



**THE WRITTEN SUBMISSIONS ON THE CURRENT SITUATION OF THE RIGHTS OF
WOMEN IN TURKEY**

BY VOLUNTEER JURISTS ASSOCIATION

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(CEDAW)**

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I- INTRODUCTION

The Volunteer Jurists Association (here in after the association) is a Geneva based non-profit organisation founded in 2020. Its main mandate is to safeguard the independence of the judiciary and to protect the rights of jurists from all across the world. By exercising this mandate, among other ways, the association drafts reports to provide the international mechanisms with vital informations including the Committee on the elimination of all forms of discrimination against women (here in after the Committee) on issues pertaining to the human rights. By doing this, we incline to the view that the violations of human rights would be addressed efficiently and swiftly by international mechanisms which have been fed with a vast and proper knowledge.

This submission is accordingly deemed to bring the violations of the rights of women in Turkey to the attention of the Committee. When having examined the eight periodic report of Turkey, we unfortunately realized that no reference was made to the political violence that women have been facing for years¹. However, the states are under an obligation to illustrate the obstacles to the full enjoyment of human rights and the tackles with problems creating violations². After the failed attempt of coup d'état, hundreds of thousands of people have been dismissed and detained on unsubstantiated terrorism charges. In the report submitted by Turkey, the incidents and the violations have been overlooked under the pretext of fighting against terrorism. Turkey turned a blind eye to the deterioration of the rights of women among other core human rights. In Turkey, women have been deprived of their basic rights such as the right not be tortured, not to be discriminated against gender basis, the right to liberty and freedom, the right to highest attainable standard of health, the right to education, the right to fair trial etc. Istanbul Convention was unilaterally annulled by the decision of the president of Turkey. Thus, the protection of the rights of women has been exacerbated by depriving women of the rights introduced by the Istanbul accord. There are lots of impermissible incidents from detaining mothers of a new-born babies to the performing strip search on women upon admission to the detention facilities.

¹ Eighth periodic report submitted by Turkey under article 18 of the Convention, due in 2020.

² Committee on the elimination of all forms discrimination against women ,General Recommendations 1 and 2.

As an organisation predominantly committed to fight against the human rights violations against jurists, we have decided to depict the current situation on the rights of women from the perspective of female jurists who have been made subject to severe human rights of violations. Accordingly, among other serious concerns on the current situation of the rights of women in Turkey, this submission is mainly focused to demonstrate the number of violations that female jurists have been facing in the course of five years. We incline to the view that naming these violations may lead to address all problems which impede women enjoying the full realization of rights under the Convention. Writing in such a restrictive manner does not necessarily mean that this submission just covers the rights of female jurists and excluding the rights of other women. It points to the fact that women no matter what their profession or social status are constantly targeted and their rights are violated on grounds of gender based discrimination.

II- THE DETENTION OF WOMEN

The right to liberty and security is one of the core and prominent rights that is protected by national constitutions and core international human rights instruments. Turkey is a state party to the International Covenant on Civil and Political Rights and the European Convention on Human Rights. It has pledged to avoid the arbitrary arrest and detention and to comply with the international standards. The limitations that would be imposed on this right should be prescribed by law, proportionate and necessary in a democratic society as set out by the international conventions and the decisions of international tribunals. However, Turkey continuously contravenes its obligations by holding many people including our colleagues under arbitrary detention with fabricated terrorism charges which have been brought to justify the arrests and the detentions.

Convention on the Elimination of All Forms of Discrimination against Women (here in after Convention) is an accord which encompasses number of rights and procedures to protect and to promote the rights of women on an equality basis with men. All forms of discrimination towards women have been prohibited and women, without distinction to race, colour, nationality etc., have been granted with protection under the provisions of the convention. `The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately.

Among other things, it includes acts that inflict mental harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence³.

In spite of the fact that all the forms of violence including political violence to women are prohibited, Turkey is recklessly opting to continue its violations towards women at an unprecedented scale. Arbitrary arrests and detentions are considered unlawful in international law, however, in Turkey they are being used as a tool of coercion on people who have been charged with. Women are no exception to those arbitrary procedures conducted by the law enforcement officers, judges and prosecutors. Furthermore, in certain cases, they have been intentionally chosen by the authorities because of their assumed vulnerability. This issue is explicitly protected by the convention. Women are considered being fragile and much more likely to accept the fabricated charges of terrorism. They have been threatened with their children, their husbands and even with their dignity by being subject to strip searches and sexual assaults. There are lots of examples and allegations on the severity and pervasion of strip searches and all other practices threatening and harming the sexual and bodily integrity of women all across the country⁴.

In article 3, CEDAW emphasizes the need to enact policies and to develop practices by saying that “to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.” On the one hand the convention provides extra protection to women to fully enjoy their human rights on an equality basis with men, on the other hand Turkey deprives lots of women including female jurists even of their basic rights. Even for men the option of the detention should be regarded as a last resort, how can it be explained to detain women for fabricated terrorism charges and keep some of them in solitary confinement? There is no explanation to this but the instrumentality of terrorism laws to make innocent people suffer under the cover of fight against terrorism.

³ Committee on the elimination of all forms of discrimination against women ,General recommendation 19, para 6

⁴ <https://medyanews.net/strip-searching-in-prisons-has-been-happening-for-years/>, <https://boldmedya.com/2020/09/08/kiz-ogrencilere-iskence-kulotunu-indirip-otur-kalk-yaptirdilar/>; <https://stockholmcf.org/female-students-strip-searched-denied-right-to-consult-lawyer/>,

Observing the developments in Turkey especially after 15th of July 2016, it may unveil the facts to demonstrate to what extent the suffering has reached. The current situation of human rights in Turkey is critically bad at all levels of the consideration. After the 15th of July 2016, the ruling Justice and Development Party has redesigned the state with executive orders and has taken destructive steps to eliminate all dissident voices in all branches of state including judiciary. After the attempt of the coup d'état, hundreds of thousands of people have been detained as part of operations carried out against the dissidents who oppose the government. Given the importance of the functions of the judiciary, more than 4500 judges and prosecutors have been dismissed from judgeship profession and many of them have been detained for ungrounded terrorism charges in order to create a judicial system that completely follow the orders of the government. The judges and prosecutors on duty indiscriminately targeted their previous colleagues and many other people in the hope for preserving their status or not sharing the same destiny of them namely in arrests and detentions. There are some female jurists still behind the bars being kept in solitary confinement. We are unsure about the exact numbers of female jurists kept in prisons and solitary confinement because of the lack of official statistics and figures⁵. The Turkish Government is thought not to publish real numbers in order to deceive international community on the issue of human rights. Precisely, the situation in Turkey is getting worse day-by-day. Even the mere presence of the detainment of our female colleagues more than four years in solitary confinement suffices to demonstrate the direness of the situation on the rights of women and on human rights. Turkey is failing to meet international standards in the eyes of international community. Although the poor human rights record has always been an undeniable reality for Turkey, after the 15th of July 2016, the scale of the human rights abuses hit the highest peak ever. According to the World Justice Project, Turkey was ranked 107th country out of 128 countries. Despite the allegations of Turkey being part of Europe, it is ranked 14th out of 14 countries in its region which comprises the eastern European states and Central Asia region⁶.

On the imprisonment of women, there is an internationally recognized approach that women are much more likely to suffer from the negative effects of incarceration than men. This vulnerability especially could be observed in tendency to develop mental health problems or post-traumatic stress disorder in or after the incarceration. The rates of self-harm and suicide are pretty much

⁵Committee on the elimination of all forms of discrimination against women, General Recommendation 9

⁶ https://turkeytribunal.com/wp-content/uploads/2020/06/report6_2.Turkey-2020-WJP-Rule-of-Law-Index-Country-Press-Release_0.pdf

higher when compared with male inmates⁷. The fact that the places that they have been forced to live in, primarily designed for the deprivation of liberty rather than provision of healthcare⁸. The insufficiency on the delivery of the specific needs of the women doubles the current problems. The unanimous adoption of the Bangkok rules at the United Nations indicates the underlying needs of women to be treated with other options aside from custodial options⁹.

The prisons are places predominantly built to meet the needs of men rather than women. From security practices to the whole rules of confinement, the prison facilities have been established to fulfil the needs and problems of serious male offenders¹⁰. In Turkey there have been a lot of innocent female jurists currently held in prisons on political grounds and with bogus terrorism charges. Based on this reality, The poor prison conditions endanger the physical and mental integrity of our colleagues. The indiscriminately imposition of those rules with no regard to the specific characteristics of our women colleagues with no record of violence and offending, puts them in danger which may result in irreparable damages in the end. It is also particularly difficult for our colleagues because the prisons serve as a place to minimise the choices of inmates and to reduce the self-trust, self-direction to make them follow the orders of the prison management. After having worked as judges for many years at high levels of the judiciary, they have been forcing to live under strict regime of the prison.

The Turkish government must answer the following questions:

- Why did the Turkish Government remove women judges from the profession and detain them on unsubstantiated terrorism charges?
- Why did not the Government publish all the figures and statistics as to the number of detained and/or imprisoned women?
- What are the legal and factual basis of keeping women judges in solitary confinement in prisons?

⁷ World Health Organization, 'Women's health in prison: correcting gender inequity in prison health.' WHO, 2009.

⁸ Bartlett A and Hollins S, 'Challenges and mental health needs of women in prison', The British Journal of Psychiatry (2018).

⁹ Bartlett A and Hollins S, 'Challenges and mental health needs of women in prison', The British Journal of Psychiatry (2018).

¹⁰ Bartlett A and Hollins S, 'Challenges and mental health needs of women in prison', The British Journal of Psychiatry (2018).

III- MASS DETENTION OF WOMEN JUDGES AND PROSECUTORS: TOKAT CASE

Tokat is a city in Turkey situated in the northern part of country. This small city has been notorious with criminal investigations initiated extra judicially by Tokat Chief Prosecution Office. More than hundred female judges and prosecutors have been retaken into custody on grounds of the same accusations for which they have been investigated by other Chief Public Prosecution Offices. The Turkish legislation clearly stipulates the prohibition of second detention for the same charges in the case of absence of newly obtained evidence¹¹. However, Tokat Chief Prosecution Office launched an investigation and called more than 100 female judges and prosecutors who are already under investigation. Without a jurisdictional basis, it detained lots of female jurists who had never worked nor lived in Tokat¹². Evidently there has been a purpose to conduct such an investigation at the expense of contravening the law. Without competence and any reasonable ground, the same prosecutor arrested more than hundred female judges in time. This prosecution has had a discriminatory nature and has obviously been part of the efforts of the Council of Judges and Prosecutors to fabricate evidence against those who had been dismissed and detained without any reasonable ground. It is for coercing the female judges to become confessors and give testimony against other prosecutors and judges who have been unlawfully detained. The common point of these jurists is being a woman, pregnant or a nursing mother. While preparing the lists of female judges to be detained, the Prosecution Office of Tokat especially devised a particular list of female judges who have babies or are pregnant. The prosecution Office issued an order to keep them in police custody for 30 days. The definition of discrimination on gender basis clearly covers the treatment of the Tokat Chief Prosecution office towards female judges and prosecutors. They have been discriminately targeted because of their gender and vulnerability as a part of the execution of a certain plan which is to fabricate evidence against judges and prosecutors who were dismissed according to blackmail lists. They were threatened with their babies and forced to accept so-called terror charges and become confessors. Those who denied the accusation were detained with their babies by Magistrate Courts, others who accepted to become confessor were

¹¹ <https://www.resmigazete.gov.tr/eskiler/2005/06/20050601-10.htm>

¹² <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5271.pdf>

released by the Prosecution. While being kept in the police custody, they have been humiliated and tortured psychologically constantly by the law enforcement units. As a type of under psychological torment, their gender and motherhood were used as a forcing stick to push them to confess. The close connection between mothers and their babies were clearly exploited by the investigation authority to obtain statements. Although the convention and the domestic law order to protect the marital status of women, judicial authorities and law enforcement units persistently breached the rights of female judges. In defiance of the committee`s recommendation on the gender sensitive training of judges and law enforcement officers, public officials were selected according to what extent they are capable to coerce innocent women to confess¹³. They were constantly asked to think about their children and their families. In this case, the law enforcement officers should be held accountable for their actions but it is noteworthy to point to the fact that they just took orders from the Tokat Chief Public Prosecution Office. This is extractable as well from the inaction of the judicial authorities in the face of allegations of inhumane and degrading treatment of detainees in police custody. Furthermore, The Tokat Chief Prosecution Office consistently decided on the lack of territorial jurisdiction after committed grave human rights violations against female judges. This mere fact is enough to prove that the investigation was started for political reasons to coerce the female judges to become confessor by exploiting their gender and marital status.

In brief, the gender, marital status, family status and health situation were used as a tool by the government, judicial authorities and the law enforcement officers to commit psychological violence against female judges. The convention definitely offers its protection to the women who have been discriminated against their gender.

The government of Turkey is considered to provide relevant answers to the following questions.

¹³Committee on the elimination of all forms of discrimination against women, General Recommendation 19, paragraph 24

Despite the clear guidelines and legal regulations, why Tokat Chief Prosecution Office did initiate a new investigation for the same charges who have been already directed to the detainees?

What are the exact numbers of female judges and prosecutors were called for testimony and subsequently detained?

Has any step been taken for allegations of inhuman treatment and torture allegedly occurred in Tokat in police custodies?

IV- CONCLUSION

In Turkey, there are still thousands of women in prisons due to fabricated terror accusations. According to unofficial figures, more than ten female judges are being kept in solitary confinement since 15th of July 2016. Women are constantly targeted on basis of their gender and social status.

This submission is just providing examples to the pervasion of the human rights abuses in Turkey. As an organization committed to safeguard the rights of judges and prosecutors, we have prioritized the examples of jurists, however, there are lots of women who have been suffering in the hands of unlawfulness and unfairness.

We sincerely request the Committee to open an inquiry for Turkey to examine the allegations on site before delivering the concluding remarks on the periodic report of Turkey. We also request the Committee to urge the government of Turkey to conform to the principles of international law.