

TURKEY¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at 31 May 2017)

| Family Law Matter | Description | | | | |
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| | Legislative Framework | Case Law | Policy | Procedure | Practice |
| <p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncoded? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncoded, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles</i></p> | <p>Article 10 of the Constitution states that:²</p> <ul style="list-style-type: none"> • Everyone is equal before the law without distinction as to several basis, including sex; • Women and men have equal rights and measures that the State is obligated to take to achieve this purpose is not be interpreted as contract to the principle of equality. <p>Article 41 of the Constitution declares that family is the foundation of the Turkish society and states that it is based on the equality between the spouses.³</p> <p>The Second Book of the Civil Code is the main codified law that</p> | <p>The Constitutional Court's decision on 27 May 2015 annulled Articles 230(5) and 230(6) of the Penal Code on the basis that they are unconstitutional because they are contrary to the right to demand respect for private and family life and religion and conscience ('May 2015 Decision').⁹ Although the Constitutional Court only annulled the crime and punishment for marrying by way of a religious</p> | <p>Turkey has a reservation to Article 29 of CEDAW.¹¹</p> <p>The Government of Turkey in its 2003 report to the CEDAW Committee asserted that women and men share equal right to enter into marriage under the law. Couples who wish to get married jointly apply to the marriage registry office located in the place of residence of either one of the partners and openly declare their free in the presence the</p> | | <p>According to the 2016 UNDP Human Development Report, Turkey ranked 71 on the UNDP Human Development Index and 69 on the UNDP Gender Inequality Index.¹³</p> <p>According to reports by civil society and the media as well as information on the ground, while the law and stated policies promotes equality of spouses within the family, there is a disconnect between the law and stated policies and</p> |

¹ This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Turkey country table, we would also like to thank Cassandra Rasmussen from Harvard Law School, and Pinar Çetinkaya and the Executive Committee for NGO Forum on CEDAW-Turkey for their inputs in its preparation

² Article 10 of Turkey's Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en

³ Article 41 of Turkey's Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en

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| <p><i>between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p> | <p>governs marriage and family relations in Turkey,⁴ a country with a predominantly Muslim population.</p> <p>The Civil Code exclusively recognises civil marriages and applies to all citizens regardless of religion.⁵ Under the Penal Code:⁶</p> <ul style="list-style-type: none"> • Article 230(5) obligates any person who conducts a religious marriage ceremony to register the marriage as a civil marriage. Failure to do so is punished with imprisonment from two to six months. All charges are dropped once the civil marriage is carried out; • Article 230(6) provides that any person who conducts a religious marriage without first having sight of the civil marriage certificate is punished with | <p>ceremony without executing official marriage transactions or conducting a religious ceremony without seeing the certificate of marriage, the decision has been perceived by the public as if the Court ruled that registration of a religious marriage as a civil marriage is no longer a legal requirement. Consequently, there are concerns that the May 2015 Decision may lead to higher prevalence of child and polygamous marriages, both</p> | <p>official performing the marriage and two witnesses.¹²</p> | | <p>actual implementation:¹⁴</p> <ul style="list-style-type: none"> • In 2009, the Committee on Equal Opportunities for Women and Men of the Grand National Assembly of Turkey¹⁵ was formed to promote gender equality. However, it is reportedly dysfunctional for reasons that include: (i) appointment of MPs who are not experts in the field; (ii) its status as a secondary commission; (iii) |
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⁹ Pasinler Criminal Court of Peace, *Judgment of the Constitutional Court*, Judgement No. 2015/51, 27 May 2015, <http://www.constitutionalcourt.gov.tr/inlinepages/leadingjudgements/ConstitutionalityReview/judgment/2015-51.pdf>

¹¹ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹³ UNDP, "Human Development Report 2016", Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

⁴ Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Esrin Orucu, "Recent Developments in Turkish Family Law", (Recht van de Islam, 21, 2004), p. 2, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht21_orucu.pdf

⁵ Article 174 of Turkey's Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en; Article 143 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Umut Uras, "Turkey court ruling on religious marriages spurs uproar", *Al Jazeera*, 31 May 2015, <http://www.aljazeera.com/news/2015/05/turkey-court-ruling-religious-marriages-spurs-uproar-150530151909516.html>; Esrin Orucu, "Recent Developments in Turkish Family Law", (Recht van de Islam, 21, 2004), pp. 2-3, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht21_orucu.pdf

⁶ Articles 230(5), 230(6) of the Penal Code (2004), <http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.pdf>

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| | <p>imprisonment from two to six months.</p> <p>The Civil Code provides for a marital framework that is based on equality between the two spouses.⁷ Thus:⁸</p> <ul style="list-style-type: none"> • Article 185 of obligates spouses to work together for the happiness of the marriage union and the care and education of the children; they had to live together in fidelity and help each other; • Article 186 provides that the home is chosen together; the union is managed together, | <p>prohibited under the Civil Code.¹⁰</p> | | | <p>non-disseminating of 'unwanted reports', etc.;</p> <ul style="list-style-type: none"> • In 2012, Turkey launched the "Family Training Program" to train couples and soon-to-be couples on equal distribution of household duties and family communication, with an emphasis on teaching fathers about the |
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¹² Turkey State party report, U.N. Doc CEDAW/C/TUR/4-5 (2003), p. 46, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>

¹⁴ Executive Committee for NGO Forum on CEDAW Turkey, "Shadow NGO Report on Turkey", *Submission to the CEDAW Committee for the 64th Session*, 2016, p. 5, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TUR/INT_CEDAW_NGO_TUR_24253_E.pdf; Executive Committee for NGO Forum on CEDAW, "Turkey Shadow Report of Summary", *Submission to the CEDAW Committee Pre-sessional Working Group for the 64th Session*, 2015, p. 2, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TUR/INT_CEDAW_NGO_TUR_21871_E.pdf; Sophia Jones and Nicole Tung, "Women are dying in Turkey", *Foreign Affairs*, 27 April 2017, <https://www.foreignaffairs.com/articles/turkey/2017-04-27/women-are-dying-turkey>; F. Brinley Burton, "Turkey's President Erdogan Calls Women Who Work 'Half Persons'", *NBC News*, 8 June 2016, <http://www.nbcnews.com/news/world/turkey-s-president-erdogan-calls-women-who-work-half-persons-n586421>; Agence France-Presse, "Recep Tayyip Erdoğan: A woman is above all else a mother", *The Guardian*, 8 March 2016, <https://www.theguardian.com/world/2016/mar/08/recep-tayyip-erdogan-a-woman-is-above-all-else-a-mother-turkish-president>; BBC News, "Turkey president Erdogan: Woman are not equal to men", *BBC News*, 24 November 2014, <http://www.bbc.com/news/world-europe-30183711>

¹⁵ Grand National Assembly of Turkey Website: <https://www.tbmm.gov.tr/komisyon/kefe/act.htm>

⁷ Esrin Orucu, "Recent Developments in Turkish Family Law", (Recht van de Islam, 21, 2004), p. 2, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht21_orucu.pdf

⁸ Articles 185, 186 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>

¹⁰ Riada Asimov Akyol, "Turkish Courts stirs Marriage Debate", *Al Monitor*, 1 June 2015, <http://www.al-monitor.com/pulse/originals/2015/06/turkey-top-court-stirs-debate-on-religious-marriage.html>

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| | <p>the spouses contribute to the expenses in proportion to their abilities through their work and possessions.</p> | | | | <p>needs of their children.¹⁶ However, the “Ministry for Women and Family” has been replaced with the “Ministry of Family and Social Policies” which focuses more on issues of concern relating to the family and less on women’s rights;¹⁷</p> <ul style="list-style-type: none"> • In 2014, the 10th National Development Plan¹⁸ focused more on family instead of women’s rights i.e. the role of women are discussed against a background of more conservative family values; |
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¹⁶ Turkey State party report, U.N. Doc CEDAW/C/TUR/7 (2014), para. 85, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>

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¹⁸ Ministry of Development, “The Tenth National Development Plan, 2014-2018”, 2014, [http://www.mod.gov.tr/Lists/RecentPublications/Attachments/75/The%20Tenth%20Development%20Plan%20\(2014-2018\).pdf](http://www.mod.gov.tr/Lists/RecentPublications/Attachments/75/The%20Tenth%20Development%20Plan%20(2014-2018).pdf)

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| | | | | | <ul style="list-style-type: none"> • For years, many political and religious leaders, including the President, has defined the place of women and how they should behave based on patriarchal norms. As such rhetoric are being expounded so frequently, despite Turkish laws providing for gender equality both in the public and private spheres, the general public increasingly entrench patriarchal norms in their daily interactions to the detriment women. Such rhetoric include: (i) A working woman is a “half women” because she “refuses maternity and gives up housekeeping”; (ii) women should |
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| | | | | | not laugh in public because it is indecent; (iii) "Islam has defined a position for women: motherhood" and it is not possible "to explain this to feminists because they don't accept the concept of motherhood." |
| <p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> | <p>The minimum legal age for marriage is 17 for females and males based on Article 124 of the Civil Code. However, Article 124 also provides that a judge may permit girls and boys below 17 to marry in extraordinary circumstances and with a very important reason. If possible, the judge is also obligated to hear the father, the mother or the guardian before making a decision.¹⁹</p> <p>Article 124 of the Civil Code absolutely prohibits the marriage of girls and boys below 16.²⁰</p> | <p>Concerns have been expressed that the Constitutional Court's May 2015 Decision will remove protections intended to prevent child marriage.²²</p> | <p>In 2013, the Head of Turkey's Religious Affairs Directorate (Diyanet), offered the following censure of child marriage: "...fathers and families who forcibly marry off girls to much more older men, without girls' consent, without them still having gained the maturity for being a mother, or grasping</p> | <p>To register a marriage, women and men have to submit an application together with their identity documents and other relevant documents to the Marriage Office in one of their residential places. The marriage officer is the Mayor (or an officer authorised by the Mayor) in the</p> | <p>Available data suggest a relatively high prevalence of child marriage in Turkey:</p> <ul style="list-style-type: none"> • According to UNICEF's State of the World's Children 2016 report, 15% of women aged 20-24 in Turkey were first married by 18 and 1% by |

¹⁹ Article 124 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Riada Asimovic Akyol, "New Focus on Child Brides in Turkey", *AI Monitor*, 8 January 2014, <http://www.al-monitor.com/pulse/originals/2014/01/turkey-marriage-child-brides-poverty-education-religion.html>

²⁰ Article 124 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Riada Asimovic Akyol, "New Focus on Child Brides in Turkey", *AI Monitor*, 8 January 2014, <http://www.al-monitor.com/pulse/originals/2014/01/turkey-marriage-child-brides-poverty-education-religion.html>

²² Riada Asimov Akyol, "Turkish Courts stirs Marriage Debate", *AI Monitor*, 1 June 2015, <http://www.al-monitor.com/pulse/originals/2015/06/turkey-top-court-stirs-debate->

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| <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p> | <p>The minimum legal age for marriage is below the legal age of civil majority. Under Article 11 of the Civil Code, the legal age of civil majority is 18 for both females and males. A minor attains adulthood by marriage.²¹</p> | | <p>the meaning of a spouse [are] ruthless.” He also said “Whoever tries to find an argument or justification [for child brides] in any Islamic source, does injustice both to religion and that girl child. That is why it is all of our responsibility to take all these [historical facts] again and share them with society anew.”²³</p> | <p>cities and the village head (<i>mukhtar</i>) in the villages. The marriage officer examines the documents and, if he/she finds out a legal obstacle, rejects the application.²⁴</p> | <p>15;²⁵</p> <ul style="list-style-type: none"> • According to a 2014 household survey by the Ministry of Family and Social Policies and Hacettepe University, 26% of women in Turkey married below 18. In addition, the survey found that among women who married below 18: (i) 2% had a religious ceremony without having a civil marriage; (ii) 77% had their religious marriage ceremonies conducted by a Muslim cleric (<i>imam</i>) (63% official imam; 15% unofficial imam); (iii) 21% were given |
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²¹ Article 11 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>

²³ Riada Asimovic Akyol, “New Focus on Child Brides in Turkey”, *Al Monitor*, 8 January 2014, <http://www.al-monitor.com/pulse/originals/2014/01/turkey-marriage-child-brides-poverty-education-religion.html>

²⁴ Articles 134-137 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Women for Women’s Human Rights, “The New Legal Status of Women in Turkey”, 2002, p. 10, <http://www.kadinininsanhaklari.org/static/yayin/kitapcik/yeni-yasal-statu.pdf>

²⁵ UNICEF, “The State of the World’s Children 2016”, Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

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| | | | | | <p>bride price; (iv) 24% married men who were 10 or more years older than them;²⁶</p> <ul style="list-style-type: none"> • According to a media report: (i) 2014 Ministry of Interior Affairs statistics showed that between 2011 and 2014, 134,629 children below 18 were married (5,763 boys and 128,866 girls i.e. 20 times the number of boys); (ii) according to a member of the Union of Turkish Bar Associations, on or around 2014, there was a 94% increase in applications to the courts by families to get marriage permits (required between 16 and 17); (iii) academic |
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²⁶ Ministry of Family and Social Policies and Hacettepe University, “Research on Domestic Violence Against Women in Turkey”, 2015, Tables 4.8, 4.9, pp. 77-78, http://www.hips.hacettepe.edu.tr/eng/english_main_report.pdf

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| | | | | | <p>research shows that 82% of child brides in Turkey are illiterate, 60% of marriages in the city of Sanliurfa (a city near the Syrian border) involve a person below 16, child marriages are higher in the rural communities and girls frequently marry a much older man, a widower, or a man who has raped her,²⁷</p> <ul style="list-style-type: none"> • According to a 2011 Turkish academic study, 40% of marriages involved a bride under 18, translating to 5.5 million young women married below 18 in the country.²⁸ |
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²⁷ Riada Asimovic Akyol, "New Focus on Child Brides in Turkey", *Al Monitor*, 8 January 2014, <http://www.al-monitor.com/pulse/originals/2014/01/turkey-marriage-child-brides-poverty-education-religion.html>

²⁸ Hurriyet Daily News, "Report Sheds Light on Widespread Polygamy in Turkey", *Hurriyet Daily News*, 1 November 2011, <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=some-186000-women-live-with-their-8216sister-wives8217-2011-01-11>

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| | | | | | According to UN World Marriage Data 2015, the average of first marriage among Turkish females rose from 23.3 in 2003 to 24.2 in 2013 and among males, from 26.4 to 28.1 during the same period. ²⁹ |
| <p>Women's consent to marriage</p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21</p> | <p>Regardless of their age, both prospective brides and grooms must consent to the marriage.³⁰ Consequently, <i>ijbar</i> marriages are prohibited.</p> <p>There is no specific article in the Penal Code that relates to forced marriages. However, "Offenses against Sexual Immunity" are regulated by Chapter 6, and "Offenses against Liberty" are regulated by Chapter 7.³¹</p> <p>The mandatory registration of marriages is provided for in Articles 142 and 143 of the Civil Code.³²</p> | | <p>The Government of Turkey in its 2003 report to the CEDAW Committee informed that according to the law, the basic condition of marriage is the full and free consent of the couples getting married, whether a minor or an adult.³³</p> | <p>During the civil marriage ceremony, the marriage officer asks the parties individually if they would like to marry each other and gets their oral answers in front of two witnesses.³⁴</p> <p>While the Constitutional Court in its May 2015 Decision annulled the crime and punishment relating to religious</p> | <p>According to a 2014 household survey by the Ministry of Family and Social Policies and Hacettepe University, 26% of women reported that their marriage were decided by their family without their consent of which 20% women who married below 18 and 6% of women who married after 18 reported the same.³⁶</p> |

²⁹ United Nations Population Division, "World Marriage Data 2015", <https://esa.un.org/ffps/Index.html#/maritalStatusData>

³⁰ Articles 142, 143 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Seda Irem Cakirca, "Turkish Civil Code and CEDAW: Never Shall the Twain Meet?", (Annales XLV, 62, 2013), pp. 170-171, <http://dergipark.gov.tr/download/article-file/7075>; Women for Women's Human Rights, "The New Legal Status of Women in Turkey", 2002, p. 9, <http://www.kadinininsanhaklari.org/static/yayin/kitapcik/yeni-yasal-statu.pdf>

³¹ Chapters 5, 7 of the Penal Code (2004), <http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.pdf>

³² Articles 142, 143 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>

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| Paras. 25-26, 33-34 GR29 | | | | <p>marriages that are not registered as civil marriages, it is important for women to officially register a marriage not only because it is a legal requirement, but also because women who do not register their marriage would be deprived from claiming certain rights that would have been available to them had their marriages been officially registered. The Constitutional Court itself in its May 2015 Decision asserted as follows when explaining the reason for there being no need to impose penal sanctions in that regard: “In accordance with the relevant provisions</p> | |
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³³ Turkey State party report, U.N. Doc CEDAW/C/TUR/4-5 (2003), p. 47, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>
³⁴ Articles 142 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html> Women for Women’s Human Rights, “The New Legal Status of Women in Turkey”, 2002, p. 11, <http://www.kadinininsanhaklari.org/static/yayin/kitapcik/yeni-yasal-statu.pdf>
³⁶ Ministry of Family and Social Policies and Hacettepe University, “Research on Domestic Violence Against Women in Turkey”, 2015, Tables 4.8, 4.9, p. 78, http://www.hips.hacettepe.edu.tr/eng/english_main_report.pdf

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| | | | | <p>of Turkish Civil Code, it is mandatory for spouses to have their official marriage certificate issued by the relevant officials stated in the law in order to claim their rights arising from the matrimony. Otherwise, they cannot claim a number of rights arising from the conjugal community. In other words, there are legal sanctions that people may be subject to if they do not execute civil marriage transactions, and these sanctions are adequate to ensure that people execute these transactions.”³⁵</p> | |
| <p>Women’s capacity to enter into marriage <i>Is consent of a marital guardian</i></p> | <p>Prospective brides and grooms over 18 do not require the consent of a guardian to enter into marriage. Prospective brides and</p> | | | <p>Marital agreements are limited to the election of the matrimonial property</p> | |

³⁵ Pasinler Criminal Court of Peace, *Judgment of the Constitutional Court*, Judgement No. 2015/51, 27 May 2015, <http://www.constitutionalcourt.gov.tr/inlinepages/leadingjudgements/ConstitutionalityReview/judgment/2015-51.pdf>

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| <p><i>(wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p> | <p>grooms below 18 require the consent of their guardian to enter into marriage.³⁷</p> | | | <p>regime.³⁸</p> | |
| <p>Polygamous marriages</p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recog-</i></p> | <p>Polygamy is a criminal offense.</p> <p>Article 230(1) states that a person who marries to another person although he/she is legally married at that time is punished with imprisonment from six months to two years.³⁹</p> <p>Article 230(2) of the Penal Code states that any person who officially gets married to a person known as married to another</p> | <p>The Constitutional Court's May 2015 Decision has been viewed by many as implicitly enabling polygamous marriages.⁴¹</p> | | | <p>According to a 2011 report, 186,000 women are in polygamous marriages. These unsanctioned marriages have given them few legal protections. The 2011 report found that 452,139 women are in non-legally binding marriages.⁴²</p> |

³⁷ Articles 126, 127 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Women for Women's Human Rights, "The New Legal Status of Women in Turkey", 2002, p. 9, <http://www.kadinininsanhaklari.org/static/yayin/kitapcik/yeni-yasal-statu.pdf>

³⁸ International Comparative Legal Guide, "Marital Agreements", *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>

³⁹ Article 230(1) of the Penal Code (2004), <http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.pdf>

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| <p><i>nised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p>Applicable CEDAW Provision Para. 14 GR21 Para. 34 GR29</p> | <p>person although he is bachelor, is punished according to the provisions of above subsection.⁴⁰</p> | | | | <p>Since these marriages are not protected under the Civil Code, the women entering these marriages do not have marital rights (such as alimony, participation of acquired property, inheritance in the event of husband's death etc.).⁴³</p> |
| <p>Divorce rights</p> <p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation</i></p> | <p>Divorce rights between women and men are equal.</p> <p>Under the Civil Code:⁴⁴</p> <ul style="list-style-type: none"> • Divorce can only take place in court; • The two main forms of divorce (contested and uncontested) are equally available to both | | <p>In 2016, the Turkish Parliament established a Commission to investigate the causes of the rising divorce rates in Turkey, However, the report of this Commission was criticised by many feminist groups for</p> | <p>The court that orders the divorce also notifies the Registration Office.⁴⁶</p> | <p>According to the media reports and information on the ground, many women are reluctant to divorce their husbands although there are valid grounds to do so for fear of threats from their husbands, social pressure,</p> |

⁴¹ Riada Asimov Akyol, "Turkish Courts stirs Marriage Debate", *Al Monitor*, 1 June 2015, <http://www.al-monitor.com/pulse/originals/2015/06/turkey-top-court-stirs-debate-on-religious-marriage.html>

⁴² Hurriyet Daily News, "Report Sheds Light on Widespread Polygamy in Turkey", *Hurriyet Daily News*, 1 November 2011, <http://www.hurriyetaidailynews.com/default.aspx?pageid=438&n=some-186000-women-live-with-their-8216sister-wives8217-2011-01-11>

⁴⁰ Article 230(2) of the Penal Code (2004), <http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.pdf>

⁴³ Information obtained from Turkish advocate, February 2017

⁴⁴ Article 161-166 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; International Comparative Legal Guide, "Marital Agreements", *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>; Esrin Orucu, "Recent Developments in Turkish Family Law", (Recht van de Islam, 21, 2004), pp. 2-3, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht21_orucu.pdf

⁴⁶ Information obtained from Turkish advocate, February 2017

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| <p><i>(talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p> | <p>women and men: contested and uncontested divorce;</p> <ul style="list-style-type: none"> The grounds for divorce are the same for the husband and wife and are as follows: <ul style="list-style-type: none"> - Adultery; - Threat to life, extreme cruelty and serious insult; - Committing a humiliating crime, leading a dishonourable life; - Desertion; - Incurable mental illness; and - Irretrievable breakdown. | | <p>neglecting violence against women for the sake of reserving marriages, as well as for forming the basis of legitimising child marriages and women being forced to marry men who have raped them.⁴⁵</p> | <p>adverse economic conditions etc. There are reported many cases of husbands physically abusing their wives or even kill them upon their wives seeking a divorce. For instance, according to statistics by Bianet (an independent communication network which compiles statistics from the local, national and internet news regarding violence against women), in 2013, men killed 281 women; 21% these women were killed for seeking a divorce or breakup.⁴⁷</p> |
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⁴⁵ Information obtained from Turkish advocate, February 2017; Pinar Tremblay, "Is this the last nail in coffin of women, minors' rights in Turkey?", *Al Monitor*, 27 May 2016, http://www.al-monitor.com/pulse/originals/2016/05/turkey-women-and-minor-rights-misogynistic-law.html?utm_source=English+List+-+052616&utm_campaign=9bdf79d1e9-May_30_2016&utm_medium=email&utm_term=0_7ec6b191fc-9bdf79d1e9-102789889

⁴⁷ Information obtained from Turkish advocate, February 2017; Bianet, "Men Kill 281 Women in 2014", <http://bianet.org/english/women/161678-men-kill-281-women-in-2014>; Sophia Jones, "Despite Legal Gains, Women are Still Dying Over the Right to Divorce", 19 November 2014, *The World Post*, http://www.huffingtonpost.com/2014/11/19/turkish-women-divorce_n_6133470.html

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| <p>Women’s financial rights after divorce</p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman’s role as wife and mother recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut’ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p> | <p>Generally, upon divorce, a woman may be entitled to: (i) financial maintenance; (ii) financial compensation; and (iii) a share of the matrimonial assets.⁴⁸</p> <p>Pursuant to Article 175 of the Civil Code, if a spouse is going to be poor due to divorce, s/he is entitled to financial maintenance until the former spouse’s death or remarriage or the former spouse no longer needs it or lives dishonourably. Fault or guilt is not necessary for financial maintenance to be ordered. The amount of financial maintenance available to the former spouse needing it is dependent on the financial capacity of the other former spouse.⁴⁹</p> <p>Pursuant to Article 174 of the Civil Code, a spouse who claims to have suffered material or moral damage can make a request to the court for an order that compensation be paid by the other party to him/her for the damage suffered.⁵⁰</p> | <p>The Civil Code requires that the division of matrimonial assets takes place no later than one year after the official divorce, and sets the statute of limitations at one year after the divorce decree is made absolute for any right of action arising from divorce. However, in 2013, the Supreme Court ruled that the process could be extended to 10 years.⁵⁶</p> | | | <p>According to legal practitioners, academic research and information on the ground.⁵⁷</p> <ul style="list-style-type: none"> • Although financial maintenance and compensation are regulated by the Civil Code, many men avoid paying some or all of these amounts. Common ways to avoid alimony include unregistered work or to concealing the real income; • Generally, the amount of both financial maintenance and compensation have been low and do not provide a living to |
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⁴⁸ International Comparative Legal Guide, “Finance on Divorce”, *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>

⁴⁹ Article 175 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; International Comparative Legal Guide, “Finance on Divorce”, *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>

⁵⁰ Article 174 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; International Comparative Legal Guide, “Finance on Divorce”, *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>

⁵⁶ Article 178 of the Civil Code, <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Seyhan Law Office, “Division of Property during Divorce Proceedings”, *Seyhan Law Office*,

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| | <p>The share of matrimonial assets available to the parties is dependent on the asset regime that the couple is attached to at the time of the divorce i.e. the legal matrimonial property regime, the regime of separation of property, the regime of separation of property with distribution and the regime of community of property.⁵¹</p> <p>Article 202 of the Civil Code states that the default arrangement is that all assets acquired during the marriage are considered to be jointly acquired unless the spouses gave agreed to another arrangement within the boundaries of the law.⁵²</p> <p>Under the default matrimonial property regime, the marital assets are divided equally between the women and men</p> | | | | <p>a woman who does not have any other income;</p> <ul style="list-style-type: none"> • There are cases where spouses have attempted to hide the assets (e.g. by registering the property in the name of a third person) or sell them before the process of matrimonial regime liquidation regime starts. Since the power relations in a marriage is generally in favour of men, often the party who do not benefit from the |
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⁵⁷ <http://seyhanlaw.com/questions/divorce/division-of-property>
Information obtained from Turkish advocate, February 2017; Seyhan Law Office, “Division of Property during Divorce Proceedings”, *Seyhan Law Office*, <http://seyhanlaw.com/questions/divorce/division-of-property>; Seda Irem Cakirca, “Turkish Civil Code and CEDAW: Never Shall the Twain Meet?”, (Annales XLV, 62, 2013), p. 145, <http://dergipark.gov.tr/download/article-file/7075>

⁵¹ Articles 202, 203, 205 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; International Comparative Legal Guide, “Finance on Divorce”, *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>; Zeynab Derya Tarman and Basak Basoglu, “Matrimonial property regime in Turkey”, (Buitenlands IPR/Foreign PIL, 3, 2014), p. 360, <http://nivr-online.eu/pdf/2014-309.pdf>

⁵² Article 175 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; International Comparative Legal Guide, “Finance on Divorce”, *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>

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| | <p>during and after the dissolution of the marriage.⁵³ Although the woman's role as wife and mother is not explicitly stated as contributing to acquisition of assets, the unpaid work of the wife is implicitly recognised.⁵⁴</p> <p>Following a divorce, regardless of custody arrangements, both parents are responsible for the financial maintenance of their children. Parents are able to request this care maintenance from each other.⁵⁵</p> | | | | <p>participation of acquired property regime after a divorce as a result of such actions is the woman;</p> <ul style="list-style-type: none"> The matrimonial property regime does not apply retroactively. As such, millions of women who were married before 2002 (i.e. before the regime came into force) and unable to apply to the authorities within the following year to change their matrimonial property regime do not enjoy the equal division of property acquired during marriage. |
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⁵³ Seyhan Law Office, "Division of Property during Divorce Proceedings", *Seyhan Law Office*, <http://seyhanlaw.com/questions/divorce/division-of-property>

⁵⁴ Women for Women's Human Rights, "The New Legal Status of Women in Turkey", 2002, p. 14, <http://www.kadinininsanhaklari.org/static/yayin/kitapcik/yeni-yasal-statu.pdf>

⁵⁵ Articles 327-330 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; International Comparative Legal Guide, "Child maintenance", *Family Law*, 2017, <https://iclg.com/practice-areas/family-law/family-law-2017/turkey>

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| <p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p> | <p>During marriage, both parents have custodial rights over their children. In the event of a divorce, custody is entrusted to either the mother or father, even if parents have agreed to joint custody or have divorced in another country in which they were granted joint custody. The criteria for determining custody is the “best interest of the child” and the “capacity of the parent for raising the child.” Mothers have sole custody of children born outside of marriage.⁵⁸</p> <p>Remarriage of the mother, her infidelity, or the aging of the child do not automatically cause custody to change to the father, but they can be seen as reasonable grounds for the custody case of a father.⁵⁹</p> | | | <p>In divorce and custody cases generally judges ask the child expert (in the law referred to as a pedagogue, a social worker, or a psychologist) to interview the children and take into account their reports in deciding parental custody.⁶⁰</p> | <p>According to information on the ground, generally after a divorce, fathers do not file for the custody of the children and mothers are awarded the custody. In instances where a father files for custody:⁶¹</p> <ul style="list-style-type: none"> • If the children are young and need a mother’s care, mothers are usually awarded custody of the children; • If the children are older, fathers who have better socio-economic means could be awarded custody. |
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⁵⁸ Articles 182, 335-336 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Cam & Kaya Law Associates, “Turkish Family Law: Custody”, *Cam & Kaya Law Associates*, <https://turkisfamilylaw.wordpress.com/consequences-of-divorce/custody/>

⁵⁹ Information obtained from Turkish advocate, February 2017

⁶⁰ Information obtained from Turkish advocate, February 2017

⁶¹ Information obtained from Turkish advocate, February 2017

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| <p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p> | <p>In the event of a divorce, both parents have equal right to guardianship. The criteria for determining guardianship is the “best interest of the child”.⁶²</p> | | <p>The Government of Turkey in its 2008 report to the CEDAW Committee explained that in cases of divorce, the judge can place the children under the guardianship of either parent. In practice, judges tend to award guardianship of younger children to mother, unless there are exceptional circumstances. The parent that fails to gain the child’s guardianship has to share the monetary equities incurred by the upbringing of the child. Right to visit the children is regulated for the parent failing to gain their guardianship by the judge.⁶³</p> | | |
| <p>Family Planning</p> <p><i>Do women require the consent of</i></p> | <p>Article 41 of the Constitution obligates the State to take the necessary measures and</p> | | <p>The Government of Turkey in its 2014 report to the</p> | | <p>According to World Bank data, the total fertility rate</p> |

⁶² Article 182 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Cam & Kaya Law Associates, “Turkish Family Law: Custody”, *Cam & Kaya Law Associates*, <https://turkisfamilylaw.wordpress.com/consequences-of-divorce/custody/>

⁶³ Turkey State party report, U.N. Doc CEDAW/C/TUR/6 (2008), p. 77, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>

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| <p><i>the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p> | <p>establish the necessary organisation to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice.⁶⁴</p> <p>Abortion is permitted in Turkey provided the requirements are met.⁶⁵</p> <p>If a pregnant woman is married, abortion requires permission of the “spouse” (i.e. husband). For married couples, sterilisation of a spouse also requires permission of the other spouse.⁶⁶</p> | | <p>CEDAW Committee stated that its intention is to continue to decrease abortions, crediting modern contraceptives for decreases in abortions up to that point. They also initiated The Programme on Follow-Up of Women 15 to 49 Years of Age and Pre-Marriage Consultancy Program to provide education on family planning.⁶⁷</p> | | <p>decreased from 6.3 children per woman in 1960 to 2.1 in 2015.⁶⁸</p> <p>According to the UN Population Division’s 2015 Trends in Contraceptive Use Worldwide:⁶⁹</p> <ul style="list-style-type: none"> • 74% of married women aged 15-49 are using a method of contraception, with 48% of women using a modern method; • 6% of married women aged 15-49 have an unmet need for family planning services; and |
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⁶⁴ Article 41 of Turkey’s Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en

⁶⁵ Section 5 of the Population Planning Law No. 2827/1983; Centre for Reproductive Rights, “The World’s Abortion Laws”, 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

⁶⁶ Section 6 of the Population Planning Law No. 2827/1983, <http://www.lawsturkey.com/law/the-population-planning-law-2827>

⁶⁷ Turkey State party report, U.N. Doc CEDAW/C/TUR/7 (2014), paras. 176-179, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>

⁶⁸ World Bank, “Fertility rates, total (births per woman)”, <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

⁶⁹ United Nations Population Division, “Trends in Contraceptive Use Worldwide 2015”, Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

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| | | | | | <ul style="list-style-type: none"> • 60% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception. <p>In 2012, a draft law that provides doctors with the right to refuse performing an abortion on the ground of their conscience and a mandatory “consideration time” for women requesting a termination was introduced. The draft law was subsequently dropped but according to feminists groups, the attitude of doctors and other health professionals changed nevertheless. A survey was conducted by feminist groups on 184 state-hospitals</p> |
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| | | | | | found that only nine hospitals out of the 184 agreed to provide abortion services regardless of the marital status of the woman; 65 said that they could provide the service only if there was a ground such as a medical emergency, court order etc., 28 refused to provide information on the matter and remaining 76 refused to carry out the termination irrespective of the reason. ⁷⁰ |
| <p>Personal rights of spouses</p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have</i></p> | <p>Article 19 of the Constitution provides that everyone has the right to personal liberty.⁷¹</p> <p>Article 23 of the Constitution provide that everyone has freedom of residence and movement.⁷²</p> | <p>In 2014, the Constitutional Court, citing CEDAW as authority, ruled that women can use only their surnames after marriage.⁷⁶</p> | | | <p>According to World Bank data, female labour force participation decreased from 34% in 1990 to 30% in 2016.⁷⁷ During the same period, male labour force</p> |

⁷⁰ Executive Committee for NGO Forum on CEDAW Turkey, "Shadow NGO Report on Turkey", *Submission to the CEDAW Committee for the 64th Session*, 2016, p. 5, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TUR/INT_CEDAW_NGO_TUR_24253_E.pdf; Constanze Letsch, "Istanbul Hospitals refuse abortions as Government's attitude hardens", *The Guardian*, 4 February 2015, <https://www.theguardian.com/world/2015/feb/04/istanbul-hospitals-refuse-abortions-government-attitude>

⁷¹ Article 19 of Turkey's Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en

⁷² Article 23 of Turkey's Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en

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| <p><i>the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p> | <p>Article 48 of the Constitution guarantees everyone the freedom to work and conclude contracts in the field of his/her choice.⁷³</p> <p>Article 192 of the Civil Code provides that each spouse does not have to get permission from the other one when choosing an occupation or a job. Nevertheless, the tranquillity and the benefit of the marriage unity is taken into consideration in choosing an occupation or a job.⁷⁴</p> <p>Article 187 of the Civil Code states that women must take their husbands' last name after marriage. However, a married woman may use her previous surname in front of her husband's surname with by making an application to the marriage officer or, later, to the Civil Registry Office. If a woman has two last names prior to marriage, she can only use one of them with her husband's last name.⁷⁵</p> | | | | <p>participation rate decreased from 81% to 71%.⁷⁸</p> <p>According to the 2016 UNDP Human Development Report:⁷⁹</p> <ul style="list-style-type: none"> • 44% of women over 25 have at least some secondary education as compared to 65% of men of the same age group; • 99% of females aged 15-24 are able to read and write a short simple sentence. The ability to read and write a short simple sentence is almost universal among males in |
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⁷⁶ Oya Armutcu, "Top Court Allows Married Women to Use only Maiden Surname", *Hurriyet Daily News*, 30 May 2015, <http://www.hurriyetaidailynews.com/top-court-allows-married-women-to-use-only-maiden-surname.aspx?pageID=238&nID=83191&NewsCatID=341>

⁷⁷ World Bank, "Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

⁷³ Article 48 of Turkey's Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en

⁷⁴ Article 192 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>

⁷⁵ Article 187 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>

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| | | | | | <p>that age group; and</p> <ul style="list-style-type: none"> • 60% of women are satisfied with their freedom of choice as compared to 70% of men. |
| <p>Inheritance rights</p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p> | <p>Generally, inheritance rights between women and men equal.</p> <p>Based on Article 499 of the Civil Code, the proportion of the legal inheritance to be received by the surviving spouse varies according to with whom it will be shared.⁸⁰</p> <ul style="list-style-type: none"> • If the other heirs are the children of the deceased, the surviving spouse receives one quarter of the estate; • If the other heirs are the parents of the deceased, the spouse receives one half of the estate; • If the other heirs are the grandparents and the children | | | | <p>According to information on the ground:⁸²</p> <ul style="list-style-type: none"> • In the event that a man and woman are not legally married (for instance, they married with a religious ceremony) they cannot be legal inheritors. This affects women negatively due to unequal power relations; • In rural areas where the custom |

⁷⁸ World Bank, “Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)”, <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>
⁷⁹ UNDP, “Human Development Report 2016”, Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf
⁸⁰ Article 499 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Women for Women’s Human Rights, “The New Legal Status of Women in Turkey”, 2002, p. 22, <http://www.kadinininsanhaklari.org/static/yayin/kitapcik/yeni-yasal-statu.pdf>
⁸² Information obtained from Turkish advocate, February 2017

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| | <p>of the grandparents of the deceased, the spouse receives three quarters of the estate;</p> <ul style="list-style-type: none"> If there is no other heir except the spouse, he or she receives all of the estate. <p>Article 506 of the Civil Code specifies a minimum share of the deceased's estate, which must go to the surviving spouse, children, parents or grandparents.⁸¹</p> | | | | <p>is to register property in the name of sons, women cannot fully enjoy their inheritance rights. In the event of a sale of heritage property (family estate), brothers get authorisation to be power of attorneys and often do not pay the women their full share.</p> |
| <p>Violence against women in the family</p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his</i></p> | <p>Article 17 of the Constitution provides that no one shall be subjected to torture or maltreatment or other treatment that incompatible with human dignity.⁸³</p> <p>Law No. 6284/2012 on Protection of Family and Prevention of Violence Against Women makes provision for protection orders and other protective and preventive measures with regard to domestic violence.⁸⁴</p> | <p>In 2014, in the Ankara Family Court, a violent husband who physically assaulted his wife was forbidden from approaching his wife's home and place of work and was required to attend anger management classes.⁸⁸</p> | <p>The Turkish government has developed a National Action Plan to combat violence against women and girls (2016-2020) (NAP).⁹⁰</p> <p>Turkey ratified the Council of Europe Convention on Preventing and Combating Violence</p> | | <p>According to reports by UN Women and the media, violence against women is one of the biggest challenges with regard to achieving gender equality in Turkey.⁹²</p> <p>According to a 2014 household survey by the Ministry of Family and Social Poli-</p> |

⁸¹ Article 506 of the Civil Code (1926), <https://www.tbmm.gov.tr/kanunlar/k4721.html>; Women for Women's Human Rights, "The New Legal Status of Women in Turkey", 2002, p. 22, <http://www.kadinininsanhaklari.org/static/yayin/kitapcik/yeni-yasal-statu.pdf>

⁸³ Article 17 of Turkey's Constitution (1982), https://www.constituteproject.org/constitution/Turkey_2011.pdf?lang=en

⁸⁴ Law to Protect Family and Prevent Violence Against Women (2012), <http://www.lawsturkey.com/law/law-to-protect-family-and-prevent-violence-against-woman-6284>

⁸⁸ Cam & Kaya Law Associates, "Violent Husband is cursed with Anger Management", *Turkish Family Law*, <https://turkisfamilylaw.wordpress.com/2014/01/31/violent->

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| <p><i>wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p> | <p>Article 2(1)(b) of the Protection of Family and Prevention of Violence Against Women defines “domestic violence” as “Any physical, sexual, psychological and economical violence between the victim of violence and the perpetrator of violence and between the family members and the people who are considered as a family member whether they live or do not live in the same house.”⁸⁵</p> <p>The Penal Code contains prohibitions that are applicable to domestic violence e.g. Article 230-234 on Crimes Against Family Orders.⁸⁶</p> <p>Marital rape is criminalised under the Penal Code.⁸⁷</p> | <p>Also in 2014, a Turkish court rules that a woman who was attacked and wounded with a knife by her ex-husband had “provoked” him by wearing leggings, therefore providing “mitigating circumstances.”⁸⁹</p> | <p>against Women and Domestic Violence (Istanbul Convention) in 2011. Turkey ratified the Istanbul Convention in 2012.⁹¹</p> | <p>cies and Hacettepe University.⁹³</p> <ul style="list-style-type: none"> • Overall, 38% of women reported having experienced physical and/or sexual violence from their husbands or intimate partners at least once in their lifetime, and 11% reported having experienced one or more of these forms of violence in the past 12 months; |
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[husband-is-cursed-with-anger-management/](#)

- ⁹⁰ Permanent Mission of Turkey to the United Nations Geneva, “Human Rights Council Resolution 32/L.25, 27 January 2017, <http://www.ohchr.org/Documents/Issues/Women/WRGS/Report/Statesinputs/Turkey.pdf>; UN Women, “Turkey Reviews Progress on Ending Violence Against Women”, 17 March 2016, <http://eca.unwomen.org/en/news/stories/2016/03/turkey-reviews-progress-on-ending-violence-against-women>
- ⁹² UN Women, “Turkey Reviews Progress on Ending Violence Against Women”, 17 March 2016, <http://eca.unwomen.org/en/news/stories/2016/03/turkey-reviews-progress-on-ending-violence-against-women>; DW, “Domestic violence in Turkey reaches boiling point”, *DW*, 11 July 2015, <http://www.dw.com/en/domestic-violence-in-turkey-reaches-boiling-point/a-18576377>
- ⁸⁵ Article 2(1)(b) of the Law to Protect Family and Prevent Violence Against Violence (2012), <http://www.lawsturkey.com/law/law-to-protect-family-and-prevent-violence-against-woman-6284>; *Morcati Women’s Shelter Foundation*, <https://www.morcati.org.tr/en/links/19-mor-cati-women-s-shelter-foundation/115-you-can-keep-away-who-applied-violence>
- ⁸⁶ Articles 230-234 of the Penal Code (2004), <http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.pdf>
- ⁸⁷ Article 102(2) of the Penal Code (2004), <http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.pdf>; *Hurriyet Daily*, “A legal first in Turkey in marital rape”, *Hurriyet Daily*, 22 April 2008, <http://www.hurriyetdailynews.com/a-legal-first-in-turkey-in-marital-rape.aspx?pageID=438&n=a-legal-first-in-turkey-in-marital-rape-2008-04-22>
- ⁸⁹ Constanze Letsch, “The Bizzare Debate over Female Laughter shows Turkey’s women need a new deal”, *The Guardian*, 2 August 2014,

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| | | | | | <ul style="list-style-type: none"> • 36% of women reported having experienced physical violence from their husbands or intimate partners at least once in their lifetime, and 11% reported having experienced such violence within the 12 months prior to the survey; • 12% of women reported having experienced sexual violence from their husbands at least once, and 5% reported having experienced such violence within the 12 months prior to the survey; • Among women who had experienced |
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⁹¹ <https://www.theguardian.com/world/2014/aug/02/turkey-women-absurd-debate-female-laughter-new-deal>
⁹³ Turkey State party report, U.N. Doc CEDAW/C/TUR/7 (2014), para. 8, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>
 Ministry of Family and Social Policies and Hacettepe University, "Research on Domestic Violence Against Women in Turkey", 2015, Tables 5.1, 6.1, 7.3, pp. 86, 130, 158, http://www.hips.hacettepe.edu.tr/eng/english_main_report.pdf

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| | | | | | <p>violence (physical or sexual) from their husband or intimate partner in the past 12 months, 26% reported experiencing physical injuries; and</p> <ul style="list-style-type: none"> • It is not very common for women in Turkey seek assistance from any source for violence they have experienced. 44% of women never sought help and never told anyone about the violence they have experienced. <p>According to civil society reports and information on the ground, more can be done for victims of domestic violence and this include:⁹⁴</p> |
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⁹⁴ Executive Committee for NGO Forum on CEDAW Turkey, "Shadow NGO Report on Turkey", *Submission to the CEDAW Committee for the 64th Session*, 2016, pp. 13, 15, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TUR/INT_CEDAW_NGO_TUR_24253_E.pdf; Ozgul Kaptan, "A Decade of Violence Against Women", *The Foundation for Women's Solidarity*, 15 September 2015, <http://researchturkey.org/a-decade-of-violence-against-women-in-turkey/>; DW, "Domestic violence in Turkey reaches boiling point", *DW*, 11 July 2015, <http://www.dw.com/en/domestic-violence-in-turkey-reaches-boiling-point/a-18576377>; Le Figaro, "In Turkey,

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| | | | | | <ul style="list-style-type: none"> • Taking a more serious approach in addressing femicide. Femicide has been a burning issue for the over the last decade. Data by the Platform to Stop Violence against Women data shows that in 2008, there were 66 female murder victims. The number of victims increased by 333% to reach 286 victims in 2014; • Increasing the number of shelters and counselling centres for victims of domestic violence and the number of qualified staff manning these; |
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the Double-Edged Sword of Domestic Violence” *Le Figaro*, 16 May 2011, <http://plus.lefigaro.fr/note/in-turkey-the-double-edged-sword-of-domestic-violence-20110516-462766>; Federation of Women Associations of Turkey, “Shadow Report on Turkey”, *Submission to the CEDAW Committee for the 46th Session*, 2010, p. 9, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TUR/INT_CEDAW_NGO_TUR_46_10195_E.pdf

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| | | | | <ul style="list-style-type: none"> • Greater and more effective enforcement of the law by the relevant authorities, particularly the police and prosecutor as well as the judiciary. In relation to the police and prosecutor, there is a need for them to take women's complaints on violence more seriously and in relation to the judiciary, there is a need for speedier dispensation of cases relating to domestic violence. <p>In November 2016, a bill was introduced that would pardon men convicted of having sex with underage girls if they married them.</p> |
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| | | | | | <p>The bill was later withdrawn after significant protests against the measure.⁹⁵</p> <p>According to information on the ground, the 2016-2020 NAP was developed with limited civil society participation. In addition, the report regarding the outcomes and efficiency of the previous NAP to combat violence against women and girls have not yet been shared.⁹⁶</p> |
| <p>Nationality rights</p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> | <p>A Turkish woman or man may pass their nationality to their non-Turkish spouse provided they: (i) have been married for a minimum of three years and continue to live within the unity of marriage; (ii) have abstained from acts incompatible with the unity of marriage; and (iii) do not have quality constituting an obstacle in</p> | | | | |

⁹⁵ BBC News, "Turkey Withdraws Child Rape Bill After Street Protests," *BBC News*, 22 November 2016, <http://www.bbc.com/news/world-europe-38061785>

⁹⁶ Information provided by Turkey advocate, February 2017

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| <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p> | <p>respect of national security and public order.⁹⁷</p> <p>The nationality of an adult woman cannot be removed because of her marriage or dissolution of marriage, or because her husband or father changes his nationality.⁹⁸</p> <p>Both a Turkish mother and father may pass their citizenship to their children regardless of where the child is born.⁹⁹</p> <p>If a child is born in Turkey to foreign parents and is not granted citizenship through them, the child becomes a Turkish citizen.¹⁰⁰</p> | | | | |
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⁹⁷ Article 16 of the Turkish Citizenship Law No. 5901/2009, <http://www.lawsturkey.com/law/turkish-citizenship-law-5901>
⁹⁸ Article 27(2) of the Turkish Citizenship Law No. 5901/2009, <http://www.lawsturkey.com/law/turkish-citizenship-law-5901>
⁹⁹ Article 7 of the Turkish Citizenship Law No. 5901/2009, <http://www.lawsturkey.com/law/turkish-citizenship-law-5901>
¹⁰⁰ Article 8 of the Turkish Citizenship Law No. 5901/2009, <http://www.lawsturkey.com/law/turkish-citizenship-law-5901>