



## » TURKEY

### Situation report on Violence against Women

#### 1. Legislative Framework

Nondiscrimination on the basis of gender is inscribed in the Constitution of Turkey since 2004 and since 2010 it mentions that “The State has the obligation to ensure that this equality exists in practice”.

As a result of feminist struggles and jurisprudence in Turkey, the Penal Code was revised in 2004 to introduce several important reforms<sup>1</sup>.

Sexual violence was recognised in the Penal Code as a crime committed against individuals rather than crimes against society, family, or public morality. Sexual violence is criminalised even within marriage. The definition of sexual violence rests on the lack of consent and use of force and physical resistance. So-called “honor” crimes are no longer considered as an extenuating circumstance. However, stalking or harassment were not included in the Penal Code despite the advocacy of feminist organisations.

A reform of Article 103 of the Penal code concerning the abuse of minors is currently being discussed and raises high concerns. Indeed, women’s rights organisations denounce that its reform would give rise to varying interpretations of the age of consent by ranging children into different age categories (below 12, between 12 and 15 and above 15) and arguing that the damage differs. Jurisprudence on this basis could clear the legal path to lowering the age of consent for sexual relations to 12 and pushing girls into forced and early marriages. Statements by the Justice Minister in relation to past or future de facto marriages based on “the consent of the minor and assent from the family” clearly point to this danger<sup>2</sup>.

In August 2012, the Law (No. 6284) to Protect Family and Prevent Violence against Women, was adopted. It recognises all forms of violence against women, and protects primary and secondary victims of domestic violence (women, children, and family members of survivors). The law also gives a framework for the provision of services such as shelters, financial aid, and psychological and legal guidance services. However, the law has shortages as it does not foresee preventive work on gender-based violence and it does not ensure proper implementation, monitoring, nor sanctions for the perpetrators.

1. See details at: [http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/summary\\_outcome\\_penal\\_code\\_wwhr.pdf](http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/summary_outcome_penal_code_wwhr.pdf)

2. More information at: <http://cinselsiddetlemucadele.org/en/2016/11/26/article-103-of-the-turkish-penal-code-recently-amended-and-passed-through-parliament-runs-the-risk-of-seeking-consent-from-children-between-12-and-15-years-of-age/>



Throughout the elaboration of the law, NGOs have been consulted... However not all of their recommendations were taken into account. As the State poorly monitors VAW, feminist NGOs and some feminist academics, artists and journalists try to monitor themselves this phenomenon.

Trafficking in women for sexual or labor exploitation is also criminalised under the Penal code (Article 80), as amended in June 2005 to include 'trafficking into prostitution'. However, the figures show that the number of deportations (around 2,000 annually) to neighboring countries for 'illegally' selling sex or for having sexually transmissible diseases has not decreased since 2002. Research shows that «consent» issue in prostitution, prejudice against migrant women and undocumented situation of migrant women are important obstacles to preventing sex trafficking in Turkey<sup>3</sup>. Being undocumented even prevents migrant women to seek justice and results in deportation. Turkey was the first country to ratify the Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence - known as the Istanbul Convention. It also ratified the CEDAW and is regularly examined by the CEDAW Committee. Turkey also signed the 1325 UN Security Council resolution on Women, Peace and Security, but did not sign the Rome Statute of the International Criminal Court.

## 2. Political Framework

Turkish authorities do not systematically collect data on VAW, in particular numbers of complaints, condemnatory sentences, etc. In recent years, the Ministry of Family and Social Policies has nonetheless carried out two comprehensive surveys on Domestic violence in Turkey, in 2008 and 2014<sup>4</sup>, studying the prevalence and evolution over time of different forms of violence, as well as perceptions of men and women about the phenomenon and about the judicial response and protection system.

It is mainly feminist activists, journalists or academics who regularly collect and study data<sup>5</sup>. As VAW cases are not recorded properly by institutional statistical systems, it is likely that actual numbers be higher. The Police Headquarter annually announces statistics of crime, but VAW statistics are not specified.

The implementation of law 6284 to Protect Family and Prevent Violence against Women is insufficient and many problems persist in the support systems (social, psychological, legal) for the survivors of violence. The people constituting the implementing bodies (police, legal workers, social workers, health workers etc.) are not trained about the law and there is no monitoring of whether it is implemented in a proper way.

For example, although it is a legal right guaranteed by the law no.6284, there is no suitable system for private school or health services registrations and feeless legal support for the survivors. The financial support provided by the ministry for women without children is also very limited, showing a bias towards 'family protection' instead of protection of persons against gender-based violence.

The Ministry of Family and Social Policies launched a National action plan against VAW for 2012 and 2015. The long term strategy of this plan covers 2015 and the following years. Ministry of Family and Social Policies also issued a circular in March 2016 for monitoring and combating VAW. The action plan includes all stakeholders, in particular police, judicial training personnel, health and social workers and coordination should take place but is not happening properly in practice.

Feminist women NGOs were invited to take part in the preparation of the National Action Plan (NAP). However as a new Minister was appointed in 2014, feminist NGOs were side-lined and non-critical pro-governmental NGOs were invited instead. Independent studies tend to criticise the lack of implementation and impact of the successive NAPs, due to the lack of funding dedicated to it, and to the absence of a monitoring system with clear benchmarks and timelines. The accountability of State agencies, at all levels, is also too weak for the implementation of those NAPs. Indeed, there is no specific budget for monitoring and combating VAW, as this is included in the budget of Directorate for Women's Status, which budget is one of the lowest of all Directorates in the Turkish government. Moreover this budget was reduced significantly over the years.

3. See Coskun, E. (2016): "Consent" Issue in Sex Trafficking and Evidence from Turkey. *Social Politics*. 23 (3): 437-458.

4. See report 2014: [http://www.hips.hacettepe.edu.tr/ING\\_SUMMARY\\_REPORT\\_VAW\\_2014.pdf](http://www.hips.hacettepe.edu.tr/ING_SUMMARY_REPORT_VAW_2014.pdf)

5. In particular, the 'Male violence monitoring' section of the independent media [Bianet](#); [the Mor Çati Women's Shelter Foundation](#) and [the Women for Women's Human Rights - New Ways](#)



### 3. Protection Framework and Access to Justice

#### *Protection systems and services*

In Turkey, a hotline called “Alo 183” exists that belongs to the State and gives services not only to survivors of VAW but to all survivors of violence in the family, including disabled and elderly people, children, “martyrs’ families” and veterans. Another hotline belongs to a Federation of feminist NGOs. There are also psychological support centers called SONİM but their numbers are inadequate.

According to 2015 figures, there are 97 state-owned shelters in 79 city. In addition to state-owned shelters, there are three shelters managed by NGOs and 32 shelters managed by local municipalities. In total, 132 shelters have the capacity of providing service to 3402 women. The physical conditions of many of these shelters are poor and the number of social workers, psychologists and health workers is insufficient. They are generally not well informed and experienced about gender-based violence (GBV) and psychological trauma.

There are 14 “Violence Prevention and Monitoring Centers” called ŞÖNİM that are responsible for coordinating the services of the shelters run or licenced by the ministry. The Law on Municipalities require those with more than 100.000 inhabitants to fund a shelter for women survivors of violence. However there is no sanction for non-compliance and the number of existing shelters is far below this target.

Legal provisions, allowing authorities to emit restraining and protection orders in situations of immediate danger, exist; they order the perpetrator of the domestic violence to leave the residence of the victim or they prohibit the perpetrator to enter the residence of the victim or endangered person or to contact her. The law also provides for financial assistance by the State, as well as alimony and sole access to the joint residence. It ensures that the survivors have free access to rehabilitation and treatment, as well as healthcare insurance. However, the financial support is not sufficient and is mostly reserved for women with children.

Other protection systems are being experimented. There is for example a pilot project of “panic button” in process of implementation.

However, monitoring of the implementation of protective measures is poor, leading to fatal inefficiency in some cases. According to NGO reports, in 2015, 27 women were murdered although a complaint was filed and/or a restraining order was issued against the perpetrators.

#### *Preventive measures and training of professionals*

Education and awareness-raising about gender equality, non-stereotypical gender roles, non-violent conflict resolution, and gender-based violence against women do not exist in school curricula at any level.

Instead, it is to be noted that conservative ideology and discourses continue to be voiced by government officials and MPs that defend a stereotyped role of women solely as mothers and wives, condemn abortion and sometimes even justify sexual violence. This political environment is strongly detrimental to the enjoyment of the right to physical and psychological integrity of women and reveals the weak political will to systematically address the issue of gender-based violence.

On the other hand the training of professionals (police, judges, lawyers, doctors, nurses etc.) on prevention and detection of gender-based violence, the needs and rights of the survivors as well as how to prevent secondary victimisation, is very insufficient. UN programmes such as UNFPA and UNDP have supported trainings in coordination with the Ministry of Family and Social Policies, however on a punctual and limited basis.

In fact, the Ministry of Family and Social Policies itself recognised that too many police agents did not know the Law 6284 to Protect Family and Prevent Violence against Women. Official data show that only 7% of women survivors of violence denounced it to the police, and 29% of them were “reconciled” with their husbands<sup>6</sup> and in 13% of cases, “nothing was done”. NGOs have also reported that women were turned away from shelters back to their aggressors. Awareness-raising campaigns have been carried out by women’s and feminist organisations or foundations but not by the State. Although the 2014 survey shows a relatively good level of awareness about protective legal provisions, the percentage of victims of VAW actually recurring to institutions is very low (11%), for many reasons ranging from traditional beliefs to the quality of prevention and protection and support services. This shows that much more comprehensive and

6. See the [2014 Report on Domestic Violence in Turkey](#)



systematic awareness-raising and training programmes should be conducted both for the population at large and for professionals involved in prevention and protection.

In Turkey, there has been a recent increase in the declared numbers and visibility of sexual violence cases. However, they have been discussed in the public and the media with highly polarised and extreme visions of the kind 'monster perpetrator/hopeless victim', that are based on stereotypes and do not address the problem in its complexity nor provide an adequate social and judicial answer.

This shows that much more comprehensive and systematic awareness-raising and training programmes should be conducted both for the population at large and for professionals involved in prevention and protection as well as for the media, to question gender-based and sexual violence and unveil the norms and values that encourage it.

### *Access to a non-discriminatory judicial and police system*

In Turkey women can file complaints in court in case of gender-based violence. Attorneys can investigate ex officio violence against women, and the judge continue the hearing even if the victim withdraws her complaint, at least theoretically. In practice however, the male-dominated judiciary sometimes tends to value more men's testimonies than women's, or to reduce sentences of perpetrators of violence against women for their "good behavior in court". The respect and protection granted to survivors, such as the possibility to testify without being confronted to their aggressor, still very much depends on the attitude of the sitting judge, and secondary victimisation is still very common.

Moreover, while a number of judges have been trained on violence against women and how to handle these cases, under the current state of emergency law (declared in July 2016) many judges and lawyers have been suspended, investigated or taken under custody, leading to an important disorganisation of the Judiciary.

At the moment the law bans alternative resolution or conviction models however, the Commission for the Prevention of Divorce of the Turkish Grand National Assembly has suggested an amendment in the law to include compulsory mediation between spouses. This proposal is highly criticised by feminist NGOs as it could lead to handing women who seek divorce back to their violent husband.

Women survivors of violence with limited economic resources can get access to free legal aid in Turkey under certain conditions. In practice, the Turkish Bar Association has human rights centers in different cities which provides free legal aid. Feminist NGOs and feminist lawyers may also provide voluntary legal aid.

There is no referral system for undocumented migrant women, as police officers primarily consider the women's legal and visa status, which prevents them from making complaints. In case of refugee women, if she has a temporary ID card her complaint can be processed and she will be treated as a citizen. However, there is no specialised service such as translation or consideration of cultural differences. In case of prostitution, women are usually considered as «voluntary prostitutes» and are criminalised, as Turkey's legal provisions give priority to preventing prostitution and protecting the moral values rather than protecting the human rights of women in prostitution.

Finally, there is a consistent number of cases of ill treatment and torture, including sexual violence, allegedly perpetrated by law enforcement agents during arrest and custody, recorded by women and human rights NGOs in Turkey throughout the years. However, most of them have not been investigated and punished. In theory, victims can denounce cases to the Ombudsman and to the Constitutional Court (since 2012). However, these institutions have not proven sufficiently independent and efficient, and a high level of impunity prevails. This is all the more a concern in the current context of renewed armed conflict in the Kurdish regions and under the state of emergency where the judiciary and counter-powers are being utterly weakened.



## Specific vulnerabilities

According to a survey carried out in 2013<sup>7</sup>, 26% of women between ages 15 to 49 have been married underage. The same institute's previous research in 2008 shows that the percentage of the underage married of women was 29%. This shows that there has been no remarkable decrease. Marriage under the age of 18 is forbidden by the International Convention on Children's Rights to which Turkey too is a party the Turkish civil code sets the age of marriage at 18, however several provisions allow for exceptions. Turkey thus violates its obligations under international law and its own constitution, discriminates against girls and fails to protect them from forced marriage. Despite criminalisation, religious (unregistered) underage marriage is still very common and widely accepted, in particular in poor rural areas where as many as 50% of girls may be married under age.

Lesbians, bisexual women, and transsexual women as well as sex workers have always been very vulnerable to violence because of the stigmatisation and discrimination they face, poverty they live in and the lack of legal and policy-based protections. Specialised associations organising LBT women or sex workers have been constantly advocating for their inclusion in policy debates and in the design and implementation of support, protection and prevention services and strategies, to no avail. Their claims to reform anti-discrimination and hate crimes legislations to include LGBTI identities received no response either. Instead, state officials, especially the police, are the main perpetrators of violence against sex workers and LBT women, and they prevent the victims to access justice mechanisms. Even in cases where cases are opened, perpetrators generally enjoy impunity<sup>8</sup>.

Domestic workers are another vulnerable group due to lack of social protection and recognition of their working conditions. No official statistics are available about their status and numbers but Eurostats evaluated them around 230,000 in 2011. Feminists supported the creation of a union for domestic workers called İmece-Women's Solidarity Association, and domestic workers organised into the Domestic Workers Solidarity Union (EVID-SEN) in Istanbul. Both organise campaigns against informal employment and violence against women and demand the creation of a status for domestic workers and their inclusion in the Labour Law No.4857.

Turkey's restrictions on the access to work permits and limited visa options create a structural vulnerability for most women migrants as they become undocumented in Turkey. Therefore, Turkey's migration regime drives migrant women into undocumented, insecure and exploitative positions in gendered segments of the labour market as domestic workers, factory workers or prostitutes. Furthermore, when filing a complaint for a violation of human rights, labour exploitation or sexual harassment, a migrant woman's undocumented situation usually takes priority and prevents her from seeking justice, and eventually may result in deportation. These structurally created vulnerabilities also impact refugee and asylum seeking women as they often resort to working without any permit.

## 4. Combatting violence against women in Turkey' relations with Europe/international bodies

Turkey was the first country to ratify the "Istanbul Convention", i.e. the Council of Europe Convention on preventing and combating violence against women and domestic violence. However, the 2012 Law to Protect Family and Prevent Violence against Women and successive National Action Plans do not take into account the framework of the Convention, and no systematic and holistic approach exists, built on its four main principles: Prevention, Protection and support of survivors, Prosecution of offenders and Integrated Policies.

NGOs have documented that the EU-Turkey deal on migrants and refugees of March 2016 fails to protect women and girls<sup>9</sup> from gender-based violence. In particular, detention and transit centers do not integrate gender concerns such as safe spaces for women and support services for survivors of GBV, and because of the consideration expressed above regarding the Access to a legal status for migrant and refugee women in turkey that would give right to protection in case of violence.

7. Hacettepe Population Institute's Turkey Population and Health survey of 2013

8. See for example the reports of the association Red Umbrella: <http://kirmizisemsiye.org/Kaynaklar.aspx#ust>

9. See in particular the [report by the Women's Refugee Commission](#).



## 5. Recommendations

- Review the Turkish Constitution, Turkish Penal Code, Turkish Civil Code and the Law No.6284, in consultation with the feminist and women's rights movement in Turkey, in order to fully recognise and guarantee gender equality, the prevention and criminalisation of gender-based violence and the protection of women and girls against it according to the provisions of the Istanbul Convention;
- Specify the definition of Honor killings in the penal code as aggravated homicide to include all murders in the name of honor; discrimination based on sexual orientation should be criminalised; the practice of virginity testing should be explicitly banned and criminalised under all circumstances; Article 103 should make clear that there is no consent to sexual relations for children under 15; early and forced marriage should be criminalised under all circumstances, hence exceptions provided for in the Civil code should be removed.
- Actually implement and monitor the effects of law No. 6284; in particular, provide increased governmental funding to develop the training of professionals (police, legal workers, social and health workers) and regular monitoring studies to assess impact and correct measures as necessary;
- Further develop and adequately fund the supporting systems for protecting and empowering the survivors of violence (in particular shelters: increase their numbers and enhance their capacities and conditions; improve the quality of psychosocial, health and legal support services, etc.)
- Provide for free health, accommodation and legal support to all women survivors of violence, irrespective of their legal status, as well as facilitate access to education.
- Provide for multi-lingual services where migrant and refugee women can seek help and justice for gender-based or sexual violence they face, irrespective of their legal status and without fear of deportation.
- Ensure access to justice is guaranteed and adequately facilitated to survivors of gender-based violence to avoid secondary victimisation, in particular through the training and coordination of specialised staff in police stations, prosecutors' offices, health and social centers.
- Produce informative, awareness-raising materials about gender-based violence and in particular sexual violence, provide data by conducting research and statistics, and organise events in the universities and all social settings that make gender-based and sexual violence a debatable topic in a rights-based context.

