

Turkey

1. Discrimination in the family

a) Overarching legal framework for marriage

Women have equal rights as men to enter into marriage (Constitution of the Republic of Turkey, Article 41). Although forced marriage is not specifically defined in Turkish legislation, there are provisions that ensure open declaration of free will upon marriage. More specifically, for civil marriage, the couple must jointly apply to the marriage registry office in the region where one of them is resident. Upon obtaining authorization, the marriage registry official conducts the ceremony. During the ceremony, the official asks the man and the woman to openly declare their free will in front of the official and two witnesses (Civil Code, Articles 1234, 136-137, 142-143). The Civil Code grants women subjected to forced marriage the right to apply for an annulment within the first five years of the marriage (Civil Code, Article 151).

Until recently, marriages had to be registered with civil authorities before religious marriages could take place (Civil Code, Articles 142 and 143). However, in May 2015, the Turkish Constitutional Court, with its decision numbered 2015/51, removed the requirement that religious marriage first be formalized in court. This raised concerns about leaving women married in unregistered religious ceremonies unprotected by the rights of civil marriage when it comes to divorce, alimony, or child support, and potentially increasing the number of child brides (CEDAW, 2016c).

b) Child marriage

Under the Civil Code, the legal age of marriage is 18 for both men and women (Civil Code, Articles 11, 12, 126). However, Article 124 stipulates that a 17-year-old may marry with parental consent, and according to Articles 126 and 128, a 16-year-old may marry with the permission of a judge and legal guardian in 'extreme situations' or with Sharia Court Permission. Child marriage is prohibited (Civil code, Article 153). However, child, early and forced marriage is not defined as a criminal act in Turkey and there are no sanctions for those facilitating a marriage of an individual under minimum age.

Two strategies have been enacted to address the issue of early marriage: the National Child Rights Action Plan and the National Action Plan for the Prevention of Violence against Women for the period 2016-2019 (CEDAW, 2016a). A temporary special measure of conditional cash transfer for the education of girls has been adopted, intended to keep girls in school and so prevent early marriage. In addition, as part of the above Action Plans, families and communities have been receiving training on the harm caused by early marriages (CEDAW, 2016d).

Statistics on marriages involving child brides are difficult to gather given that many early marriages are carried out in religious ceremonies, but rates are thought to be high, although with considerable regional variation (European Commission, 2016). The practice is driven by poverty, but also by a desire to preserve family 'honour' by ensuring that daughters are virgins when they marry (UNFPA, 2014; CEDAW, 2016a). There are no awareness-raising and/or education programmes on the legal age of

marriage (CEDAW, 2014). In 2016, a parliamentary committee proposed to reduce the legal age of marriage (from 18 to 15) and to reinstate a law that allowed an adult who had sexual relations with a child between the ages of 15 and 18 to escape criminal charges if the victim agreed to marry him. A draft bill was accordingly approved in an initial reading by the parliament on November 17, but it was withdrawn on November 22 after strong public protests.

c) Household responsibilities

Article 41 of the Constitution states that the family is ‘based on equality between spouses’. The Civil Code states that ‘spouses direct the union together’ and gives them equal status within marriage (Civil Code, Article 186 and 188). There are no laws requiring married women to obey their husbands. Under Article 335 of the Civil Code, both father and mother share parental authority unless this right is nullified due to legal reasons and both spouses have equal rights and responsibilities towards their children during marriage (Civil Code, Articles 340 and 342). If the parents are not married, custody belongs to the mother (Civil Code, Article 337). Married and unmarried women have equal rights as men to choose where to live (Civil Code, Article 186).

In practice, these rights are threatened by discriminatory customary, religious or traditional laws or practices (CEDAW Shadow Report, 2015).

d) Divorce

Women have equal rights as men to initiate and finalise a divorce (Civil Code, Articles 161-166). One of the spouse may file for divorce in the case of “irretrievable breakdown of marriage” caused by a variety of circumstances, including adultery, desertion, insanity, detrimental treatment, or humiliating act (Civil Codes, Article 166). The law does not discriminate between men and women with regards to alimony and compensation for damages resulting from divorce (Civil Code, Articles 174-178). The Civil Code also holds that property acquired during marriage must be shared equally between the spouses in case of divorce (Civil Code, Articles 218-241). However, a divorced woman, though not a man, is forbidden from remarrying without special court permission for up to 300 days after the dissolution of her prior marriage (Civil Code, Article 132). In the event of divorce, a judge may place the child under guardianship of either parent (Civil Code, Article 336). In practice, judges tend to award guardianship of younger children to the mother. The parent who does not gain guardianship continues to bear a share of the financial responsibility for bringing up the child.

Divorce is stigmatised and women can be hesitant to initiate proceedings due to concerns of being called ‘deviant’ (Gedik, 2015) or risk of abuse or even death from violent husbands (ibid). The Stop Women Murders Now Platform documented at least 328 cases of femicide in 2016 due to victims’ attempts to make decisions relating to their bodies, finances, social relationships, or decisions to end a marriage or relationship (US Department of State, 2016).

e) Inheritance

Turkish law grants equal inheritance rights of land and non-land assets to female and male children and to female and male surviving spouses (Civil Code, Articles 495, 499; Land Inheritance Law, Article 661). Women have equal rights as men to make a will (Turkish Inheritance Law, Article 514). Under the Civil Code, the surviving spouse is entitled to his/her share of the common assets. The remaining

portion of the assets is divided among the inheritors. In addition, under Article 649 of the Civil Code, the right to an equal inheritance share for a woman compared to her brother cannot be revoked even if willed by the deceased. Customary law is not recognized as a valid source of law (Constitution of the Republic of Turkey).

However in practice, property is often registered in the names of male relatives and inheritance follows a patrilineal pattern (FAO, 2016). Moreover, dowry practices and inheritance customs guided by customary norms and Islamic law often take precedence in terms of rights to inheritance. More specifically, dowry continues to be a common practice in Turkey and is commonly seen as an advance on any future inheritance paid to a woman at the time of her marriage, rather than upon her parents' death (O'Neil and Toktas, 2014). Daughters who received a dowry are often excluded as inheritors in favour of sons.

2. Restricted Physical integrity

a) Violence against women

Turkey was the first country to sign and ratify the Istanbul Convention on Preventing and Combating Violence and Domestic Violence against Women in 2012 and has since passed, in line with its obligations under the Convention, major legislative changes to prevent violence against women. However, Turkey lags in implementing its national and international gender equality commitments. Women continue to face challenges, with gender-based violence a major concern (UN Women, 2016).

There are laws addressing violence against women, such as the Law No. 6248 on the Prevention of Violence against Women and the Protection of the Family, adopted in 2012. However, this law does not criminalize domestic violence as such, and includes no provision relating to the prosecution or punishment of perpetrators (CEDAW, 2016b). Law No. 6248 defines the concepts of "violence", "domestic violence" and "violence against women" in such a way as to comprise physical, verbal, sexual, economic and psychological violence. Preventive and protective measures regarding the protected person, perpetrator and potential perpetrator are established in detail (CEDAW, 2014). In addition, the Criminal Code provides for criminal penalties for domestic violence (Criminal Code, Articles 82(1)(d), 86 (2)(a), 96(2)(b), 102(2)).

Article 82 of the Criminal Code has been modified to remove previous sentence reductions for murder in the name of honour, and honour killing is now criminalized with life imprisonment. However, sentences can be reduced due to mitigating factors and the law allows judges, when establishing sentences, to take into account anger or passion caused by the 'unjust act' (Criminal Code, Article 29). According to a CEDAW report, however, this provision is not intended to apply to honour killings (CEDAW, 2016b). There are also reports that strategies to avoid criminal prosecution for the crime include designating a young male relative to perform the killing (juvenile offenders may receive reduced sentences) or pressuring girls into committing suicide to preserve the family's reputation (US Department of State, 2016; Human Rights Watch, 2016; CEDAW, 2016b).

The third action plan on violence against women for the period 2016-2019 seeks to reform improvement in 5 areas: legal amendments, raising awareness and mental transformation, delivery of protective and preventive services and empowerment of violence victims, adjustments and implementation of health and inter-agency cooperation (CEDAW, 2016a; Council of Europe, 2017).

The Action Plan identifies the purposes, objectives, implementation periods and the responsible institutions. It is monitored through the monitoring and evaluation meetings in which the responsible institutions and agencies participate (CEDAW, 2016a). The main body responsible for overseeing the Action Plan is the Ministry of Family and Social Policies, although women's organizations have raised concerns over poor coordination and implementation of the national action plan, inadequate planning and budgeting, and a lack of any evaluation or monitoring of its actual effectiveness (EuroMed Rights 2017; Alternative CEDAW Report, 2016).

b) Domestic violence

Domestic violence is criminalized in the Criminal Code, and can be punished with up to 12 years imprisonment (Criminal Code, Article 96 and 102). Article 232 punishes maltreatment of anyone living under the same roof by up to one year of imprisonment, while domestic violence legislation covers abuse within the family (Law no. 6248, Article 2(1)(b)). There are no provisions covering former partners or unmarried intimate partners. Under Law No. 6248, police officers are authorized to enforce protection as soon as the victim needs it without enduring lengthy court processes. Additionally those who violate a protection order will automatically spend three days in prison. There are also specialized procedures in case of domestic violence (Law no. 6248, Articles 4-5, 8, 20(1)). However, courts often give reduced sentences to men found guilty of committing violence against women, citing good behaviour during the trial or "provocation" by women as an extenuating circumstance of the crime (US Department of State 2016). Moreover, despite having ratified the Istanbul Convention in 2011, many legal regulations concerning gender-based violence – and their application – are developed in order to protect the family as an institution, rather than women (CEDAW Alternative Report, 2016)

Numerous domestic violence shelters are funded and run by the Ministry of Family and Social Policies, and provide primarily psychological and economic support. As of 2016, there were 137 such shelters around the country, with a total capacity for 3,344 persons (CEDAW, 2016), despite regulations calling for a state-funded women's shelter for every 100 000 persons (US Department of State, 2016; Human Rights Watch, 2016). The Government also offers a 24-hour hotline to provide women and children survivors of violence with information services in psychological, legal, and economic areas. Women's rights NGOs have, however, criticized the hotline for being too broad in its approach and providing inadequate services (ibid).

Domestic violence continues to remain a serious and widespread problem, and legislative provisions are not always disseminated or enforced effectively (CEDAW, 2016c; US Department of State, 2016). Economic dependency, distrust of state institutions, language barriers, and lack of awareness of legal provisions on the part of women also play a role. Furthermore, human rights organizations have reported that despite the issuing of restraining orders, police rarely enforce them effectively. Concerns have also been raised that government counsellors sometimes encourage women to remain in abusive marriages at their own personal risk rather than break up families (US Department of State, 2016).

c) Rape

Sexual assault and rape, including marital rape, are criminalized under the Criminal Code with penalties ranging from two to seven years of imprisonment for assault, and seven to twelve years if

the violation included penetration. Rape is defined as “Any person who attempts to violate sexual immunity of a person” (Criminal Code, Article 102). The penalty is increased by half in case of aggravating circumstances, such as use of arms or participation of more than one person in the offense (Criminal Code, Articles 102 and 105). Provisions legitimizing rape and abduction in cases in which the perpetrator marries the victim were abolished in 2004. However, courts continue to give reduced sentences to some men found guilty of committing sexual violence against women, citing good behaviour during the trial or “provocation” by women as an extenuating circumstance of the crime. Rape may also be underreported due to embarrassment or fear of reprisals (CEDAW, 2016c; US Department of State, 2016)

In accordance with Article 14 of the Law on Protection of Family and Prevention of Violence Against Women (Law No. 6284), Violence Prevention and Monitoring Centres have been set up, which work 24/7 to provide support and monitoring services and ensure the effective implementation of protective and preventive measures. As of August 2016, there were Violence, Prevention, and Monitoring Centres in 47 provinces (Council of Europe, 2017).

d) Sexual harassment

The Criminal Code criminalizes sexual harassment, while the Code of Criminal Procedure includes civil remedies (Criminal Code, Article 105; Code of Criminal Procedure, Articles 2(1)(i) and 231). The penalty ranges from a fine plus three months to two years imprisonment, which may be increased by one half in the case of undue influence based on hierarchy or public office or by using the advantage of working in the same place as the victim. The law does not specifically cover educational establishments, sporting establishments, public places, cyber harassment or cyber stalking, but the Labour Code does criminalize sexual harassment at the workplace (Criminal Code, Article 105; Labour Act, Article 24(ii)(b)). However, women’s rights activists and news reports indicate inadequate enforcement of the law.

e) Female genital mutilation

There is no evidence to suggest that female genital mutilation is practised in Turkey.

f) Abortion

Abortion is available on request during the first 10 weeks of pregnancy (Population Planning Law No.2827, Articles 5 and 6; Ordinance No. 83/7395). A gynaecologist must perform the procedure; this factor can make it difficult for rural women to obtain abortions, because medical specialists of that kind may be scarce or non-existent in their region (Population Planning Law No.2827, Articles 5 and 6; Ordinance No. 83/7395; CEDAW, 2016c). Following repeated criticism of abortion and contraception from high-level representatives of the Government, a number of public hospitals have begun to illegally refuse to perform abortions (CEDAW, 2016c; CEDAW, 2016a). Parental consent is required if the pregnant woman is a minor. The law also requires a married woman to obtain spousal authorization prior to obtaining an abortion. The consent requirements are waived if the woman’s life is in immediate danger (Population Planning Law No.2827, Articles 5 and 6). Abortion is highly stigmatized and has become a salient political issue (Ustek-Spilda and Alyanak, 2016).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

There are no legal barriers to married and unmarried women's ownership, use, decision-making power and use as collateral of land, property and other non-land assets. The Civil Code of 2001 removed the previous priority given to male children over agricultural holdings, reportedly intended to prevent land fragmentation (Civil Code, Articles 223 and 683). The Code, under provisions on the 'Regime Regarding the Ownership of Acquired Property', introduced the provision that property acquired during marriage must be shared equally between the spouses (Civil Code, Articles 218-241). The default marital property regime is partial community of property (Civil Code, Article 202) and both spouses must agree in its administration (Civil Code, Article 223). Female and male surviving spouses have equal inheritance rights, as do sons and daughters (Civil Code, Articles 499 and 495).

While rights to own and inherit property are gender neutral, dowry practices and inheritance customs guided by customary norms and Islamic law often take precedence. Furthermore, Islamic doctrine prescribes as a general principle that a woman's share is only half that of a man, while daughters are entitled to one-half the share of sons. Husbands and wives are in the first rank of inheritance, but widows occupy a less favourable position than widowers (*ibid*). Several studies similarly show that the transmission of land favours sons over daughters (FAO, 2016; O'Neil and Toktas, 2014).

The majority of rural women do not have land use rights in practice, or their privileges for land use are not permanent. Women's husbands, brothers and fathers are usually the registered landowners. Women's lack of land ownership is generally justified by the fact that they do not claim any inheritance rights, or it is thought preferable to avoid control of property passing into the hands of sons-in-law (FAO, 2016; O'Neil and Toktas, 2014). This is also because sons are seen as the financial guarantee for parents in their old age, whereas daughters leave the family for their husband's. Social customs also hinder married women from developing a sense of entitlement to their own property or land. Many married women consequently use property they obtained before and after marriage for family and household expenses, or even when they own property or agricultural land, leave its control to men (O'Neil and Toktas, 2014).

While the Civil Law provides a mechanism for women to contest discriminatory inheritance practices in court, this requires a certain level of knowledge, skills, and economic power that not all women possess (O'Neil and Toktas, 2014). In part as a response to these issues, the National Action Plan on Empowerment of Rural Women includes goals and strategies relative to informing women about their viable legal rights and how to use them, but aims primarily at land consolidation (CEDAW, 2014).

b) Secure access to formal financial resources

Married women have equal rights as married men to open a bank account at a formal institution, and do not need the signature or authority of their husbands/guardians (no restrictions found). While married and unmarried women have equal rights as men to obtain credit, women who apply for credit are sometimes asked by banks to provide proof of their husbands' approval before their applications are considered (The World Bank, 2015). Furthermore, there are no specific laws that prohibit discrimination by creditors on the basis of gender or marital status in access to credit (The World Bank, 2016). Women's ability to meet collateral requirements, through household savings and property is

limited, as the latter are commonly under the control of male members of the household. Women consequently tend to look for business opportunities for which a low level of start-up capital is sufficient (The World Bank, 2015). According to a recent CEDAW report, cooperation has been established with the aims of increasing loans provided to women in the private sector, mainly through the Credit Guarantee Fund, which increases guarantee support for women in an effort to ensure that banks broaden their credit facilities (CEDAW 2014).

c) Workplace rights

Turkey has ratified ILO Conventions 100 and 111, but has not ratified Conventions 156, 183, or 189.

The law mandates non-discrimination on the basis of sex in employment (Constitution, Article 10; Labour Law, Article 5; Criminal Law, Article 122; Law No. 6701 on the Human Rights and Equality Institution, Article 6). The law specifically covers job advertisements (ministry circular on Acting in Accordance with the Principle of Equality in Employee Recruitment), selection criteria, recruitment, and promotions (Law No. 6701, Article 6) but not hiring processes. Article 5 of the Labour Law specifically covers non-discrimination on the basis of sex with regards to terms and conditions, and termination, as well as mandates equal remuneration for work of equal value. Furthermore, the 2016 Law on the Human Rights and Equality Institution lays down and extends the principle of equal treatment to access to employment, vocational training, promotion, and working conditions; and to access to all types and to all levels of vocational guidance, vocational retraining, including practical work experience (Art. 6/1).

The law prohibits women from entering certain professions, including underground or underwater work such as in mines, cable-laying, and the construction of sewers and tunnels (Labour Law, Article 72). Turkish law also prohibits women from working the same night hours as men (Regulation No. 28717 of 24 July 2013, Art. 5).

The law mandates a paid maternity leave of 112 days (Labour Law, Article 74). Women are paid 67% of their wages, covered entirely by the government (Labour Law, Article 46; Law No. 5510 of 31 May 2006, Articles 16 and 18). The law does not mandate paid parental leave, however, male civil servants are granted a paternity leave of ten days upon the birth of a child, paid by the government (Law No. 6111, amended Article 104/B of the Civil Servants Law). As of 2015, with Law No.6645, which amends the Labour Law, five days' paid paternity are now to be granted to all working fathers (European Commission, 2016). According to Article 22 of the Labour Law, it is not possible for an employer to make a substantial change in working conditions without the worker's consent. However, specific reference is not made to protecting women's employment security when they are on maternity leave (The World Bank, 2016). There are no specific laws prohibiting employers from asking about a woman's pregnancy or her intention to have children during the recruitment or promotion processes (The World Bank, 2016). According to an NGO Shadow report to the CEDAW, women are in fact commonly asked in job interviews about their family status (Federation of Women Associations of Turkey, 2016). In addition, in a poll conducted by the Bahçeşehir University, 60% of respondents declared that employers should give priority to men over women when hiring (Neel, 2013).

Since 2002, wives no longer need permission from their husband or legal guardian to choose a profession or work, or register a business in Turkey. However, female labour force participation

remains low, due in part to discriminatory norms which see a woman's place (especially married women) as in the home, work environments unfavourable to a balance with family life and internalized gender roles that keep many women uninterested in taking advantage of opportunities to work (The World Bank, 2015). While women are well represented in professions such as academia, engineering, law, and medicine, very few women hold high political posts, and overall female labour force participation is lower than male's (Muftler-Bac, 2015).

4. Restricted Civil liberties

a) Citizenship rights

Married and unmarried women have the same rights as married and unmarried men to acquire, change, and retain their nationality (Turkish Nationality Act, No. 403; The World Bank 2016). In addition, women have equal rights as men to confer nationality to their children and to register the births of their children (Turkish Citizenship Law, Article 7; UNICEF, 2013). However, Article 290 of the Turkish Civil Code also requires all mothers to declare the name of the father of their children in order for them to be registered, even when she is not married. When mothers do not want to declare the father's name or if it is unknown, they are advised to choose from a certain set of male names so that the father's name field is not left empty (Ustek-Spilda and Alyanak, 2016). The number of unregistered children has consistently fallen since the early 1990s (UNICEF, 2013). Efforts to close the remaining gaps have been challenged, however, by rising numbers of Syrian refugees in Turkey (Refugees International, 2015; European Network on Statelessness, 2015).

Women have equal rights as men to apply for identity cards and passports (ID application forms; Passport application procedures) and to travel outside the country. In 2016, a new law on ID cards mandated that the cards would no longer be coloured in blue or pink to denote gender (Middle East Eye, 2016).

No restrictions on women's access to public space were found. In 2010, the Turkish Government overrode a Constitutional Court's ban on women wearing headscarves in public institutions. The Education Minister directed all universities to permit veiled women on campuses, enabling access to higher education for many traditionally observant female students who had previously been denied the opportunity.

b) Voting

The Constitution of Turkey provides women with equal rights as men to vote, irrespective of their marital status (Constitution, Article 67). There have, however, been reports of men voting for women and although illegal, entering voting booths with their female family members, or of wives voting in line with their husband's wishes (Al-Monitor, 2014). The law does not provide for any measures to ensure that women understand their right to vote and how to exercise it.

c) Political voice

Women and men enjoy equal rights to hold public and political office in the legislature, executive and judiciary (Constitution of the Republic of Turkey). There are no quotas in place to promote women's representation in the Parliament. However, some political parties apply a gender quota on their intra-

party boards and bodies or reduce the application fee for female candidates applying for a place on their party lists (Quota Project, 2016). Training and incentives for the political participation of women are limited, although in scope of the preparatory work for the 10th Development Plan, covering the years 2014 and 2018, the Gender Equality Working Group drafted a detailed report covering the problematic aspects and proposals of solutions relating to five basic fields which are 'education and training, health care, violence against women, employment and decision-making and political participation' (CEDAW, 2014).

d) Access to justice

Women have equal capacity as men to sue and be sued. In addition, women's testimonies carry the same evidentiary weight in court as men's in all types of court cases (no restrictions found). Numerous concerns have, however, been raised in terms of the deficiency of the normative framework and sufficient legal mechanisms that protect women's rights. Recent CEDAW reports and academic studies have noted women's little knowledge of their rights and the lack of legal aid available to them, combined with poor gender-sensitivity of law enforcement officials and legal practitioners. Additional barriers for women to access justice include language (in particular for Kurdish women, women belonging to other minorities and refugee women), high proceeding costs, a slow pace to hear actions, complex procedures, corruption in the system, vagueness of legal language, and inability to execute court decisions (Hatipoglu-Aydin and Berkay Aydin, 2016; CEDAW, 2016c).

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