

ASSEDEL, L'Association européenne pour la défense des droits et des libertés, Strasbourg

ASSEDEL, L'Association européenne pour la défense des droits et des libertés, is a Strasbourg based human rights advocacy association, committed to disseminating, promoting, and defending human rights and fundamental freedoms in the spirit of the European Convention on Human Rights, both within the Council of Europe system and at the local, national, and international levels.

In this report, we focused on the most conspicuous violations of children's rights in Turkey.

Access to Education for Immigrants

Turkey has had to host millions of refugees following the Syrian war. In this process, the number of children and women fleeing the war and taking shelter in Turkey has increased considerably. According to a UNICEF report, there are 1.6 million Syrian children in Turkey¹. However, unofficial figures are said to be much higher. Children's basic needs are shelter, food, health and education. However, due to the large number of children and the Turkish government's failure to provide adequate incentives and support, many children are unable to participate in education. Not enough attention is paid to the follow-up of the education process of children who should receive language education first.

Many factors play a role in this failure. The first is that the children and their families do not have a status recognized by the state in Turkey. Many migrants try to migrate to other countries instead of staying in Turkey because they cannot get status. For many migrants, Turkey is seen as a temporary stopover. As a result, children are more focused on earning money as soon as possible and reaching their destination country rather than on their own education.

According to Eğitim Sen, refugee children face serious problems in accessing school. According to Feray Aytekin Aydoğan, President of Eğitim Sen, while 77 percent of refugee children are enrolled in primary school, this rate drops to 31 percent in middle school and 3 percent in high school. According to Aytekin, the main reasons for the decline are poverty and child labor.² However, another issue is whether children enrolled in school attend school regularly. It is also known that the attendance rate is very low. Education, which has been disrupted worldwide by the coronavirus, has also been disrupted in Turkey. The impact of this disruption on migrant children is even greater. According to the report titled Sectoral Analysis of the Impact of the COVID-19 Pandemic on Refugees in Turkey, published by the Association for Solidarity with Asylum Seekers and Migrants (SGDD-ASAM) in May 2020, almost half (48%) of the students who participated in the study conducted with refugees stated that they could not benefit from distance education.³ The fact that refugee children are forced to work due to financial constraints, especially seasonal employment, is also a factor that reduces school attendance.

¹ <https://www.unicef.org/turkiye/media/10451/file/UNICEF%202019%20Yıllık%20Faaliyet%20Raporu.pdf>

² <https://www.dw.com/tr/türkiyede-çocuk-hakları-yeterince-korunuyor-mu/a-55670606>

³ https://www.egitimreformugirisimi.org/wp-content/uploads/2010/01/EIR20_OgrencilerveEgitimeErisim.pdf

Another factor is the lack of attention paid by the state. Migrants are seen as a political factor and steps are taken to save the day rather than structural improvements. The number of migrant children who need to be educated is considerable and this process requires financial support to be carried out in a healthy way. Turkey receives financial support from the EU for the education of migrant children, but there is no adequate explanation of how this support is spent. Another issue that is not adequately addressed by the state is the discrimination that migrant children face when receiving education. Because of the language barrier, these children start their education one step behind and are discriminated against by students and school administrations. There are no measures taken at a high level to address this issue. Without a sense of belonging and security, students may choose to leave education.

Child abuse and child marriage

Child abuse is one of the important problems of Turkey. In the solution of child abuse, it is important to first define the problem and take steps to solve the problem. Although there are culturally different perspectives on child marriage, the state should deal with the issue broadly and sensitively, and ensure that the issues that cause resentment in society are resolved.

It appears that the government has failed to take the necessary measures against child abuse cases, which have increased significantly in recent years. The fact that the laws on the prevention of abuse are not sufficiently deterrent and that child marriages are virtually ignored leads to serious violations of children's rights.

Children living in dormitories and separated from their families are particularly vulnerable to abuse. The supervision expected to be carried out by the state is of utmost importance. In recent years, there has been a significant increase in child abuse cases, especially in the dormitories of sects and communities close to the government. There have been 15 separate cases in the last 16 years.⁴ Although the perpetrators have been punished, it can be assumed that the government has not taken constructive and permanent steps to solve the problem.

The government has been criticized for not taking the necessary steps regarding Article 103 of the Turkish Penal Code on child sexual abuse. Furthermore, Article 13 of the 4th Judicial Package allows for arrest for catalog crimes, provided that "strong suspicion of guilt" is based on concrete evidence. Sexual offenses are also among the catalog crimes. Even if there is a legal basis for the law, it is likely that a politicized judiciary will offer an extra protection shield to those suspected of sexual crimes.

But the problem does not stop there. Disclosure of abuse is only possible in an environment where children can express themselves freely. But this environment does not exist. The Ministry of Family, Labor and Social Services and the Ministry of National Education should increase their joint work. In Turkey, there is only one guidance counselor for more than 500 students and this number is quite insufficient.⁵

⁴<https://www.diken.com.tr/tarikat-ve-cemaat-baglanti-yerlerde-cocuk-istismari-son-16-yilda-en-az-15-vaka/>

⁵<https://www.bbc.com/turkce/haberler-turkiye-53117571>

It is worth noting that the age of admission as a child varies from country to country. In some countries, individuals up to the age of 16 or even 13 are considered children, while in others, such as Turkey, individuals up to the age of 18 are considered children.

Children growing up in prison

There are many children in Turkey who are deprived of their freedom with their mothers. Although no numbers have been shared by the authorities for a long time, as of 2018, 762 children between the ages of 0-6 are in prison with their mothers.⁶ However, this number is thought to be more than 850 as of April 2023.

These children are not provided with the necessary education. They face a life that is far from the education they can get outside. They live between four walls, deprived of seeing the sky.

In prisons, babies are housed with their mothers in wards with very limited shelter, nutrition and educational opportunities. In many prisons, there are more prisoners and detainees than the capacity of the prison. While basic humanitarian conditions are inadequate even for adults, life for babies and their mothers becomes much more difficult.

Mothers of prisoners and detainees, especially those on trial for terrorism offenses, face harsh measures by the prison administration. Children's lives are ignored, and they are treated as if they were prisoners. Babies are searched down to their diapers and privacy is not respected.

In addition, Turkey fails to ensure the basic rights of detained and imprisoned mothers with babies. There is no adequate legal regulation. Existing inadequate legal regulations are not implemented on the grounds of the state of emergency that started in 2016 and has become permanent.

According to Article 16, Paragraph 4 of the Law No. 5275 on the Execution of Criminal and Security Measures:

"The execution of a prison sentence shall be deferred for women who are pregnant or whose child has not been born for six months. If the child dies or is given to someone other than the mother, the sentence shall be executed when two months have passed since the birth."

Such a right has been granted to mothers with babies, but it is both insufficient and the grounds for its application have been narrowed under the State of Emergency. Terrorism suspects and prisoners cannot benefit from these rights and are openly discriminated against.

Another law article 105\A states;

"Women convicts who have children in the age group of zero to six years old and who have two years or less remaining for their conditional release" may be granted probation.

⁶<https://medyascope.tv/2021/03/29/verilerle-cezaevlerinde-anneleriyle-birlikte-buyuyen-cocuklar-dort-yilda-en-az-iki-bin-466-cocugun-ozgurlugu-elinden-alindi-bir-hafta-boyunca-bebegimin-altini-posetlerle-bezledim/>

Article 52 of the Law No. 7242 and paragraph 2 of the provisional Article 6 of the Law No. 5275 Paragraph 2 of the provisional Article 6 of the Law No. 5275 "In terms of crimes committed until 30/3/2020, except for the crimes of intentional killing (Articles 81, 82 and 83), crimes against sexual inviolability (Articles 102, 103, 104 and 105), crimes against private life and private sphere of life (Articles 132, 133, 134, 135, 136, 137 and 138) of the Turkish Penal Code and crimes defined in the Fourth, Fifth, Sixth and Seventh Chapters of the Fourth Part of the Fourth Section of the Second Book and crimes covered by the Anti-Terror Law; The period of 'two years' in the third paragraph of Article 105/A shall be applied as 'four years' for women who have children between the ages of zero and six". it is clear from the text, some crimes are excluded, reinforcing discrimination against children who have committed no crime.

According to the report presented by Mazlumder association; When the four basic rights in the Convention on the Rights of the Child (right to survival, right to development, right to protection, right to participation) are examined together with the regulations in the laws, it is seen that children growing up in prison cannot reach many of these rights,⁷ indicate rapport.

For babies growing up in prison, the laws in Turkey are far from fulfilling the requirements of the UN Convention on the Rights of the Child. In practice, the situation is even worse and urgent improvements need to be made as soon as possible.

ASSEDEL, Strasbourg
April 2023