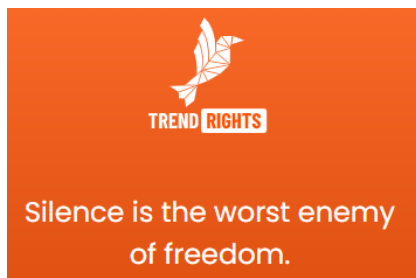


Submission to the Universal Periodic Review of
the United Nations Human Rights Council
4th Cycle – 49th Session
Country Review: Turkey

Submitting Civil Society Organization

TREND RIGHTS

Rights



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I. Introduction

1. Trend Rights drafted this report to contribute to the UN's call for input on the Universal Periodic Review of Turkey.

2. Amongst other targeted women, Trend Rights noted a significant number of pregnant women and their babies losing their lives due to poor conditions in prison. Trend Rights remains concerned with the increase of women prisoners dying in Turkish prisons due to abuse and violence. International human rights standards require special and improved care for women prisoners with children, while pregnant women need access to intensive and regular medical services to ensure their health. Imprisoned women with children and pregnant women face specific issues not known to other prisoners serving their sentences.
3. As a signatory to the UN Convention on the Rights of the Child (CRC) and the European Convention on the Exercise of Children's Rights (ECECR). Turkey is bound by national and international legal standards and, as such, pledged to implement the rights mentioned in the conventions in its domestic legislation. The CRC and the ECECR aim to inspire and encourage governments to change their laws and policies to protect children from violence and exploitation. However, when domestic practices about children conflict with international regulations, it is necessary to refer to the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the UN Guidelines for the Protection of the Juveniles Deprived of their Liberty (Havana Rules) as well as the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines).
4. The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was ratified by Turkey in 1986¹. The CEDAW aims to define what constitutes discrimination against women and sets up an agenda to end such discrimination. The Convention is the only human rights treaty affirming women's reproductive rights and targeting culture and tradition as influential forces shaping gender roles². Turkey has committed to upholding its international obligations as it submitted its State Party Reports to the CEDAW and the CRC³. Additionally, the "UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders" and the "Handbook for Prison Managers and Policy Makers on Women and Imprisonment" can be taken as a reference to regulate the treatment of women in Turkish prisons.
5. A report released by the Turkish Parliament's Subcommittee on Prisoners' Rights published in 2021 revealed that prisons are overcrowded and that living standards were diminished as a consequence of the COVID-19 pandemic. In the aftermath of Turkey's attempted coup in 2016, Turkish prisons are overpopulated with individuals, including an increasing number of pregnant women and mothers with small children. According to the country's Justice Department Prison and Penitentiaries Management, 864 children were imprisoned as of May 24, 2019.⁴ This number cannot be confirmed as data regarding children and their mothers in Turkish prisons is very difficult to access and is mainly

¹ Government of Turkey. (November 24, 2008). Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: 6th periodic report of States parties: Turkey. <https://www.refworld.org/reference/statepartiesrep/cedaw/2008/en/67976>.

² UN Women. (2009). Convention on the Elimination of All Forms of Discrimination Against Women. <https://www.un.org/womenwatch/daw/cedaw/#:~:text=The%20Convention%20on%20the%20Elimination,bill%20of%20rights%20for%20women>.

³ UNGA Human Rights Council, Working Group on the Universal Periodic Review. (January 2020). Thirty-fifth session – Turkey. 6. <https://documents.un.org/doc/undoc/gen/g19/324/55/pdf/g1932455.pdf?token=4o7U72Penx0KKRwfKp&fe=true>.

⁴ Advocates of Silenced Turkey. (January 8, 2021). Women's Rights Violations by the Turkish Legal System. <https://silencedturkey.org/womens-rights-violations-by-the-turkish-legal-system>.

collected from social media.

6. The State of Emergency declared by the government to protect Turkish democracy and the rule of law. The Turkish government attributed the attempted coup on July 15, 2016, to the Gülen movement, a group of religious, educational and social organisations in Turkey which was designated as a terrorist organisation by Turkey in May 2016⁵. Following this declaration of State of Emergency, Turkey resorted to the right of derogation from its obligations under the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR) to sufficiently combat terrorism under the State of Emergency⁶. Most arrests and detentions took place during the 2-year state of emergency, as by July 2022, over 101,000 people with alleged links to the Gülen movement had been arrested and 332,484 detained.⁷
7. The report issued by the European Commission covering the period between June 2021 and June 2022 noted an increase in credible allegations of torture and ill-treatment in detention centres and prisons. The Turkish government vehemently denied the claims issued by the European Commission⁸.
8. This report will review the current conditions of imprisonment for pregnant women and women with children in Turkish prisons. These conditions will be analysed based on the ratified United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules) and the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules). These documents have played a critical role in assessing human rights violations in prison. The Tokyo Rules provide a set of fundamental principles to promote the use of non-custodial measures and minimum safeguards for persons subject to alternatives to imprisonment.⁹ The Bangkok Rules were drafted precisely to address the conditions and needs of women offenders and prisoners as they represent less than a tenth of the prison population, and their characteristics have been largely unacknowledged.¹⁰ This report will thus rely on the previously mentioned guidelines to assess the treatment of mothers and pregnant women in Turkish prisons. Other NGO reports also provide critical evidence highlighting the adverse treatment of mothers and pregnant women in prison. Trend Rights was in direct contact with women previously detained who agreed to share their experience in custody.

⁵ Gov.UK. (Updated August 9, 2024). Country policy and information note: Gülenist movement, Turkey, October 2023 (accessible). Turkey: country policy and information notes.

<https://www.gov.uk/government/publications/turkey-country-policy-and-information-notes/475f9b93-76c5-4312-b918-68756604f8ed>.

⁶ UNGA Human Rights Council, Working Group on the Universal Periodic Review. (January 2020). Thirty-fifth session – Turkey.

<https://documents.un.org/doc/undoc/gen/g19/324/55/pdf/g1932455.pdf?token=4o7U72Penx0KKRwfKp&fe=true>.

⁷ Gov.UK. (Updated August 9, 2024). Country policy and information note: Gülenist movement, Turkey, October 2023 (accessible). Turkey: country policy and information notes.

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⁸ Gov.UK. (Updated August 9, 2024). Country policy and information note: Gülenist movement, Turkey, October 2023 (accessible). Turkey: country policy and information notes.

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⁹ United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules). (1990). <https://www.ohchr.org/sites/default/files/tokyorules.pdf>.

¹⁰ UN Bangkok Rules on women offenders and prisoners: Short guide. <https://cdn.penalreform.org/wp-content/uploads/2013/07/PRI-Short-Guide-Bangkok-Rules-2013-Web-Final.pdf>.

II. Summary of UN-UPR cycle Turkey 2020

9. The UN-UPR last reviewed Turkey in 2020. It noted that Turkey had an extensive legal framework against discrimination and a constitutional system based on the “equality of all individuals before the law, irrespective of ‘language, race, colour, gender, political opinion, philosophical belief, religion and sect, or any such consideration. “
10. Since the last UPR cycle, Turkey has yet to submit any new State Party Report to the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child. The last report was submitted in 2008.
11. The last cycle noted that the 11th Development Plan (2019-2023) aimed to prevent discrimination against women and that women enjoy equal rights and opportunities in all spheres of life¹¹.
12. Turkey received 762 recommendations from other states during the last UN-UPR cycle. Six of them relate to conditions of detention. Egypt, Switzerland, Italy, Luxembourg, and Estonia advised Turkey to conduct investigations into allegations of torture and ill-treatment of detainees¹².

III. Conditions of arrest and the lack of data

13. According to the Turkish Penal Code’s Article 5275, “the sentence of imprisonment is set aside/postponed for women who are pregnant or who are within six months of delivery”¹³. However, NGO reports and interviews conducted by Trend Rights have provided evidence that the Turkish authorities have arrested pregnant women.
14. The Directorate General of Prisons and Detentions Houses does not share data on pregnant women and women who are imprisoned with their babies.¹⁴
15. According to applications received by the human rights associations İnsan Hakları Derneği (İHD) from 15 prisons, at least 227 women prisoners (5 of whom are foreign nationals and one being imprisoned despite being pregnant) have been subjected to human rights violations.¹⁵

¹¹ UNGA Human Rights Council, Working Group on the Universal Periodic Review. (January 2020). Thirty-fifth session – Turkey. 14.

<https://documents.un.org/doc/undoc/gen/g19/324/55/pdf/g1932455.pdf?token=4o7U72Penx0KKRwfKp&fe=true>.

¹² Universal Periodic Review, Turkey. 2021. Recommendations received by Turkey. [https://upr-info-database.uwazi.io/library/?q=\(allAggregations:!f,filters:\(state_under_review:\(values:\(%2721511xi4kve%27\)\)\),from:30,includeUnpublished:!f,limit:300,order:desc,sort:creationDate,treatAs:number,types:\(%275d8ce04361cd e0408222e9a8%27\),unpublished:!f\)](https://upr-info-database.uwazi.io/library/?q=(allAggregations:!f,filters:(state_under_review:(values:(%2721511xi4kve%27))),from:30,includeUnpublished:!f,limit:300,order:desc,sort:creationDate,treatAs:number,types:(%275d8ce04361cd e0408222e9a8%27),unpublished:!f)).

¹³ Turkish Minute. (August 17, 2018). Pregnant women, children subjected to severe rights violations in Turkey’s prisons. <https://turkishminute.com/2018/08/17/pregnant-women-children-subjected-to-severe-rights-violations-in-turkeys-prisons/#:~:text=According%20to%20the%20Turkish%20Penal,age%20is%20not%20possible%20at.>

¹⁴ İHD Central Prisons Committee. (2022). 2022 Prisons Report. 47. https://ihd.org.tr/en/wp-content/uploads/2023/08/sr2023_2022-Prisons-Report.pdf.

¹⁵ İHD Central Prisons Committee. (2022). 2022 Prisons Report. 47-48. https://ihd.org.tr/en/wp-content/uploads/2023/08/sr2023_2022-Prisons-Report.pdf.

16. Women have been imprisoned in the crackdown of the Turkish authorities on the Gulen movement.¹⁶ Trend Rights's interviewee reported being arrested for using the encrypted messaging application ByLock, which she used twice on her phone, and for being in contact with four people arrested in connection with the "Fethullah Terrorist Organisation (FETO)" investigation¹⁷. It has been noted by several foreign ministries that the use of the ByLock app may increase the risk of persecution and arrest as it is seen as having been used by Gülenists¹⁸. Similar accounts of arrests have been reported by several women detained in Turkish prisons before undergoing any trial.¹⁹
17. Pregnant women have reported being arrested based on testimonies given by other suspects benefiting from the effective repentance act.
18. However, the Tokyo Rules advise against pre-trial detention, which should "be used as a means of last resort in criminal proceedings," and "alternatives to pre-trial detention" should be "employed at as early a stage as possible".²⁰ Additionally, the Bangkok Rules emphasise the fact that when sentencing pretrial measures for a pregnant woman or mother, non-custodial measures should be preferred "where possible and appropriate" as well as being "treated fairly and equally during arrest, trial, sentence and imprisonment" with "particular attention being paid to the unique problems which women offenders encounter, such as pregnancy and childcare"²¹.
19. The European Court on Human Rights has repeatedly criticised Turkish authorities for denying access to a lawyer during interrogation, which is incompatible with the right to a fair trial. In contrast, access to a lawyer is a safeguard against ill-treatment.²²

IV. Conditions of detention for mothers and pregnant women

20. More than 17,000 women were arrested in the aftermath of the failed coup attempt in Turkey in 2016.

¹⁶ Turkish Minute. (August 17, 2018). Pregnant women, children subjected to severe rights violations in Turkey's prisons. <https://turkishminute.com/2018/08/17/pregnant-women-children-subjected-to-severe-rights-violations-in-turkeys-prisons/#:~:text=According%20to%20the%20Turkish%20Penal,age%20is%20not%20possible%20at.>

¹⁷ Interviewee 1. (August 9, 2024).

¹⁸ Gov.UK. (Updated August 9, 2024). Country policy and information note: Gülenist movement, Turkey, October 2023 (accessible). Turkey: country policy and information notes. <https://www.gov.uk/government/publications/turkey-country-policy-and-information-notes/475f9b93-76c5-4312-b918-68756604f8ed>.

¹⁹ Turkish Minute. (August 17, 2018). Pregnant women, children subjected to severe rights violations in Turkey's prisons. <https://turkishminute.com/2018/08/17/pregnant-women-children-subjected-to-severe-rights-violations-in-turkeys-prisons/#:~:text=According%20to%20the%20Turkish%20Penal,age%20is%20not%20possible%20at.>

²⁰ United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules). (II.6). (1990) <https://www.ohchr.org/sites/default/files/tokyorules.pdf>.

²¹ United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary. https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.

²² Journalists and Writers Foundation. (2017) Women's Rights Under Attack in Turkey: 17,000 Women and 560 Children in Jail. 17. https://www.academia.edu/35816100/WOMENS_RIGHTS_UNDER_ATTACK_IN_TURKEY_17_000_Women_and_668_Children_in_Jail.

21. An interviewee detained at the Manisa Type Prison (Cik) and Edirne (Cik) prison enumerated many infrastructural and organisational issues within the detention centres. The prisons are overcrowded, leading to a lack of hygiene and forcing prisoners to sleep on the floor while making breathing difficult.²³ This goes against rule 12 of the UN Standard Minimum Rules for the Treatment of Prisoners, which states that “If for special reasons, special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room”.²⁴
22. Detainees are only given hot water once a week for one hour. The interviewee reported the presence of rats and insects, leading to the spread of parasitic diseases, notably scabies²⁵.
23. In certain prisons, such as Edirne prisons, the walls were severely damaged and smelled of dampness and mould. The wards were constantly cold as they were only provided one radiator, which was insufficient to heat the whole ward. Access to sanitariums was made difficult with water dripping from other toilets upstairs.²⁶ This violates rule 13 of the UN Standard Minimum Rules for the Treatment of Prisoners, stipulating that all accommodation provided should “meet all requirement of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating, ventilation”²⁷.
24. Food was also poor quality and inappropriate for pregnant women and mothers. Due to these challenging conditions, pregnant women, mothers and their children were prone to catching diseases.

V. Conditions of detention for children

25. According to Turkey’s Justice Department Prison and Penitentiaries Management, there have been 864 children in the prisons, from newborn to age 6, since May 2019.²⁸
26. According to the UN Committee on the Rights of the Children, “In cases where the parents or other primary caregivers commit an offence, alternatives to detention should be made available and applied on a case-by-case basis, with full consideration of the likely impacts of different sentences on the best interests of the affected child or children²⁹”. The UN Committee on the Rights of the Children also broadened the meaning of “protection and care” in detention to include the “comprehensive ideal of ensuring the child’s ‘well-being’ and development”³⁰. However, Turkish non-governmental

²³ Interviewee 1. (August 9, 2024).

²⁴ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). (2015). Rule 12. https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf.

²⁵ Interviewee 1. (August 9, 2024).

²⁶ Interviewee 1. (August 9, 2024).

²⁷ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). (2015). Rule 13. https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf.

²⁸ Advocates of Silenced Turkey. (2020). Born and Raised in Prison: Turkey’s Captive Children. <https://silencedturkey.org/wp-content/uploads/2020/04/Captive-Mothers-and-Babies.pdf>.

²⁹ Convention on the Rights of the Child. (2013). General comment no. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration. https://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf.

³⁰ Convention on the Rights of the Child. (2013). General comment no. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration. https://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf.

organisations expressed concern that detained children may not even be "allowed to see daylight", are traumatised by strip-searches, underfed and receive insufficient medical care³¹.

VI. Recommendations

27. Trend Rights Surges the Turkish government to revise its policy of imprisonment towards pregnant women and women with dependent children.
28. Non-custodial sentences should be preferred where possible and appropriate, such as deferring sentences for women with a child under six.
29. Urging the Turkish Ministry of Justice to work towards eliminating the overcrowding in prison dormitories and providing the necessary resources, such as nutritional food, to ensure the well-being of women and children, as well as giving maternal support to women before, during and after birth such as access to gynaecologists and paediatricians.
30. Urging the Turkish Ministry of Justice to reveal the current number of detained pregnant women and women with dependent children to enhance transparency.
31. Encouraging the Turkish government to engage with international criminal justice experts to develop a better institutional framework and provide training for prison administrators and staff dedicated to the support of imprisoned mothers and children in their everyday needs.

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³¹ Stockholm Center for Freedom. (October 12, 2021). 345 children under the age of 6 in prison with their mothers in Turkey: report. <https://stockholmcfr.org/345-children-under-the-age-of-6-in-prison-with-their-mothers-in-turkey-report/>.

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