’t be afraid, I won’t take you but you will have sex with me’. I refused. He got out of the car, gripped my arm and said ‘then to the police station’. I compulsorily had sex with him. I also didn’t use condom because he didn’t want to. All you want is to get rid of the police, how you can think of a condom.”<sup>75</sup> As trans sex workers, our experiences of sexual assault is unfortunately high; but when that kind of assaults come from officials, we have to be quiet with our hands tied in the most defenseless position. As Sude mentioned, you don’t think using a condom or your rights or any other thing at these moments. The only thing to think is returning “çark” without having a penalty or returning your home.

With penalty practices, the state leaves trans sex workers into violence, discrimination, poverty and death considering sexual health. In other words, it doesn't want "public order" or "public health", it wants a social group to be pushed more to the peripheries of society, become invisible, be lynched socially and economically and be destroyed. Of course, the authorities don't express all these directly; but practices until today are the perfect examples of ignoring trans sex workers and being the perpetrators of the abuse of rights. Practices encourage not "protecting the society" as is claimed but discouraging trans sex workers through all official means and leave them dead. We know that neither social peace nor public order is established without guaranteeing rights and existence of a specific social group. So all negative consequences of fine practices must be expressed more and objections must be revealed more loudly.

## **“COMMUNITY SUPPORTED” HATE OPERATIONS**

At least the last 30 years of Turkey corresponds to the date of exclusion of trans sex workers. This exclusion gained its place with the role of the state that directs, becomes the perpetrator and reinforces abuse of rights. There doesn't exist even one period of time where policemen responsible for the peace didn't practice “community policing”, held operations to “struggle against prostitution” or “assimilate” “corrupted” social groups in these exclusion period. We reached today by passing through the times of “identity killing” policy that had common justifications like “traditional moral values”, “Turkish family structure” and “national and moral values”. Many trans sex workers were killed, committed suicide, were forced to migrate, experienced injustice and witnessed “perpetrator” identity of the state during these times. In this chapter, how the recent administrative fine practices of the state appears as a natural extension of the approach to both incidents on Ülker Street in İstanbul and at Eryaman in Ankara which are obvious and bitter examples of “community supported” anti-prostitution policy and policy of destroying trans identities.

As is mentioned in the previous chapters, state's administrative fine practices towards trans sex workers has dominant economic sanctions from lynching practices with physical violence to the “despotism” of the exile. Although examples of physical violence turned into economical ones, state continues its practices including physical attacks to trans sex workers in “unsafe” areas by using policemen.

The visibility of state violence against trans sex workers became evident in the 80's. This clarity appears in the stories of trans women who experienced that times. Many “explosion” moments are never-forgotten like resistance of trans sex workers towards the police when taken to the police station after the

military coup or trans sex workers who was mostly living in Cihangir protesting as a group and walking to the police station because of the oppressions of the police.

Scenes on Ülker Street in the middle of the 90's, experiences of the witnesses, information in the work of sociologist and anti-militarist/feminist activist Pınar Selek called "Masks , Cavaliers , Gacis - Ülker Street: A Place of Marginalization" and sharings of victims which were used for some reports or news in various times stand in front of us as the proof of community supported" state violence against trans sex workers. Indeed, Ülker Street is the first example that shows in detail what tools the state used towards sex worker trans women, on which social vulnerabilities it improved strategies, how the inhabitants except "transvestites" and society "became angry" through media.

Pınar Selek tells what happened in Ülker Street with these sentences: "In fact, humanity had cried on this street. Power mechanisms had represented a collective play via the most primitive and the most developed methods. Transvestites and transsexuals had been dismissed, lynched and dragged into death by terrible shows of hypocrisy. Ash was thrown on everything afterwards and life continued as nothing had happened."<sup>76</sup> As Selek stated, trans sex workers became the victims of an exclusion operation at the end of a period which had social support or that social support had been being created by the state continuously. This operation concluded like this: "Then in İzmir, in other districts of İstanbul and lastly in Ankara Eryaman, we watched the similar scenes with the same despair. Transvestites and transsexuals that have always been excluded and landlords don't easily rent, had took refuge in Eryaman which was far from the city center. However the city expanded. Eryaman be-

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Pınar Selek, "Masks , Cavaliers , Gacis" - *Ülker Street: A Place of Marginalization*, Ayizi Yayınları, 2011, p. 22.

came a valuable income area. And just like it happened on Ülker Street, nationalist groups calling themselves ‘public volunteers’ appeared. The police came into play later on. And transvestites and transsexuals were dispersed violently.”<sup>77</sup>

According to the interview of Pınar Selek with Beyoğlu Chief Inspector Süleyman Ulusoy who was nicknamed as “Hose Süleyman” and caused great distress for trans sex workers, he “saw transvestites and transsexuals as ‘perverts’, ‘unnatural’ and ‘unreliable’ harmful elements and accordingly acted with the mentality which says that the society should be cleaned from them. However, he didn’t see this cleaning as ‘death’ but mostly as ‘isolation’, ‘suspension’ or ‘rehabilitation’...Ulusoy who didn’t join the campaign of flying a flag, was reacting more to prostitution rather than being gay and also to practicing this in sight.”<sup>78</sup>As I mentioned in the previous chapters, authority, namely the police, always state that they don’t discriminate against trans sex workers who live in accordance with ‘the social values’ and their problem is “prostitution” while it followed a policy which supports, easing and paving the way for every “cleaning” operation towards sex worker trans women.

When the authority was considering the issue that way, inhabitants of the street except “transvestites” expressed their opinions to the media within the period in which the attacks were made by stating that operations supported by the police had to continue and the street had to be cleaned from “transvestites” by any means. Güngör Gider nicknamed “Güngör Abla” who had a big role in the operation against trans sex workers, interviewed with Ekip Gazetesi on the 3th of September, 1996 and said these: “Children finally started to jig on this street they

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77 Pınar Selek, “*Masks , Cavaliers , Gacis*” - *Ülker Street: A Place of Marginalization*, Ayizi Yayınları, 2011, p.23

78 Pınar Selek, “*Masks , Cavaliers , Gacis*” - *Ülker Street: A Place of Marginalization*, Ayizi Yayınları, 2011, p.151.

missed. This was such a nice street that everyone was sitting in front of houses and drinking tea especially in summer evenings. We were visiting each other. Children were playing on the streets, having fun. This was a chirpy street. However, those characters occupied the street unfortunately, our happiness was destroyed. None of us is used to that kind of things. All of them are troublesome, men walking with them are dark people.”<sup>79</sup>

In Ekip Newspaper issued on 16 October 1996, statements of Kamil Büyükbaş nicknamed as “Mad Kamil” arouse interest: “My struggle will continue until I exterminate all of homos... You encounter a bummer and reptile at every step. Most particularly those with disorder sex who bring filth and trouble with them everywhere they go, they turned our district into a prostitution home. Our children cannot go out on the streets, our youth went astray.”<sup>80</sup>

“Beyoğlu Police”, “grey wolves”, media and “Inhabitants” of the district who flied flags at their houses, interviewed with the newspapers by using transphobic expressions, published these expressions as if they are correct, closed the entrances and exits of the street by setting tables there to prevent trans sex workers, organized all sorts of lynching attempts towards trans sex workers by lawless and illegal practices, assaulted, devastated, burned and threatened, forced trans sex workers to migrate. State finished “community supported” operation “successfully”.

The same “play” existed in Eryaman district of Ankara as well. “Honor”, “morality”, “national and moral values”, “fighting with prostitution” became slogans again and triggered “hate”

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79 Pinar Selek, “*Masks , Cavaliers , Gacis*” - *Ülker Street: A Place of Marginalization*, Ayizi Yayınları, 2011, p. 133.

80 Pinar Selek, “*Masks , Cavaliers , Gacis*” - *Ülker Street: A Place of Marginalization*, Ayizi Yayınları, 2011, p. 134.

operation against trans sex workers. Various interest groups dismissed trans sex workers from the area by lynching attempts with these arguments. Sufferer trans sex workers claimed that there are some people or groups who were perpetrators during the attacks in 2006 and the ones coming after: “men” of Ankara Metropolitan Mayor Melih Gökçek, “Team A”, “Sledgehammer Team”, “the police”, “Grey Wolves”, a firm called “Kontaş- Canberk Grup”, “inhabitants of the district”, etc. When we look at the realities of testimonies of the injured parties, media news of that time, what human rights advocates told to trans sex workers to help them and that the police never helped trans sex workers, who are the victims of intense assaults, in any way, never protected them and even involved as the actor in some cases, we can claim that the relationship of the attacks with the state and gangs is real.

Trans sex worker Esma who experienced the assaults at that time and had to move to İstanbul, says: “One of our friends had talked to one of the policemen at Eryaman Police Station, a high-ranking one... He had said that: ‘Don’t go to work in Eryaman, don’t prostitute, continue daily lives and there won’t be any assault towards you, your homes won’t be raided.’”<sup>81</sup> Esma expresses these regarding the attitude of the police during assaults: “We ran away, called the police. Police didn’t come for a long time. Afterwards they came. We mentioned what happened, they attacked again. They said ‘do the needful’ etc. However the police had no concern with it. I mean, they didn’t care, they just said some things. We stayed at a house like hostages. Attackers started to drive around even if undercover policemen had arrived. They drove near the police. We could easily see but the police couldn’t, I mean they didn’t. We

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Interview with Esma at Lambdaistanbul, “*Eryaman’da Travesti ve Transseksüellere Sistemli Şiddet*” (2006), <http://www.kaosgl.com/sayfa.php?id=113>

showed them, they still didn't see.”<sup>82</sup> What Esma told reveals that the police protects the guilty, has close relationships with perpetrators, is itself a perpetrator in some instances and joins this systematical lynching operation via state units and these coincide with what other victims mentioned.

I had opportunity to follow the lawsuit on Eryaman incidents personally. Every time when I was in front of the hearing room, I was shaking. One day when I was in front of the high criminal court room where other human rights advocates wait, I found myself right next to perpetrators' relatives. One of trans sex workers said that: “These people over there are the relatives of the perpetrators. They came to support the gang, who attacked us. At least 3-4 of them are my customers.” I said “No way” with all my inexperience that day. Then I understood that social hypocrisy continues to show itself everywhere. The situation of that people attempting to lynch trans sex workers with chop-pers, sticks and machetes in their hands are also the clients of trans sex workers gives ideas on the essence of the matter. As is in the experience stated in the previous chapter, there is no difference between the perceptions and the approaches of the police saying trans sex worker that if they have sex with him there will be no fines and of the citizen, who had sex with trans sex workers, attempting to lynch them. Trans sex workers are “sexual objects” but at the same time elements “required to be cleaned” according to this point of view. One of the victims of this viewpoint is Dilek İnce who was killed in their car in Ankara İskitler in 2008 and was the first to make a denunciation on Eryaman case. Murderers of Dilek İnce couldn't be found since 2008. When we consider the growth of Eryaman case, what had happened, statements of the victims and the fact that Dilek İnce being the first to make an allegation, it is possible to think that this homicide is related to Eryaman incidents.

An incident similar with “community supported” operations in Ülker Street and Eryaman occurred in Meis buildings in Avcılar İstanbul in the second half of the year 2012. This one differs in terms of the intensity of violence and the methods used against trans women. However, trans women inhabitants of Meis buildings were frightened, threatened, subjected to violence and their homes were sealed by the police with the reason of “prostitution”. Trans women whose homes had been sealed were pushed to streets full of violence.

For Meis Buildings case, Hürriyet Aydın, a woman inhabitant of the district took the place of “Güngör Abla” of Ülker Street. Hürriyet Aydın, who provoked inhabitants of the site, distributed notices to the inhabitants and shopkeepers with her little group she organized, overtly threatened trans women, organized “no to prostitution” protests in front of the blocks for two weeks and, after the issue had become visible, she claimed that trans women were continuously having sex in their homes via her interviews with newspapers and speeches on tv shows by saying: “We have everything proven. There is prostitution over here. All is documented. If there isn’t prostitution, why are the homes sealed? We don’t want to ruin people’s homes. There are a million of site inhabitants here to testify for me. I’ve been being threatened. Why? Because I demanded justice and told the prosecution that there is prostitution while everybody is scared.”<sup>83</sup>

What Hürriyet Aydın said doesn’t reflect the reality for sure. There are both trans women living at the buildings who say that they are sex workers and the ones engaging other professions. The main issue isn’t prostitution here; it is the existence of a “community supported” operation to take the guarantees of housing rights, immunity of domicile and rights to live from

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83 For the relevant news: Hürriyet, “*Travesti Evine Resmen Mühür*” (2012), <http://www.hurriyet.com.tr/gundem/21874460.asp>

trans sex workers through “being against prostitution”. Since “inhabitants of the site”, who went out to make an appearance every evening with posters saying “We don’t Want Prostitution in Avcılar” and “No to Prostitution”, associate sex work with trans identity by perceiving them together as the concept of “transvestite”, it doesn’t matter for them if people are sex workers or not. What really matters is, as can be seen in the interviews and protests, “cleaning the harmful”.

Another resemblance of Hürriyet Aydın with “Güngör Abla” of Ülker Street is hidden in her hypocrite relation with trans women. Trans sex workers who are the victims of Ülker Street operation stated that “Güngör Abla” had wanted to rent her houses to trans sex workers however high rentals didn’t allow it to happen. Many people expressed that “Güngör Abla” turned into a vicious enemy of “transvestites” afterwards.<sup>84</sup> Similarly, trans women at Meis Buildings mentioned that they had close relationships with Hürriyet Aydın before the events, she was always at their places at the time and even she rented one of her houses to a trans woman. Building manager of the block of locked up and sealed houses by the district governorship supported the previous claims by saying these for the interview of Akşam Gazetesi; “I don’t understand the woman called Hürriyet Aydın who is claimed as being the provoker of the events at all! This woman came and the block was slid into chaos. She’s 60 years old. She had bought a flat first and then bought two more. She both complains about them and rents one of her apartments to a transvestite. How is that even possible? I cannot understand!”<sup>85</sup>

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84 For the report of Radikal on the matter: Pınar Selek, “*Maskeler, Süvariler Gacılar – Ülker Sokak: Bir Alt Kültürün Dışlanma Mekant*”(2011), sayfa 134.

85 For the report containing referred interview: Akşam, “*Madem Bizden Rahatsızlardı, Neden Durmadan Daire Aldılar?*” (2012), <http://www.aksam.com.tr/guncel/madem-bizden-rahatsizlardi-ned->

During the process of “cleaning the harmful”, social lynching tactics were endeavored. A trans woman living at Meis Blocks, Elçin, was assaulted by birching by one of the perpetrators of Meis Blocks case called Tuğrul Selçuk.<sup>86</sup> Likewise, home of a trans woman, Sinem Karaman, living at this site was shot twice. According to the claims, perpetrator or instigator of the incident is a police veteran nicknamed “Topal İsmail”.<sup>87</sup> Two weeks later from the attack to Elçin, a trans woman, B. Ü., who had become homeless after police operations and locked and sealed homes, was assaulted and died at the hospital.<sup>88</sup>

Ülker Street, Eryaman and Mesi Buildings “operations” which I tried to mention briefly in this chapter, provide insight on the attitude of authority towards sex worker or other trans women with the support of social groups or individuals. Systematic police violence that trans sex workers are exposed to in this age is a consequence of this manner. Trans sex workers whose homes are raided continuously in accordance with the decisions of struggle against prostitution committees, immunity of residence is violated arbitrarily by the police, private lives are attacked, who are fined while at working on the streets or during home raids, subjected to maltreatment or torture of the police during penalty practices, pushed to poverty and precar-

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86 For the related news: Kaos GL, “*Meis Sitesi’nde Transfobik Saldırıları Bitmiyor!*” (2013), <http://www.kaosgl.com/sayfa.php?id=14566>

87 For the relevant news: Yeşil Gazete, “*Avcılar Meis Sitesi’nde Transların Yaşadığı Ev Kurşunlandı!*” (2013), <http://yesilgazete.org/blog/2013/05/21/avcilar-meis-sitesinde-translarin-ya-sadigi-ev-kursunlandi/>

88 For the news on the issue: Demokrat Haber, “*Avcılar’daki Transfobi Sonunda Bir Can Aldı*” (2013), <http://www.demokrathaber.net/kadin/avcillardaki-transfobi-sonunda-bir-can-aldi-h16489.html>

ity, are turned into targets of hate operations by the state with the support of the society.

In June of 2012, residents of Altındağ district of Antalya protested by saying that they are uncomfortable with trans sex workers waiting on the streets and expect a solution from the state on the matter. Inhabitants numbered about a hundred stated that “if the state doesn’t do anything, we’ll stand guard with sticks in our hands”. One of the inhabitants of the district, Süleyman Uçak, expressed that: “They have sex even in the cars. Summer has come and we cannot sit in our balconies. When we say something, they swear. We also went to the police station and they said that they did everything they could. Our policemen are working late every night. Who sees the police car vanishes. The police impose fines on the ones they caught. When the police goes away, they appear again.”<sup>89</sup>

In May of 2013, this time, shopkeepers and citizens in Karabağlar district of İzmir delivered 200 signatures they collected to the governorate and the district governorate because of the complaint on “number of transvestites”. Organizer of the event, Fethullah Öznur made a statement of protest like this: “As a citizen, I will bring the issue of transvestite to the parliament and to everywhere if needed. I will not give up the struggle. As local community, we are extremely uncomfortable...We cannot sleep, our psychologies are damaged.”<sup>90</sup>

As is seen, wherever you go across Turkey, “inhabitants” are on the alert to protest trans sex workers. This condition of “staying

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89 For the relevant news: En Son Haber, “*Mahalle Halkının Travesti İsyanı*” (2012), <http://www.ensonhaber.com/mahalle-halkinin-travesti-isyani-2012-06-05.html>

90 For the relevant report: Son Dakika, “*Mahallelinin Travesti İsyanı*” (2013), <http://www.sondakika.com/haber/haber-mahallelinin-travesti-isyani-2-4588085/>

on alert” has the possibility of lighting the fuse of a dangerous tension. Social reaction, that the conception of “prostitution” provoked and “moral structure” is shown as a reason for it, cause citizens to go out on the streets and squall to the police. This squall is the one appeared to hold a “cleaning operation”. Considering above instances, we all can see that that sort of demands provide social legitimacy for all types of lawless and arbitrary practices of the police towards trans sex workers. Trans women are becoming targets through “prostitution” and trans sex workers suffer from “community supported” police operations or rather “hate” operations adorned with fines.

## **INSTEAD OF EPILOGUE:**

### **“Unbearable Charm of Attacking Trans Sex Workers” and Demands**

Despite all arbitrariness, lawlessness and injustice that are mentioned in various parts of this book as well, administrative fine strategy of police forces continues. As I mentioned before, administrative fine practices are not only a penalty issue, on the contrary, they are a matter of violence, poverty, discrimination, ill-treatment, social exclusion and unearned income. On one hand state, by imposing fines on trans sex workers, “fights with prostitution” as police forces or struggle against prostitution committees declared to the public many times or as is mentioned in the relevant decisions, it pushes trans sex workers into poverty, indirect discrimination types, violence and death on the other hand. While there are huge amounts of input for the state through penalties, trans sex worker is becoming indebted to the state and indeed, state pushes them to the streets because of this debts, in other words, it “panders” them. State gets an enormous amount of unearned income over trans sex workers who works in the “unrecorded” sphere. State proceeding to obtain this income, also creates new strategies to “tax” them for getting income of trans sex workers working in the “unrecorded” area.

Administrative fine practices don’t aim at solely trans sex workers. As is mentioned throughout this study, non-trans women sex workers, men sex workers or the clients of sex workers are also suffering continuously because of these practices. While this victimization means abuse of rights for the majority of sex workers, it means continuous income obtained from a social group numbered above a hundred thousand for the state. “Fighting with prostitution” opens ways for the state to practice “recorded” “robbery” in the “unrecorded” sphere. When they

announce the public, in a populist way, that the struggle against prostitution continues, sex workers are being given no chance, practices continue for a society having “moral values”, the support of the society is being consolidated and sex workers are pulled into an enormous debt. “Robbery” continues not only in “recorded” ways and with legal justifications but as bribes at the same time. State income is “being fed” with administrative fines and bribes in sex work area that it calls “unjust income” or “forbidden by religion”.

It will be right to connect the situation of brothels that were closed with various reasons in the 2000’s with state’s desire of obtaining income in “unrecorded” sex work area. During this process, sex workers who had worked in these brothels before are pushed to the streets, they were continuously discouraged by the police through penalties, they were pushed into illegal networks and these networks are bribing the state. In short, the state is being drawn into unbearable charm of attacking sex workers via “unrecorded” area. On the one hand, state leaves a group, which it wants to “clean”, dead and it searches ways to get richer on the other hand.

Considering all these realities, it is obvious that regulations in accordance with the requirements of trans sex workers in particular and all sex workers in general are needed to be done. Seeing the sex work issue within a “moralist” viewpoint or through “avoiding-based” precautions means the continuity of problems which are mentioned throughout the whole book. Constitution of “public health” or “public order” is not possible in this way. Authorities must hear the needs of sex workers and give up the practices and policies labeling this fraction. For a state seeing sex workers as “criminal”, neither developing solutions that are suitable for its own perspective nor helping sex workers is possible. So it needs to address remarks to sex workers, hear their problems and make regulations according

to their requirements.

Administrative fine implementations towards trans sex workers and violations of rights relevant to this implementations is directly related to the existing legislation surrounding sex work. So the available legislation that approaches sex work issue form the perspective of protecting “public moral” or preventing sexually transmitted diseases must be changed according to the demands of sex workers. Sex work, apart from the topics of child abuse and human trafficking, must be decriminalized in all extents. Sex work must be identified as an occupation and worker rights of sex workers must be secured. Safe working conditions far from violence must be provided for sex workers. Brothels must stay open, their physical conditions must be enhanced and improvements considering premium payments, pension rights and working hours of women working there must be actualized. The number of improved brothels must be increased for sex workers to work safely. By diminishing discriminations, opportunities must be created for trans women and men who carry blue identity cards to work in these houses with consideration of their needs as well.

Home raids and closings must be ended. Administrative fine practices must be finished and the statements in Law on Misdemeanors and Highway Traffic Law that give wide interpretation authority to the ones in charge must be changed. Broad authorities given to the police through Law of Police Officers must be delimited in order to prevent violent and discriminative practices of police forces against social groups that it sees as opponents or targets depending on its own moral criterions. Articles containing the statements aiming sex workers and causing arbitrary control of the authority over sex workers like “mediating”, “finding a place”, “pandering”, “immodest acts” and “vulgarity” must be removed in Turkish Penal Code. Similarly, Code for Struggle against Prostitution and Sexual-

ly Transmissible Diseases must be modified according to the needs of sex workers and the articles of Public Health Law that target sex workers via various practices must be removed. In short, legislation provisions surrounding sex work are needed to be saved from having a punitive viewpoint. Every legislation targeting sex workers with different occasions, debarring them from basic human rights and legitimizing discriminative practices must be changed and reconsidered to protect human rights of sex workers.

Apart from the issue of sex work, trans people must be accepted as equal citizens. The notions of sexual expression and sexual identity must be added as non-discriminatory bases to the “equality” article of the new Constitution. Similarly, an antidiscrimination legislation must be prepared to prevent discriminative practices that trans individuals have been experiencing in all areas, the conceptions of sexual identity and sexual expression must be counted as the non-discriminatory bases within this legislation. Additionally, a hate crime legislation must be created to struggle against hate crimes which have been systematically targeting trans individuals and the phrases of sexual identity and sexual expression must appear overtly in this code as non-discriminatory bases. Whole legislation that concerns trans people as individuals and as a group must be reconsidered and changed.

Education programs for the police, judges and government attorneys must be designed by considering the requirements and human rights of trans sex workers and the demands of non-governmental organizations working in this area. Investigations on policemen committed violent acts towards trans sex workers must be conducted actively and perpetrators must be punished as necessary. Efforts to give trans sex workers, who work in the unrecorded” area, a new economic burden by preparing new proposals must be ended. Mechanisms to support trans

sex workers, that are victimized in the violence environment that penalties pushed them, must be cheap and available for the sufferer. Accumulated debts of trans sex workers as a result of lawless and arbitrary practices must be removed. Practices meaning blacklisting trans sex workers by the police must be finished immediately.

Our most significant power to overcome the difficulties is the synergy that trans sex workers and all sex workers have revealed together until today. Sex Workers' Rights Movement and Trans Movement that gain strength sometimes and decline at times came to these days by struggling against oppressive methods towards themselves improved by the state. It will be like this in the future as well. Sometimes through press releases, protests, sometimes in court hallways or via publications like this one or sometimes with "güllüm"<sup>91</sup>... Every sort of problem means a new opportunity and a new struggling strategy and trans sex workers are used to struggle. The indication of our victory is that we are conscious of that every day of our lives is already a struggle.

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91 It means "*friendly conversation, making fun of something*" in Lubunca that is a sub-culture language of trans sex workers.