

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

Although the Association for Struggle Against Sexual Violence (CSMD) did not receive an invitation from the Turkey's Ministry of Family, Labour, and Social Services to contribute to the CEDAW Periodic country report in contravention of its obligations to involve CSOs in the process, CSMD prepared this report to inform the CEDAW about the state of affairs in the area of sexual violence in Turkey.

This shadow report is about women, children, and LGBTI+s who have been subjected to and/or under risk of sexual violence in Turkey. Its introduction includes information on the content, and detailed information is provided in the report titles by referring to the relevant articles of CEDAW.

Based on our Report in 2021 "I Have a Right to Ask for Support: A Report on Sexual Violence Survivors' Experiences and Human Rights Compliance of Support Units"¹, rights abuses and problems regarding sexual violence in Turkey are categorized as follows: "Rape Crisis Centers and Shelters", "National Plans, Legislation and Policies", "Emergency Hotlines" and "Support Services".

Turkey has not developed an integrated and sustainable system of preventive practices on sexual violence yet. As stated in the CEDAW 8th Shadow Report prepared with the CEDAW Civil Society Executive Board, there is no one-stop system for survivors of sexual violence in Turkey, and the current process does not focus on survivors.² In 2021, CSMD conducted a field study and released "A Report on Sexual Violence Survivors' Experiences and Human Rights Compliance of Support Units" exposing the state of affairs about rape crisis centers and centers that offer specialized support in the field of sexual violence as well as about the plans of relevant institutions, if any. International agreements, recommendations, national legislation, plans, and policy texts formed the basis of this study.

In this fieldwork, information requests were made to 11 state institutions through the Law on Access to Information No. 4982, which is in force in Turkey and paves the way for obtaining information on the working areas, structures, and operability of the institutions. The experiences of survivors of sexual violence formed the basis of the information requests. Information request questions were prepared based on repeated or expressed requests by the survivors regarding the support system. Based on the support service provided by the Association to survivors during the fieldwork, 29 applicants were asked about their experiences with support institutions.

11 institutions responsible for developing a protective-preventive approach and operating support mechanisms in the field of sexual violence are the Ministry of Health, ŞÖNİM (Violence Prevention and Monitoring Centres), Istanbul Chief Public Prosecutor's Office, Probation Office, Istanbul Provincial Police Department, Istanbul Bar Association, Istanbul Metropolitan Municipality (IMM), Istanbul Regimental Command, Ministry of Family and Social Services General Directorate of Women's Status (KSGM), Department of Legal Support and Victim Rights, and Istanbul Governorship. The purpose of this monitoring exercise is primarily survivors' access to support

¹I Have a Right to Ask for Support: A Report on Sexual Violence Survivors' Experiences and Human Rights Compliance of Support Units: <https://cinselsiddetlemucadele.org/wp-content/uploads/2022/05/i-have-a-right-to-ask-for-support-report.pdf>

² Updated Shadow Report on the 8th Periodic Review of Turkey, The Executive Committee on NGO Forum for CEDAW to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women (page ...): https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCO%2fTUR%2f45053&Lang=en

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

systems and their experience. However, considering that the support system cannot be unilateral, a holistic approach has been followed to monitor the attitudes towards the perpetrators entering the judicial system. Therefore, the Probation Institution where the perpetrators are directed within the judicial system was among the institutions where the information requests were made. Only 4 of the institutions responded to the requests. The relevant institutions were asked about their activities regarding the implementation of the policies created regarding the issues specified in the Istanbul Convention, Beijing Declaration, CEDAW, and recommendations; awareness of sexual violence, protection of children's rights, women's shelters and standards, discrimination approach to multiple disadvantages (based on disability, age, refugee status, sexual orientation, gender identity, sex work, HIV+, etc.), policy formation, and solution of existing problems.

National Plans, Legislation, and Policy

CEDAW Part One (1) Definition of Discrimination Against Women, 2) Policy on the Elimination of Discrimination, 5) Prejudices and Customary and All Other Practices, Stereotyped Roles for Men and Women, Part (2) Article 7 Measures to be Taken by States Parties.

CEDAW Convention on the Elimination of All Forms of Discrimination Against Women, Part (1) Definition of Discrimination Against Women defines all forms of discrimination based on sex regardless of their marital status; as stated in the sections 2) A commitment to pursuing a policy that eliminates discrimination against women and 5) Prejudices and Customary and All Other Practices, Stereotyped Roles for Men and Women, modifying social and cultural behavior patterns and the common responsibilities of women and men in raising children considering the best interest of the child have been defined. At the same time, the rights defined in Article 7 to prevent discrimination in politics and public life are identified. It is clearly stated in the comprehensive policy formulation and implementation in the prevention of discrimination against women specified in Article 2. It was attempted to identify which institutions fulfilled their obligations in the context of national and international legislation by examining the relevant articles of CEDAW and international agreements in the "I Have the Right to Ask for Support" report in 2021. The source of this identification was the survivors of sexual violence. In the field study, it was prioritized to reveal whether the services provided in the support mechanisms of the institutions in Turkey are arranged as per international standards, and to contribute to the development of practical suggestions. To make this contribution, CSMD utilized the Council of Europe's Istanbul Convention standards titled "Combating Violence Against Women: Minimum Standards for Support Services"³ as the source of the questions used to identify rights abuses vis-a-vis existing institutions in Turkey. The responses to the information requests were categorized as "National Plans, Legislation, and Policies", "Rape Crisis Centers and Shelters", "Emergency Hotlines", "Municipality Practices" and "Support Services". Accordingly, although there are legislation, policies, and national plans in force, the institutions did not answer the questions of information requests about

³ Liz Kelly & Lorna Dubois. (2008). Combating violence against women: Minimum standards for support services. Council of Europe. [https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF\(2007\)Study%20rev.en.pdf](https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF(2007)Study%20rev.en.pdf)

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

whether the legislation and policies were implemented. For example, KSGM (General Directorate on the Status of Women) shared how many people, experts, and professional groups were provided with training, but the detailed contents of these pieces of training and by whom they have been given were not stated. Among these institutions, the Ministry of Justice, the Department of Legal Support and Victim Services (ADMHDB) gave the most detailed answers. In their answers, they stated that the Department provides services for survivors within the framework of a rights-based and supportive policy and that there are psycho-social support programs. Questions such as how many people received psycho-social support were not answered. The inadequacy of state institutions in sharing data and statistics became visible in the study once again.

Disaggregated Data

CEDAW Part 1: 2) and 3) Obligations of States Parties to Eliminate Discrimination

Disaggregated data collection specified in international conventions is the responsibility of the state. In the institution monitoring studies carried out by the Association, one of the information requests was whether the institutions keep disaggregated data, and if they did, would they share them with our organization. Although a project named "Database on Violence Against Women / System-Building Study Project" was carried out in 2012, there is no publicly available model to be implemented nor is there publicly available disaggregated data on gender-based violence, sexualized violence, and sexual violence yet. The data collected by non-state institutions at the national level and in Istanbul is limited to studies on "combating violence against women". Apart from these, the data shared by the state do not reflect the facts. There is little to no data regarding sexual violence, therefore no informed public policy to end sexual violence against women, children, sex workers, HIV+ people, LGBTI+ or any other group.

Rape Crisis Centers and Shelters

CEDAW Part 1: 2 and 3) Obligations of States Parties to Eliminate Discrimination, 5) Prejudices and Customary and All Other Practices, Stereotyped Roles for Men and Women, 6) Woman Trafficking and Exploitation of Prostitution

Part 3: 12 and 13) Health Care Services that States Parties are Obligated to Provide Equally to Men and Women

Part 4: 15 and 16) Equality Before the Law

CEDAW/C/GC/35 General Recommendation 35 on Gender-Based Violence Against Women Articles 22, 40.

In the questions asked regarding Rape Crisis Centers and Shelters, which were interpreted based on the above-mentioned relevant articles and General Recommendation No. 35, the inadequacy of the shelters and the absence of Rape Crisis Centers were revealed. Within the scope of the study, "Combating Violence Against Women: Minimum Standards of Support Services"⁴ published by the Council of Europe in 2008 is translated into Turkish. The minimum number of centers

⁴ <https://cinselsiddetlemucadele.org/wp-content/uploads/2021/08/Kadina-yonelik-siddetle-mucadele-etmek-destek->

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

required in Turkey according to population ratios was calculated via this resource book. Comparisons were made with the number of centers reported through information requests. While there should be 312 subject-specific centers combating sexual violence in Turkey according to the population of 2020, it was seen that these centers were not opened yet despite the long years of campaigns and advocacy efforts by the feminist movement. While the number of shelters within the ministry was 112 in Turkey, the number of these shelters should have been 771 in Istanbul and 5314 in Turkey, according to the 2020 population. KSGM did not share disaggregated data about Istanbul, while Istanbul Metropolitan Municipality shared the information that it provides services with 1 shelter. Information on whether sex workers and HIV+ people were admitted to shelters could not be accessed. Accordingly, it was observed that the number of support centers that central and local governments are obliged to open is insufficient. From the answers we received, it was seen that the local administrations directed the applicants to the central administrations as they could not provide support due to their insufficient capacity. For example, it was stated that people who needed close support were directed to the Ministry of Family and Social Services to be placed in an appropriate social service institution other than the municipality. In March 2022, the news about an abandoned baby was reported in the newspapers; the baby was later taken to the hospital under state protection. The mother who abandoned the baby was subsequently arrested. Given this incident, the Purple Roof Women's Shelter Foundation monitored the inadequacy of the services provided to women and a series of rights violations. According to this, it was stated that "Although the mother was not able to take care of the newborn baby, she was told to leave the shelter because her time had expired, the option of giving the baby to social services was not explained to the mother, and the necessary guidance was not given." Afterward, the mother was released. The baby's name was changed by the court.⁵ Seen in this example, instead of a woman-oriented approach where social, psychological, legal, etc. support can be obtained, a guesthouse approach is adopted and holistic social studies are not carried out. Article 2(e) of the CEDAW clearly states that state parties must take all appropriate measures to prevent discrimination against women by any person, organization or business.⁶ Accordingly, the questions we asked the local and central governments about the conditions of application to the shelters, whether there are people who are not taken to the shelters due to age, disability, refugee, hereditary disease, etc., and the obligation to keep disaggregated data in the shelters are fulfilled, were not answered. Data on whether the reporting system includes gender identity, refugee status, disability, consent building of children, and forced early marriage, could not be found. The Ministry did not share the data it kept on violence and comply with the data collection, in-service training, policy documents creation, and transparency conditions specified in the sub-sections; and the data was not shared with the public, even though there were action plans and legislation against violence. In Article 25 of the Istanbul Convention, establishing rape crisis centers and sexual violence referral centers is among the obligations of the state. The absence of these centers creates barriers to survivors'

hizmetlerinin-minimum-standartlari.pdf

⁵ The woman who had to abandon her baby is released: "Devlet kadınları seçeneksiz bırakıyor" ("The state leaves women without options"): <https://sendika.org/2022/05/bebegini-terk-etmek-zorunda-kalan-kadin-tahliye-edildi-devlet-kadınları-seceneksiz-birakıyor-656251/> , <https://www.cumhuriyet.com.tr/turkiye/nisa-bebegin-ismi-degistirildi-1936323>

⁶ General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2018/01/09/CEDAW_C_GC_35.pdf , p. 9

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

access to medical support and impartial forensic services, trauma support, and counseling. In addition, Law No. 6284⁷ is intended to put survivors under temporary protection and protect victims from perpetrators of violence. About this law, it was seen that in practice, people are not sufficiently informed about the rights they have in accordance with the national and international legislation. In addition, risks and needs analyses were not made; certain services provided by appropriate expert personnel could not be reached; and urgent measures were not taken. International standards have not been met, and the implementation has not been carried out under the legislation. Based on our applicant's experience, isolation and lack of access to support services indicate that service recipients are left vulnerable; the services they need are insufficient in quality and numbers; and/or no centers are working specifically for sexual violence.

The Constitutional Court decided 14 years later that there is a violation of rights by the state because the evidence was not collected and an effective investigation was not conducted in the case known as the Fethiye Case, which included many violations of rights.⁸ This case is one of the precedent cases in which violations of rights are still not remedied by the state in rape cases, such as the inability to collect evidence and the failure to submit reports due to the absence of Rape Crisis Centers.

However, according to the minimum standards of the Council of Europe, there must be 57 rape crisis centers and/or sexual assault counseling centers in Istanbul, in proportion to its population in 2020. While there should be 312 rape crisis centers and/or sexual assault counseling centers in Turkey according to the population of 2020, there are no such centers in Turkey yet. Although rape crisis centers were brought to the agenda with the Istanbul Convention, no studies have been conducted about the centers since 2014, when the Convention entered into force.

Emergency Hotlines

CEDAW Part 1: 4) Temporary and Special Measures to be Taken by States Parties to Ensure Equality between Women and Men

CEDAW/C/GC/35 General Recommendation 35 on Gender-Based Violence against Women Article 40.

According to CEDAW General Recommendation 35, Article 40, subparagraph c), "States should provide specialist women's support services such as free of charge 24-hour helplines, and sufficient numbers of safe and adequately equipped crisis, support, and referral centers, as well as adequate shelters for women, their children, and other family members as required." On the other hand,

⁷ Law No. 6284 on the Protection of Family and Prevention of Violence Against Women, which is the Istanbul Convention Domestic Harmonization Law

⁸ <https://www.evrensel.net/haber/459530/fethiye-tecavuz-davasinda-aymden-emsal-karar-deliller-toplanmadi-etkili-sorusturma-yapilmadi-devletin-hak-ihlali-var>

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

under the title of emergency hotlines, special attention was paid to telephone line services dedicated to violence. In Turkey, there is not a hotline only for those who have been subjected to violence yet. It was learned that the Istanbul Metropolitan Municipality has one telephone line. When the "Alo 183" line is called by the people who have been exposed to violence, the relevant support personnel can be reached by pressing "0" although they do not work specifically for violence. However, Alo 183 does not only support those who have been subjected to violence but also provides guidance and counseling services by evaluating calls for services to women, children, the disabled, the elderly, relatives of martyrs, and veterans and their relatives.⁹ Detailed data on calls to these lines was not shared with our organization. The title of Municipality Practices covered the practices of IMM. It has been learned that IMM has created a program in accordance with the legislation and planning and that the implementation of these programs will take time. Based on the questions we asked about the IMM, the disaggregated data could not be reached.

Support Services

CEDAW Part 1: 2) and 3) Obligations of States parties to Eliminate Discrimination; 4) Temporary and Special Measures to be Taken by States Parties to Ensure Equality of Women and Men, 5) Prejudices and Customary and All Other Practices, Stereotyped Roles for Men and Women,

CEDAW/C/GC/35 General Recommendation 35 on Gender-Based Violence against Women Article 40.

As stated in subparagraphs a), b) and c) of Article 40 of General Recommendation No. 35, the state has an obligation to provide support services. In the "Support Services" section, the most information was obtained from ADMHDB, IMM, and Istanbul Bar Association. However, sufficient data could not be obtained from government institutions. It was concluded that most of the adult applicants who reached state institutions could not get enough support. It has been observed that the state's obligation to provide easily accessible services for applicants to benefit from state services is violated and that the applicants lose their rights. It was determined that those who reached support mechanisms were more likely to experience secondary traumas due to prejudgment, accusation, and victim-blaming. In the counseling provided so far, it has been observed that those who have been subjected to sexual violence could get support mostly from feminist organizations, NGOs, municipalities, and bar associations and that those who encountered trained personnel in these institutions were more likely to access rights.

According to the European Union's 2012/29/EU "Directive on the Establishment of Minimum Standards for Supporting and Protecting the Rights of Victims", types of gender-based sexual violence are defined and survivors have the right to access information. Despite this, sexual violence is not included as a specific area within the state's definition of gender-based violence.

⁹ <https://www.aile.gov.tr/ss/engelli-ve-yasli-hizmetleri-genel-mudurlugu/alo-183-sosyal-destek/>

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

Withdrawal from the Istanbul Convention and After Effects

Turkey announced with Presidential Decree No. 3718 published in the Official Gazette on March 20, 2021, that it withdrew from the Istanbul Convention and terminated the agreement, of which it was the first signatory. After the published decision, many non-governmental organizations, women, and LGBTI+s in Turkey started to discuss whether the withdrawal from the Convention and termination of the agreement was legal and the risks that this action would pose. After these discussions, most of the lawyers in Turkey evaluated that the withdrawal from the Convention was "ineffective"; many non-governmental organizations, individuals and women, and some political parties filed a lawsuit for "Suspension of Execution and Annulment of the Decision" against this termination decision. The hearings of some of these cases were held in the conference hall on April 28, 2022, the first in the history of the State Council, with high participation, the majority of whom were women. After the defenses, the State Council Prosecutor said: "The decision to withdraw from the Convention should be canceled." However, the court has not yet notified its decision to the parties. After this first hearing, it was reported that the 60 cases remaining will be heard in groups of 20 at the State Council on 7, 14, and 23 June 2022.

While the intense litigation processes were going on, the current government in Turkey passed the draft law at the Turkish Grand National Assembly, which includes a series of legal regulations and specifically envisages amendments to the Turkish Penal Code (TCK), in order to launder the process of withdrawing from the Istanbul Convention. In this draft law, it was stated that the acts that constitute the crime of "stalking", which was first recognized with the Istanbul Convention, will be regulated as crimes in the TCK. However, in this process where women's and feminist organizations were not included, feminist organizations stated that they should not say yes to this bill, that the relevant regulations do not include a holistic protective policy, and they are far from protecting the right to live and achievements of women and LGBTI+s.

Recommendations

The reporting system of institutions providing support services to survivors of sexual violence should be arranged to collect data on gender identity, sexual orientation, refugee status, disability, consent building of children, and forced marriages at an early age.

Transformative programs for perpetrators should be implemented with a restorative justice perspective.

Regarding the issues specified in the Istanbul Convention, Beijing Declaration, CEDAW, and recommendations, the state parties need to establish policies on the issues specified in the conventions; awareness of sexual violence, protection of children's rights, women's shelters and standards, anti-discrimination policy, and the policies created to solve the existing problems should be implemented.

Institutions should employ trained personnel as determined by international conventions and national legislation. For example, a manager, professional staff, social worker, psychologist,

CONTRIBUTION OF THE ASSOCIATION FOR STRUGGLE AGAINST SEXUAL VIOLENCE (CSMD) TO CEDAW 82ND SESSION - TURKEY

counselor, sociologist, nurse-health officer, data preparation and control operator, computer operator, officer, call support staff, police liaison officer, job and vocational counselor, security personnel, and driver must exist in shelters.

Personnel working in institutions should be given awareness training regularly on a rights-based approach, approach to survivors, human rights, and sexual violence.

Regular supervision support should be provided to the members of the profession regarding the secondary victimization they may experience due to the cases they encounter while performing their profession.

Psycho-social support programs for survivors should be developed and implemented.

Service centers should be accessible and provide 24/7 service.

Rape Crisis Centers should be opened urgently in Turkey.

Institutions should work in coordination and, when necessary, develop collaborations and sign protocols with rights-based women and LGBTI+ organizations.

In accordance with the cooperation with NGOs specified in Article 7/3, 18/2 of the Istanbul Convention, to which Turkey is a party, institutions should cooperate and work in coordination with NGOs. Rights-based criteria should be applied when choosing the Non-Governmental Organizations that they will cooperate with, and these criteria should be established within the framework of the principle of transparency.

Institutions providing support services on sexual violence should bring special arrangements for adults, sex workers, refugees, and asylum seekers, LGBTI+s, and those who cannot speak Turkish.

Special applications should be made for the disabled people; transportation to institutions should be suitable for disabled access and this service should be provided especially for those who need sign language translation.

Attorney and advocacy services should be provided to survivors at accessing the support services.

Municipalities should allocate a budget for operations in the field of sexual violence in their strategic plans. In-service training programs specifically on sexual violence should be developed and implemented.

As a result of sexual violence notifications, in the context of measures and practices to be taken within the scope of prevention of violence against women practices such as street lighting, arrangement of bus route stops and rings in a way to cover not only main streets but also side streets, and applications such as drop-off zones for passengers other than the stops, especially in the evening, should be implemented.