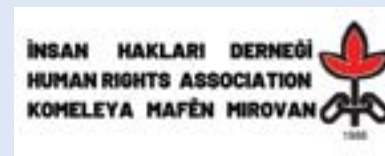


# Situation report on discriminations against women in Turkey



## INTERNATIONAL AND REGIONAL INSTRUMENTS

CEDAW and Optional Protocol

1986

Signature

2000

Optional protocol signed

Council of Europe Convention on preventing and combating violence against women and domestic violence (known as Istanbul Convention)

2012

signed

2014

Ratified

2021

Withdraw

Protocol to the African Convention on the Rights of Peoples (known as the Maputo Protocol)

Not Applicable

International Covenant on Civil and Political Rights

2000

Signed

2003

Ratified

International Covenant on Economic, Social and Cultural Rights

2000

Signed

2003

Ratified

## MAIN OBSTACLES TO GENDER EQUALITY DE JURE AND DE FACTO



The withdrawal from the Istanbul Convention is the culmination of global attacks against human rights in general, and women's and LGBTQ+ rights, and equality in particular. Turkey's attempt to withdraw from the Convention is estimated to have a domino effect in some countries where the Convention is already being contested.



A decreasing lack of accessibility and information on contraceptive methods, abortion and all SRHR services.



Lack of education on gender equality in the curriculum and the banning of the term 'gender' in the Turkish legislative framework.



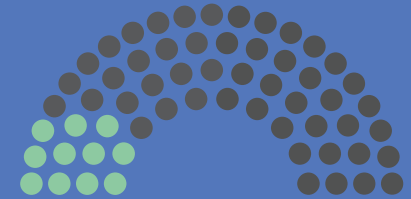
No comprehensive legislation on preventing discrimination, no parity law, no regulations on some widespread forms of VAW such as stalking, forced marriage or digital violence.

# Did you know?

## RECOMMENDATIONS

- Turkey needs to develop holistic VAW policies and re-sign the Istanbul Convention again without delay.
- Law No. 6284 must be implemented effectively, monitoring/evaluation mechanisms must be developed, and their results must be shared.
- Support and instigate data collection concerning the situations of vulnerable groups in Turkey such as migrant women, women with disabilities and the LGBTQ+ population.

**17,40 %**  
Proportion of seats held by women in national parliaments

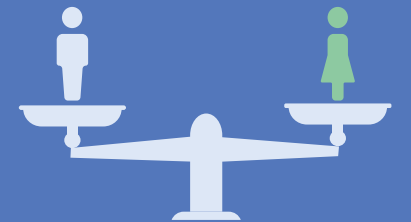


**9,98 %**  
Gender pay gap (OECD only)



**Near-equal rights**

Inheritance rights for widows and daughters



**31,84 %**  
Female labour force participation



Prevalence of gender violence in lifetime (% women)

**38%**

\*Source: Gender global gap report 2022:  
<https://www.weforum.org/reports/global-gender-gap-report-2022/>

# Legislative framework

## International conventions

Turkey is a state party of the CEDAW since 1986 and signed the Optional Protocol in 2000. The last periodic review (8th UPR) was completed in 2022, following the Concluding Observations of the CEDAW Committee published in July 2022. In 35 years, there remain some serious gaps in the process. There is no comprehensive legislation on preventing discrimination, no parity law, no regulations on some widespread forms of VAW such as stalking, forced marriage or digital violence.

Turkey signed the Istanbul Convention in 2012 without any reservations and the Istanbul Convention entered into force in 2014. However, in March 2021, Turkey unconstitutionally withdrew from the Istanbul Convention without a parliamentary debate and without wider consultation with civil society, including women's groups and women human rights defenders. Turkey's first and only GREVIO Evaluation Report was published in October 2018. In this Report, the GREVIO Committee identified a series of priority issues and urged Turkey in particular to strengthen the co-ordinated response to violence against women by comprehensively addressing all forms of violence covered by the Istanbul Convention, improve the co-ordination, monitoring and evaluation of policies, collect segregated data in administrative and judicial process, facilitate victims' access to compensation during legal proceedings and strengthen the participation of women's NGOs in policy development and implementation.

Turkey has signed and ratified many of the main international human rights treaties, except, the Convention for the Protection of All Persons from Enforced Disappearance. Next to its withdrawal from the so-called Istanbul Convention, the only UN human rights treaty in which Turkey is not a state-party is the Convention for the Protection of All Persons from Enforced Disappearance.

Turkey signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 2000 and ratified both in 2003. Also, Turkey signed the International Convention on the Elimination of All Forms of Racial Discrimination in 1972 and ratified it in 2002; signed the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in 1988 and ratified it in the same year; signed the Convention on the Rights of the Child in 1990 and ratified it in 1995 and signed the Convention on the Rights of Persons with Disabilities in 2007 and ratified it in 2009.

## Constitutional equality

According to Article 10 of the Turkish Constitution titled Equality Before the Law, "Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds. Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. Measures taken for this purpose shall not be interpreted as contrary to the principle of equality".

Although Article 10 prohibits discrimination on the basis of sex (the strict term used in the Constitution), and guarantees substantive equality between women and men, it does not list sexual orientation or gender identity as a prohibited grounds for discrimination. It is therefore a deliberate exclusion. When the opposition parties put forward a proposal to include sexual orientation and gender identity to article 10 under the constitutional amendments made in 2012, this proposal was rejected by the AKP government through hate speech.<sup>1</sup>

Such deliberate exclusion from constitutional protection makes lesbian, bisexual and trans women more vulnerable towards discrimination and violence, and it also provides impunity to perpetrators of discrimination, violence and hate crimes committed against LBT women.<sup>2</sup>

## Civil and familial rights

The revised Civil Code which came into effect in 2002 with the vigorous support of women's movements in Turkey placed a clear emphasis on gender equality. The Turkish Civic Code is secular and based on equality between women and men. In parallel to the amendments made on the Civic Code, the Turkish Constitution was also amended with a more gender-neutral perspective. In this context, Article 41 of the Turkish Constitution guarantees that "the family is based on equality between spouses".

In Turkey, **women have the same political and civil rights as men.** Women have equal rights to property acquired during the marriage after divorce. Similarly, there is no difference based on sex in

inheritance rights. The minimum age for marriage in Turkey is 18, regardless of sex, although exceptions are allowed for marriages at the age of 17 with the approval of the parents and, in exceptional circumstances, at the age of 16 with the approval of a judge. However, women are not entitled to use their pre-marital surname after marriage; they can only use their husband's with an option only to keep their name as a second surname. Similarly, women cannot give their own surnames to their children. Although the CEDAW Committee has systematically urged Turkey to repeal this un-equal legal basis in its periodic review reports, Turkey did not yet take any action on this issue.

Finally, in the Turkish Civic Code there is a "waiting period" for women which obliges them to wait 300 days before remarrying after divorce.

## Political rights

**The right to vote is guaranteed and accessibly for women in Turkey since 1930.** However, there is no specific parity law or quota system in participation to political life in the Turkish legal system.

## Sexual and reproductive rights

According to the Population Planning Law no. 2827, abortion on demand is legal up to 10 weeks in Turkey. The law also requires spousal consent for married women to have an abortion and parental consent for those under the age of 18. The consent of pregnant women with mental disabilities is not sought, but rather

the consent of their guardian and permission issued by a magistrate are required for an abortion. If the pregnancy is a result of sexual assault, the abortion time limit can be extended up to 20 weeks if supported by a judge's decision. Article 100 of the Turkish Penal Code foresees up to one year of imprisonment for women who terminate their pregnancy after 10 weeks of gestation. Similarly, the person who performs the abortion after 10 weeks, faces two to four years of imprisonment according to article 99 of the Penal Code.

In the Turkish legal system, **marriage may solely be conducted between different sexes**. There is no recognition for any other relationship forms, including partnerships or same-sex relationships. However, same-sex conduct is not criminalised in the Turkish Penal Code.

## Laws on gender-based violence/violence against women

Following Turkey's ratification of the Istanbul Convention, a major step forward in Turkey's response to violence against women was the enactment in 2012 of Turkey's central piece of legislation on violence against women, namely, Law No. 6284 on the Protection of Family and Prevention of Violence against Women thanks to the feminist movement's enormous effort in Turkey. The Law No. 6284 on the Protection of Family and Prevention of Violence against Women entered into force on 20th March 2012 following the ratification of the Istanbul Convention to make domestic law comply with the Istanbul Convention. This **Law No. 6284 aimed to prevent violence against women and protect women, children, family**

members who are exposed to violence or in danger of violence, and victims of stalking, and regulates the measures to be taken to prevent any violence from being directed against them. Thus, it is a prevention law rather than a criminal law, which aims to provide vital and instant protection measures for victims and to quickly stop perpetrators of violence without the need to go through the criminal law system; in other words, to report the violence before the prosecutor's office or the Court.

The Law 6284 defines "violence" as "acts which **result or will probably result** in people having physical, sexual, psychological and financial sufferings or pain and any physical, sexual, psychological, verbal or economical attitude and behaviour which include the threat, pressure and arbitrary violation of person's freedom as well and conducted in social, public and private space". In this regard, the Law 6284 recognises multiple forms of violence, which are not criminalised under the Turkish Penal Code. The measures that can be implemented under the Law 6284 may include removal of the perpetrator from the shared home, or the interdiction to approach the victim and refrain from arriving at their house or workplace. This law also gives a framework for the provision of services such as shelters, financial aid, and psychological and legal guidance services for the victim. Nevertheless, the law 6284, is not adequately implemented, or wrongly implemented, as discussed under section 2.d. below.

**In reality, the Turkish Penal Code is far from providing a comprehensive criminal perspective on combatting violence against women.** For instance, in the Turkish Penal Code (TPC) there is no specific and separate crime on VAW, domestic violence

or discrimination based on gender. Accordingly, the TPC does not contain a definition of VAW or domestic violence or discrimination. Additionally, although psychological and economical violence is recognised in Law No. 6284, they are not criminalised as such in the TPC. Hence, one of the main issues in the TPC is that general provisions are applied in VAW and domestic violence cases without a gender-based perspective which considers unequal power relationships based on gender.

### Recent amendments in the Turkish Penal Code:

On 12 March 2022, some provisions of the TPC were amended. With the amendment, the crimes of deliberate killing, deliberate injury, torture, and threat “committed against women” are regulated as a qualified form which engenders a higher punishment. Although it may seem positive at first glance, it should be noted that there is still no definition of VAW, and VAW is still not regulated as a separate crime within TPC. In other words, the amendments do not differentiate VAW and crimes committed against women, and consider bodily harm that occurred as a result of violence against women and, for instance, a car accident, as the same. Furthermore, no regulation was introduced regarding psychological violence or economic violence to which women are frequently and systematically exposed.

## Economic and social rights

**There is no legal basis for discrimination against women in terms of economic and social rights in Turkey.** The Turkish Labour Law obliges employers to prevent violence against women at work under the Turkish Labour Law. The Turkish Labour Law also prohibits discrimination based on sex<sup>3</sup>.

in employment. Under the Labour Law, employers incur sanctions if they set lower wages based solely on the sex of the employee. In addition, sex, marital status, family responsibilities, pregnancy and childbirth cannot constitute justified reasons for the termination of women’s employment.

## Vulnerable and/or marginalised populations

**There is no anti-discrimination law in the Turkish legal system;** and there is similarly **no legal protection for vulnerable groups**, or protection against hate crimes. The only provision is Article 10 of the Turkish Constitution which says “all individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. (...) No privilege may be granted to any individual, family, group or class”.

This indicates that sexual orientation, gender identity, age, refugee status or health condition are not included in protection grounds.

# De facto discrimination

## Civil and familial rights

Although Turkey has an equal civil and familial rights code, **non-implementation or mis-implementation of national legislation regarding existing rights and freedoms is deepening**. In this context, courts still allow child marriage due to legal proceedings such as “adjustment of age” and a regulation allowing child marriages “to be allowed in emergencies” leaving children’s rights unprotected. Barriers hindering access to alimony are created for divorced women and their children, who live in poverty, and alimony amounts are reduced. Civil courts regard men, engaging in acts of violence, and women, failing to fulfil their traditional roles, as being equally at fault in divorce cases, leading to sexist distribution of labour and the crime of VAW is ignored.

## Political rights

In Turkey, **limited participation of women in political and public life** demonstrates the systematic nature of the ongoing gendered exclusion. Turkey’s rankings in international indices are clear indicators of the gravity of the situation. Turkey ranked 133rd in 156 countries on the Global Gender Gap Index and 114th in political participation<sup>4</sup>. Indeed, in 2022 the ratio of women parliamentarians was 17.24%, the number of women ministers was only 1, and there were only two women governors across 81 provinces (4.72%)<sup>5</sup>. There are no special measures to ensure the political participation of women with disabilities and the participation of the LGBTQI+

population remains marginalised in politics and is never put on the political agenda.

## Sexual and reproductive rights

Although abortion is legal in Turkey, practically it is **almost impossible to access**. In practice, pro-natalist policies have highly restricted access to abortion and SRHR services in the last 20 years. Access to abortion is subject to de facto restrictions and prohibitions.

According to research conducted by the Kadir Has University in 2021<sup>6</sup>, only 10 hospitals out of 295 in Turkey offer abortion services on demand without any restrictions. Another research conducted by the Purple Roof Women’s Shelter found that only 2 out of 37 public hospitals in Istanbul provided abortion services<sup>7</sup>. Access to contraceptive methods has decreased in the latest years, and the problems with regards to access to SRHR services have increased with the pandemic. Contraceptives are not accessible and contraceptive methods are not provided by primary health services.

There is no comprehensive sexual education nor education on gender equality provided in the official Turkish curriculum. On the contrary, school directors who have tried to provide these educations to their students are faced with administrative inspections.

## Laws on gender-based violence/violence against women

As constantly stressed by feminists in Turkey, and reaffirmed by the GREVIO, the main problem in combatting gender-based violence is the (mis)implementation of law 6284, the main law on prevention of Violence against Women. Since it is the only domestic law which the Istanbul Convention had constituted a legal foundation for, following the withdrawal decision, the previously existing implementation challenges have worsened.

Women are not effectively protected even though they are protected by the Law 6284. In 2021, at least 33 women who had protective measures under the Law 6284 and/or filed a criminal complaint before the courts, have not been effectively protected by the state, and were murdered<sup>8</sup>. Women who apply to law enforcement to report violence are misinformed, or not fully informed about their rights. Women are pushed to reconcile with perpetrators (mostly their husbands) and go home without taking any action. In some cases, women are rejected by the police and misdirected to the prosecutor's office, by saying that they are not authorised to apply the Law 6284. There are several cases like Özlem Dursun's, who was killed by her husband, in spite of the fact that she had called the police on the same day through the Ministry of Interior Affairs' KADES (Women' Support) app, and after staying in the police car for an hour, was convinced to return to her house and her abusive husband.

It is also observed that family courts and police are reported to

refrain from ruling on protective and preventive measures or for the extension of these measures following the withdrawal decision. For instance, a court in Ankara had granted a protective measure to a woman in 2020 and extended it once already, but the next application for an extension was arbitrarily rejected after the withdrawal from the Istanbul Convention. Also, there has been an observed, practical increase in women being asked to provide evidence of the violence, contrary to the Law 6284. Shelters and hotlines are inaccessible for women (lack of awareness, not being able to access via phone) and do not provide proper information and support. Services provided are reported to be insufficient, misleading, slow and often put women at further risk.

As a systematic deficiency, Turkey does not collect gender-segregated data. The unavailability of judicial data on investigation, prosecution and sentencing of perpetrators of criminal offences constitutes a serious obstacle to monitor cases and the implementation of laws by law-enforcement agencies, prosecution services and courts.

## Economic and social rights

**Women's low level of labour participation** remains one of the biggest structural problems. Women's account of employment in the total market is only 28%. Of this percentage, 19.5% of employed women work part-time. This rate is considerably higher than that of men (9.3%)<sup>9</sup>. Women are mainly employed informally and in low-profile jobs that do not require professional qualifications. Only 30.3% of women benefit from social security<sup>10</sup>. There are no specific measures in place to increase employment for disabled women and other vulnerable groups.



## Vulnerable and/or marginalised populations

There is no anti-discrimination law or any specific protection against hate crimes in the Turkish legal system. In fact, in Turkey, **hate crimes against LGBTQI+ individuals are awarded with impunity**. Especially after the withdrawal from the Istanbul Convention with a direct hate speech towards LGBTQI+ individuals, attacks on the basic human rights of LBT women and LGBTQI+ individuals, has dramatically increased. It is even more worrisome that the government targets the very existence of the LGBTQI+ community in its reasoning since it is a clear indication that hate and discrimination towards LGBTQI+ individuals have now become official state policy.

In addition, disadvantaged groups/populations who are subjected to intersecting forms of discrimination, such as women with disabilities, migrants and elderly women, are also denied the enjoyment of their fundamental rights and freedoms, and crimes against them are often met with impunity. No specific/segregated data is kept for these intersecting forms of discrimination in Turkey.

Furthermore, the most problematic part in the TPC is about the sexist interpretation and implementation of “the grounds for discretionary mitigation” (known by the public as the ‘good conduct mitigation’) (article 62) and “unjust provocation” (article 29). **Article 29 of the TPC** on unjust provocation establishes as a general mitigating circumstance if the offence was committed “in a state of anger or severe distress caused by an unjust act”. An unjust provocation reduces by one to three quarters the penalty. In practice, courts apply unjust provocation reduction from a very sexist perspective in favour of the perpetrator.

In addition to unjust provocation mitigation, “discretionary mitigation” (article 62) is another obstacle in the judicial struggle against VAW. This article regulates the grounds on which judges may mitigate penalties at their discretion. These include the background, social relations and the behaviour of the offender during the trial, and the potential effects of the penalty on the future of the offender. In practice, having a respectful stance (for example wearing a suit and tie) before the courts suffices for perpetrators of violence against women to benefit from this reduction. As is reaffirmed by the GREVIO, the prevalence of discretionary mitigation in cases of VAW is in fact a mirror for sexist prejudice and victim-blaming attitudes of courts<sup>11</sup>.

# Recommendations

## To the State in Turkey:

- Turkey needs to develop holistic VAW policies and sign the Istanbul Convention again without delay,
- The withdrawal from the Istanbul Convention is the culmination of global attacks against human rights in general, and women's and LGBTIQ rights, and equality in particular. Turkey's attempt to withdraw from the Convention will have a domino effect in some countries where the Convention is already being contested. International and regional actors and organizations, notably the CoE, and its institutions namely the Parliamentary Assembly of the Council of Europe, and the Committee of Ministers of the Council of Europe, should use all possible legal and political means to put pressure on Turkey to revoke the withdrawal decision and to support women's and LGBTIQ organizations working in Turkey,
- Law No. 6284 must be implemented effectively, monitoring/evaluation mechanisms must be developed, and their results must be shared. Sexual violence crisis centres must be established. Gender-disaggregated data should be collected and shared with public in a regular basis,
- Turkey must enact an anti-discrimination law to combat hate crimes against all minorities and disadvantaged groups and effectively implement it,

- Turkey must enact a parity or equal representation law to ensure equal representation and participation of women,
- Abortion and all SRHR services must be accessible for all. Gender equality and comprehensive sexual education must be included to curriculum.

## To the European Union, the United Nations or other international institutions:

- Support projects aiming to fully implement CEDAW Article 7c concerning the discrimination against women in political and public life that ensures the right of women to be on equal terms with men in order to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government. For instance, starting with the enforcement of the set gender quota,
- Support projects aiming to fully implement CEDAW Article 12 in relation to the current challenges and lack of availability concerning abortion that pregnant people in Turkey face,
- Support and instigate data collection concerning the situations of vulnerable groups in Turkey such as migrant women, women with disabilities and the LGBTIQ+ population,
- Support and instigate the protection of human rights of the LGBTIQ+ population.

## Endnotes

- 1 See <http://iletisimdergisi.gsu.edu.tr/en/download/article-file/82672>
- 2 See <https://www.cambridge.org/core/books/abs/lgbti-rights-in-turkey/lack-of-legal-protections-for-the-lgbti-community-in-turkish-law/66F146965F20B-263D075E62F415F1576>
- 3 Even though the terms “sex” and “gender” have different meanings and are thus two different terms in Turkish, the Turkish legislative framework only uses the former term. Because of the anti-gender government in Turkey, the term gender has been erased from all the legislative framework in Turkey, in fact. The term gender from English to Turkish is always translated as “sex” in official translations of the Conventions.
- 4 See [https://www3.weforum.org/docs/WEF\\_GGGR\\_2021.pdf](https://www3.weforum.org/docs/WEF_GGGR_2021.pdf)
- 5 See <https://komisyon.tbmm.gov.tr/>
- 6 See <https://eca.unwomen.org/en/where-we-are/turkey/leadership-and-political-participation>
- 7 Women for Women’s Human Rights, Reproductive Healthcare Services for Women and Women’s Experiences with Abortion Research Report, 2021, <https://wwhr.org/reproductive-healthcare-services-for-women-and-womens-experiences-with-abortion-research-report/>
- 8 We Will Stop Femicides Platform, 2021 Annual Report, 2021, See <https://kadincinayetlerinidurduracagiz.net/veriler/3005/2021-annual-report-of-we-will-stop-femicides-platform>
- 9 See <https://data.tuik.gov.tr/Bulten/Index?p=Isgucu-Istatistikleri-2021-45645>
- 10 See <https://data.tuik.gov.tr/Bulten/Index?p=Isgucu-Istatistikleri-2021-45645>
- 11 See <https://rm.coe.int/eng-grevio-report-turquie/16808e5283>