

# TURKEY: A BRIEF ON THE IMPLEMENTATION OF CEDAW COMMITMENTS FROM ARTICLES 2, 5, 11, AND 16

*Information for the Committee on the Elimination of Discrimination Against Women  
81<sup>st</sup> Pre-Session Working Group, July 2021*

## **Submitted By**

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## INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 81<sup>st</sup> Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following two areas:

1. Child Marriage (Articles 16, 2)
2. Paid Maternity and Paternity Leave (Articles 11, 5)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our legislative findings, as well as suggested questions for the Committee to ask Turkey and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed legislative excerpts documenting our findings. We hope the Committee will recommend that Turkey address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Turkey for having provisions in place, we hope the Committee will recommend that Turkey work with stakeholders to overcome any obstacles in implementing these provisions.



## SUMMARY OF FINDINGS AND RECOMMENDATIONS

### 1. Child Marriage (Articles 16, 2)

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Based on our review, Turkey establishes a general minimum age of marriage of 18 for girls and boys. However, exceptions to this provision allow children younger than 18 to marry with parental or court approval.

**We hope the Committee will:**

- In its list of issues, ask Turkey: Can Turkey outline any concrete, near-term plans to pass legislation that removes all exceptions that allow children under the age of 18 to be married?
  - If concrete, near-term plans are not in place, recommend in its concluding observations that Turkey pass legislation that establishes 18 years as the minimum age for marriage without exceptions.

### 2. Paid Maternity and Paternity Leave (Articles 11, 5)

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Based on our systematic review of national legislation and country reports, Turkey guarantees 16 weeks of paid maternity leave to mothers. Since 2015, the Labor Code also provides five days of paid leave to fathers when their spouse gives birth. Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.

**We hope the Committee will:**

- In its list of issues, ask Turkey: Can Turkey outline any concrete, near-term plans to pass legislation increasing the duration of paid paternity leave provided to fathers?
  - If Turkey does not have concrete, near-term plans to increase the duration of paid paternity leave provided to fathers, recommend in its concluding observations that Turkey pass and implement legislation to do so.



## DETAIL OF LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

### 1. Child Marriage (Articles 16, 2)

Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization’s NATLEX database, regional sources, and official country websites.

#### *TURKEY’S LEGISLATIVE PROVISIONS: NEED TO REMOVE EXCEPTIONS TO MINIMUM AGE OF MARRIAGE*

Based on our review, the Civil Code of Turkey establishes a general minimum age of marriage of 18 for girls and boys. However, Articles 124, 126, and 128 of the Civil Code outline exceptions to this provision, allowing children under the age of 18 to marry with parental consent or court approval.

*Madde 11 - Erginlik onsekiz yaşın doldurulmasıyla başlar.*

*Evlenme kişiyi ergin kılar.*

*Madde 124- Erkek veya kadın onyediyi yaşını doldurmadıkça evlenemez.*

*Ancak, hâkim olağanüstü durumlarda ve pek önemli bir sebeple onaltı yaşını doldurmuş olan erkek veya kadının evlenmesine izin verebilir. Olanak buldukça karardan önce ana ve baba veya vasi dinlenir.*

*Madde 126- Küçük, yasal temsilcisinin izni olmadıkça evlenemez.*

*Madde 128- Hâkim, haklı sebep olmaksızın evlenmeye izin vermeyen yasal temsilciyi dinledikten sonra, bu konuda başvuran küçük veya kısıtlının evlenmesine izin verebilir.*



## 2. Paid Maternity and Paternity Leave (Articles 11, 5)

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Article 11.2 of the Convention states that:

*In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:*

*(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*

*(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*

Article 5(b) of the Convention also emphasizes the importance of including men in the upbringing of children:

*To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.*

Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.

We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization's NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

### *TURKEY'S LEGISLATIVE PROVISIONS: NEED TO STRENGTHEN PAID PATERNITY LEAVE*

Based on our systematic review of national legislation and country reports, Article 74 of Turkey's Labor Code guarantees 16 weeks of paid maternity leave to mothers.

*Madde 74 - Kadın işçilerin doğumdan önce sekiz ve doğumdan sonra sekiz hafta olmak üzere toplam onaltı haftalık süre için çalıştırılmamaları esastır. Çoğul gebelik halinde doğumdan önce çalıştırılmayacak sekiz haftalık süreye iki hafta süre eklenir. Ancak, sağlık durumu uygun olduğu takdirde, doktorun onayı ile kadın işçi isterse doğumdan önceki üç haftaya kadar işyerinde çalışabilir. Bu durumda, kadın işçinin çalıştığı süreler doğum sonrası sürelerle eklenir.*

Additionally, in 2015, the Labor Code was amended to provide five days of paid leave to fathers when their spouse gives birth.

*Ek Madde 2 – (Ek: 4/4/2015-6645/35 md.)*



*İşçiye; evlenmesi veya evlat edinmesi ya da ana veya babasının, eşinin, kardeşinin, çocuğunun ölümü hâlinde üç gün, eşinin doğum yapması hâlinde ise beş gün ücretli izin verilir.*

*İşçilerin en az yüzde yetmiş oranında engelli veya süreğen hastalığı olan çocuğunun tedavisinde, hastalık raporuna dayalı olarak ve çalışan ebeveyninden sadece biri tarafından kullanılması kaydıyla, bir yıl içinde toptan veya bölümler hâlinde on güne kadar ücretli izin verilir*

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BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES