

Turkey

Country Conditions Report

Created by the Sexual Orientation and Gender Identity Working Group

International Human Rights Program

University of Toronto

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## Introduction

While there are no laws criminalizing same-sex relationships, the jurisprudence does little to protect the Lesbian, Gay, Bisexual, Transgender, and Queer+ (LGBTQ+) community from discrimination, harassment, and violence.

Domestic jurisprudence protecting LGBTQ+ rights is relatively limited. At the time of writing, researchers did not find any cases asserting LGBTQ+ protections, despite the many human rights violations recorded within the country. By contrast, the European Court of Human Rights has addressed some of the issues pertaining to LGBTQ+ rights in Turkey, such as prison conditions and denial of gender reassignment operations. Turkey has also been censured for their treatment and discrimination of LGBTQ+ individuals in committee reports from the UN Human Rights Committee and the Committee Against Torture.

There have been some Canadian cases that have found refugee status warranted for LGBTQ+ individuals fleeing from Turkey with claims of threats and persecution but have rejected others for credibility issues.

Government and NGO reports on Turkey have identified that there is insufficient protection for LGBTQ+ rights and considerable discrimination by Turkish state officials. Reports highlight that in recent years the government has taken administrative steps to ban public assembly for LGBTQ+ events. This action has persisted, as the government continues to cancel or prohibit public demonstrations, such as the annual pride parade which the government has not permitted for several years in a row. Media outlets in Turkey have reported on various incidents of discrimination and use of police force against LGBTQ+ activists.

According to the academic scholarship, LGBTQ+ individuals constitute some of the most marginalized groups within Turkey. Prejudice towards homosexuality is prevalent, even within younger demographics. LGBTQ+ people have not only experienced discrimination within education, employment and healthcare institutions, but within the legal system as well.

## Domestic Legislation

1. *Penal Code*[[1]](#footnote-1)
* The age of consent for sexual relations is fifteen years.[[2]](#footnote-2) Neither homosexuality nor sexual relations between members of the same sex are explicitly criminalized in the criminal code.
* The second chapter of the penal code concerns “offences against individuals,” the sixth section of that chapter is categorized as “offences against sexual immunity.”[[3]](#footnote-3) It criminalizes sexual assault, sexual assault of minors, and sexual harassment, but not homosexuality.
* The seventh section of the penal code is categorized as “offences against general ethics,” which includes prostitution and running a gambling facility -- homosexuality is not explicitly criminalized under this section.
* Within this section, 226(2) an “indecency offence” punishable by imprisonment, for the publication of “indecent scenes, words or articles through press or broadcast”[[4]](#footnote-4) has been held by a Turkish court to not include films depicting gay sex.[[5]](#footnote-5)
* The eighth section is categorized as “offences against family order.”[[6]](#footnote-6) Homosexuality is not explicitly criminalized under this section, either.
1. *Turkish Constitution*[[7]](#footnote-7)
* Part two concerns “fundamental rights and duties”, which establishes the nature of rights and freedoms guaranteed by the constitution, allowances for any restrictions or suspensions of these rights.[[8]](#footnote-8)
* Article 12 outlines that “everyone possesses inherent fundamental rights and freedoms, which are inviolable and inalienable” and owes correlative duties to respect rights and freedoms of other individuals.
* Article 13 outlines restrictions on fundamental rights. Restrictions are possible only by law and cannot be contrary to the spirit of the Constitution, the order of society, and secular republicanism.
* Article 15 allows for suspension of fundamental rights and freedoms for special circumstances ex. mobilization, war, states of emergency.
* Rights and Duties of individuals are outlined in articles 17-40, including rights to privacy and protection of private life in Article 20. This particular article was amended on October 3 2001, to be limited on certain grounds including: public order, protection of public health, protection of public morals.
1. *Civil Code*[[9]](#footnote-9)
* Chapter two of the civil code concerns personal registry, and article 40 provides for the possibility of legally recognized gender change
* Individuals who wish to change their sex are required to submit an application to the court, which *may* be granted
* Applicants must be over eighteen, unmarried, and obtain documentation from an official medical institution that a gender reassignment is necessary for the mental health of the applicant
* Medical sex reassignment will be followed by a change in the applicant’s gender on population registries

## Canadian Jurisprudence

***Immigration and Refugee Board of Canada Decisions***

1. *X, Re*[[10]](#footnote-10)

**Holding:** Appeal denied. Refugee Appeal Division (RAD) found that the Refugee Protection Division (RPD) did err in some credibility findings, but the other credibility concerns warranted the determination that the Appellant was not a Convention Refugee.

**Facts:**

* Appellant files an appeal with the RAD on his credibility assessment
* Appellant initially filed claim based on fear of persecution by police and family because of his sexual orientation with the RPD on April 28, 2017
* Initial hearing denied due to failure to provide sufficient credible evidence that he is a gay man
* Appellant claimed to be closeted gay man, blackmailed by a neighbour through a sex video of the two of them. Video allegedly included no identifying features of the neighbour, but appellant was identifiable from the video
* Release of video to landlord resulted in appellant’s eviction and arrest
* During arrest, appellant was detained overnight, questioned on his homosexuality, but not charged
* Appellant was later released, and allegedly assaulted by his brother, requiring hospitalization
* Appellant had a medical report from the hospitalization, as well as a police report from his detention
* Appellant had previously applied for a U.S. Visa, claiming to be divorced from a woman

Upholds RPD’s finding that photos at pride, online dating profiles on gay websites, and socializing with gays was not sufficient evidence that the Appellant was gay. The RAD’s decision turns on the credibility assessment of the Appellant. In the absence of the video that forms the basis for the claim, the holding turns on the credibility of the situation. RAD found it unlikely that a blackmailer would use a video that included himself for blackmail, that had no identifying features. Appellant’s credibility was also undermined by a detached and indifferent demeanor, an insufficient level of detail, and a lack of specific knowledge on the content of the medical and police reports. The RAD overturns the admissibility of the reports made by the RPD, holding that an inability to verify how a document came to Canada was not sufficient grounds for dismissal. The RAD also held that a previous heterosexual marriage or divorce was not disqualifying for evidence of homosexuality and may be considered evidence of persecution. the RAD did hold that *excluding* such evidence undermines credibility.

2. *X, Re*[[11]](#footnote-11)

**Holding:** RPD found sufficient credible evidence that claimant was a gay man, and that he would face threats and persecution from family and police in Turkey. Appellant was found to be a Convention refugee.

These events were sufficient to prove that the claimant faced a threat warranting refugee protection. In order to corroborate his sexual orientation, the claimant offered evidence from his Canadian friends and partner, whom he met through Canadian LGBTQ+ organizations.

**Facts:**

* Claimant alleges to be a Turkish citizen, who was tear-gassed and struck by pressurized water cannons for participating in a 2015 Gay Pride parade in Istanbul
* Claimant was detained overnight and assaulted by police officers
* Claimant was subsequently released to his father, who assaulted him and threatened to kill him in front of police officers, who did not intervene
* Claimant had not made a refugee claim from Europe, from the USA, or from Canada until 2015

Successful RPD decision turns on a combination of evidence-- appellant’s testimony, his current Canadian partner’s testimony, a letter from a gay community advocacy organization, documentation on current conditions for gay men in Turkey-- and assessment of X as credible, “straight-forward, and compelling.” The Board implies that X had been living abroad in the USA or Europe before 2015, returned to Turkey at some point in 2015, and subsequently left for Canada after he was assaulted and detained. If so, past opportunity to claim refugee status in another country may not be determinative of a finding against refugee status.

3. *X, Re*[[12]](#footnote-12)

**Holding:** RAD denies appeal on the basis of Appellant’s credibility assessment.

**Facts:**

* The appellant claimed to be a bisexual Turkish man. In 2013, appellant alleges that his brother-in-law discovered the appellant’s bisexuality, and assaulted and repeatedly sent death threats to the appellant
* The appellant alleges he was hospitalized for 7-10 days after the assault, and that he was making a passport application concurrently
* The appellant was issued a passport in 2013, and left Turkey for Guatemala later in 2013, then arrived in the United States via Mexico
* The appellant lived in the United States for approximately 11 months, and did not seek asylum there
* He arrived in Canada in 2014, and claimed refugee protection there

In the RAD’s *de novo* consideration of the claim, the Appellant’s claim is rejected on the basis of his lack of credibility. He provided insufficient detail regarding his first sexual relationship, his sexual orientation, and his method for meeting partners. It was unreasonable for the Appellant not to make a claim in the first safe country he arrived in. The RAD also found he waited an unreasonably long time between getting his passport and leaving Turkey. Note that the date between the date the appellant leaves for Guatemala and the date his passport is issued are censored, so the unreasonable duration is impossible to determine.

4. *X, Re*[[13]](#footnote-13)

**Holding:** Appellant successfully appeals his RPD credibility assessment under ss 110(3) and (6) of the *Immigration and Refugee Protection Act[[14]](#footnote-14)*, and is granted refugee status. Appellant succeeded in establishing on a standard of reasonableness that he (1) was a homosexual man and (2) homosexual people, by reason of their sexual orientation, face persecution in Turkey.

**Facts:**

* Appellant is a Turkish citizen, and had claimed refugee status in 2013
* Appellant alleges that his identity as a homosexual man was known to his family, who had repeatedly threatened and assaulted him
* Appellant alleges that he received no assistance from police in reporting the assaults
* He subsequently moved to the most liberal neighbourhood in Istanbul, then a city in Anatolia, and did not feel safe in either location
* Additionally, he alleges that he can work in his field in Turkey only in Istanbul
* After obtaining a visa to Canada, he worked for one month before leaving
* Appellant did not consider moving to the United States as he did not know anyone, nor Europe, as he has family there who know of his sexual orientation

In Turkey, it may be difficult or dangerous to obtain corroborating evidence of sexual orientation. A standard of reasonableness is used to determine credibility. Absence of corroborating evidence to prove the claimant’s sexual orientation cannot rebut the presumption that the claimant is truthful.

***Federal Court Decisions***

5. *Erduran v Canada (Minister of Citizenship & Immigration)*[[15]](#footnote-15)

**Holding:** Appeal for a new hearing before the RPD granted.

**Facts:**

* Appellant is a Turkish citizen who first claimed protection in 2007, on the basis of fear or persecution because he evaded military service in Turkey
* In 2010, he files a second Personal Information Form to claim protection on two additional grounds, not in conflict with the first: Kurdish ethnicity, and identity as a gay man.

The RPD rejected the 2010 amendments without consideration of each of the three grounds (evading military service, Kurdish identity, identity as a gay man) independently, then all grounds cumulatively. The appeal is granted for a new hearing before the RPD.

## Turkish Jurisprudence

*No decisions were available in English. Please see the media section for coverage on Turkish jurisprudence.*

## EU Jurisprudence

***Turkey ratified the European Convention for Human Rights (“ECHR”) in 1954, granting the European Court of Human Rights jurisdiction to hear applications alleging that Turkey has breached the human rights provisions set out in the Convention.*[[16]](#footnote-16)**

1. *Kaos GL v Turkey (2016)*[[17]](#footnote-17)

**Holding:** The ECHR unanimously held that by completely seizing the LGBT magazine’s issue 28, there had been a violation of the freedom of expression, Article 10 of the European Convention on Human Rights. The infringement was not saved by being “necessary in a democratic society” due to fewer impairing alternatives (such as warning labels or prohibiting minors from purchase)

**Facts:**

* Kaos GL was a Turkish association that aimed to promote LGBT rights in Turkey
* In 2006, Kaos published issue 28 of its magazine that contained articles, interviews, and images relating to homosexual pornography
* The Ankara Chief Prosecutor charged the President of Kaos GL and seized all copies of issue 28 of the magazine with publishing obscene images, an offence under Penal Code

The ECHR evaluated the action under the freedom of expression, Article 10 of the Convention on Human Rights, and ruled that there had been an infringement on the rule of expression due to the complete seizure of a publication aimed at a certain social category. The prevention of access to minors might have met the need to protect the sensibilities of a section of the general public, but it was unjustifiable to completely prevent the general public from access. The domestic authorities did not attempt to implement any less impairing alternative measures, such as prohibiting sales to under-18 persons or requiring a warning label, thus the violation was not saved by being “necessary in a democratic society” under Article 10 of the Convention.

2. *Y.Y. v Turkey (2015)*[[18]](#footnote-18)

**Holding:** The ECHR held that denial of the applicant’s gender reassignment operation is a violation of Article 8 of the Convention, a right to one's “private and family life, his home and his correspondence.”

**Facts:**

* The applicant, a transgender person, was recorded in the civil-status register as female. He stated that he felt since childhood that he was male, which was at variance with his anatomical sex.
* He made an application to the Mersin District Court under Article 40 of the Civil Code seeking authorisation to undergo gender reassignment surgery.
* The District Court refused to authorize gender reassignment, on the ground that the applicant was not permanently unable to procreate, and therefore was not eligible for gender reassignment. The Court based its findings on various expert reports.

Refusal to authorize the gender reassignment surgery constituted an interference with the applicant’s right to private life, which needs to be considered in conjunction with the individual’s right to personal development and autonomy. Although one could argue that regulation of gender reassignment surgery by the State is pursuing a legitimate aim of protecting health, the State’s justification of denying authorization on the grounds of the sterilization requirement is not necessary to pursue the legitimate objective.

3. *H.C. v Turkey (2013)*[[19]](#footnote-19)

**Holding:** Withdrawal of complaint against laws criminalising homosexual acts between consenting adult males due to the passing of new laws in in the Turkish Republic of Northern Cyprus.

**Facts:**

* The applicant, a homosexual man, brought a complaint against Criminal Code provisions that prohibit certain sexual acts between consenting adult males in the Turkish Republic of Northern Cyprus (TRNC)
* Although he had not been arrested himself, he claimed that he had suffered great strain, apprehension and fear of persecution on account of the legal provisions in question, particularly because a number of men had recently been arrested on these provisions.

The Turkish Government argued that the relevant provisions of the Criminal Code in TRNC had been amended and the new legislation was published in the Official Gazette dated 7 February 2014. As a result, the applicant withdrew the case on 1 April 2014.

4. *X v Turkey (2012)*[[20]](#footnote-20)

**Holding:** Although the prison authorities tried to take into account the safety of the homosexual prisoner, the measures taken were found to be disproportionate and were in breach of Article 3, prohibiting "inhuman or degrading treatment or punishment."

**Facts:**

* The case was brought by a homosexual man detained in Eskişehir prison.
* On 5 February 2009, the applicant asked to be transferred into an individual cell, following homophobic intimidation, threats and harassment by his co-detainees. His request was granted; however, his cell lacked washing facilities and was dirty and poorly lit. He claimed that this type of cell was normally used for solitary confinement as a disciplinary measure, or for inmates accused of paedophilia or rape.
* In April 2009, the applicant complained about his treatment and argued that his solitary detention must end, as there was no legal basis for this treatment. On 25 May 2009, the Court declined to consider the case because the law on conditions of detention does not apply to people in pre-trial detention.

The Court held that although the prison authorities tried to take into account the safety of the applicant, the measures taken were disproportionate. The applicant’s total exclusion from the life of the prison and his denial of the opportunity to exercise outdoors or to have even limited contact with the other inmates was unjustified. Moreover, the fact that his requests and appeals had been rejected without any substantive analysis was unsatisfactory, especially given the gravity of the measure. Accordingly, the Court found that the conditions of the applicant’s solitary detention caused him mental and physical suffering and a strong feeling of being stripped of his dignity. Those conditions, aggravated by the lack of an effective remedy, constituted “inhuman or degrading treatment” in breach of Article 3.

## International Law

***UN Treaties*[[21]](#footnote-21)**

The following three treaties are most relevant to Turkey and its treatment of LGBTQ+ individuals:

* International Convention on Civil and Political Rights (ICCPR)
* International Convention on Economic, Social and Cultural Rights (ICESCR)
* Convention Against Torture (CAT)

|  |  |  |
| --- | --- | --- |
| **Treaty** | **Date of Signature** | **Date of Ratification** |
| *ICCPR* | 15 August 2000 | 23 September 2003 |
| *ICCPR – First OP* | 3 February 2003 | 24 Feb 2006 |
| *ICCPR – Second OP* | 6 April 2004 | 2 March 2006 |
| *ICESCR* | 15 August 2000 | 23 September 2003 |
| *ICESR – First OP* | N/A | N/A |
| *CAT* | 25 January 1988 | 2 August 1988 |
| *CAT – First OP* | 2005 | 2011 |

***Human Rights Committee*** (**International Covenant on Civil and Political Rights)**

Follow up letter from Committee, 2015[[22]](#footnote-22)

* Turkey has failed to uphold the following recommendations of the committee:
	+ Measures should be taken to state officially that the State does not tolerate any form of discrimination or violence against persons because of their sexual orientation or gender identity; and
	+ Investigate and prosecute discrimination or violence against LGBTQ+ persons.

***Committee Against Torture* (Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment)**

Fourth Periodic Report for Turkey, January 2015[[23]](#footnote-23)

* The Committee asked for information regarding Turkey’s measures to protect LGBTQ+ activists from harassment, intimidation, and violence, particularly by public officials. Turkey stated that the rights of LGBTQ+ individuals are protected by anti-discrimination legislation. Furthermore, the State claimed that all hate crimes, including those against LGBTQ+ individuals, are prosecuted.
* The Committee asked specifically about an event involving the arrest of three transgender human rights defenders. Turkey claimed that the arrest was not a result of discrimination against their trans identity, but rather their refusal to comply with police orders.

## Government Reports

***Canada***

For the most current Canadian government reports on the status of LGBTQ+ and human rights in Turkey, please see the National Documentation Packages from the Immigration and Refugee Board of Canada.[[24]](#footnote-24)

***United States of America***

1. Bureau of Democracy, Human Rights and Labour, “Turkey 2017 Human Rights Report,” 2018[[25]](#footnote-25)

* Turkish law does not include specific protections based on sexual orientation or gender identity. Turkish authorities claim LGBTQ+ are protected under a general “gender” concept in the constitution.
* Human rights groups promoting LGBTQ+ initiatives complained that the government used regular audits to increase administration burdens and intimidate through the threat of large fines.
* Numerous LGBTQ+ organizations reported a heightened sense of vulnerability and growing restrictions on their freedom of speech, assembly, and association.
* KAOS-GL reported some LGBTQ+ individuals were unable to access health services or faced discrimination.
* During the year LGBTQ+ individuals experienced discrimination, intimidation, and violent crimes.
* While the law does not explicitly discriminate against LGBTQ+ individuals, legal references to “offenses against public morality,” “protection of the family,” and “unnatural sexual behavior” sometimes served as a basis for discrimination by employers and abuse by police.
* Human rights attorneys reported that police and prosecutors frequently failed to aggressively pursue cases of violence against transgender persons. Judges routinely applied the law to reduce the sentences of those who killed LGBTQ+ individuals. Courts of appeal upheld these verdicts based, in part, on the “immoral nature” of the victim.
* An Edirne judge petitioned the Constitutional Court to revoke legislation requiring the compulsory sterilization of transgender persons prior to the formal gender reassignment, asserting it was a human rights violation. In December, the Constitutional Court supported the request and annulled the provision for the case before it. Nonetheless, the sterilization requirement remained in force at year’s end.

2. Bureau of Democracy, Human Rights and Labour, “Turkey 2016 Human Rights Report,” 2017.[[26]](#footnote-26)

* Turkish law does not provide specific protections based on sexual orientation or gender identity. There are no LGBTQ+ definitions in the law.
* Turkish police use “offences against public morality,” “protections of the family,” and “unnatural behavior” to condone discrimination.
* Turkish Police continue to harass LGBTQ+ individuals.
* In murder trials, judges routinely use victims’ LGBTQ+ status to justify accused persons’ defence of provocation and thus reduce sentences.
* Officials frequently threaten LGBTQ+ support organizations and representatives of these organizations with audits and large fines.
* The media regularly uses anti-LGBTQ+ propaganda.
* LGBTQ+ individuals face discrimination in employment.
* This report highlights the issues that the LGBTQ+ community faces in Turkey. While same-sex relations are no longer illegal, there remains violence and discrimination against LGBTQ+ individuals from various sources, including police, media, and government officials. The judicial system fails to protect the rights of LGBTQ+ individuals.

## Reports from International Agencies and Non-Governmental Organizations

***Amnesty International***

1. “Turkey 2017-2018,” 2018[[27]](#footnote-27)

* The annual Istanbul Pride march was banned for a third successive year due to what have been deemed as security and safety concerns.
* Police used unnecessary and excessive force in dispersing the crowds at the march, firing rubber bullets, and making arbitrary arrests.
* Authorities in Ankara imposed an indefinite ban on events organized by LGBTQ+ solidarity organizations. This was before a planned LGBTQ+-themed film festival which was due to take place in the city.

2. “LGBTI activists in Turkey: Defending human rights in a climate of fear,” 2018[[28]](#footnote-28)

* In November 2017, the Ankara Governorate used powers under the state of emergency to issue an indefinite ban on all public events by LGBTQ+ organizations in the city.
* Authorities have cited “public safety”, “safeguarding general health and morals” and “safeguarding the rights and freedoms of others” as reasons to the ban imposition.
* This marks a reversal of the progressive trend Turkey experienced before the 2016 attempted coup.
* “A nationwide crackdown has resulted in mass arrests and dismissals from public sector jobs, the hollowing out of the legal system and the silencing of human rights defenders through threats, harassment and imprisonment.”

***Human Rights Watch***

1. “Turkey Squelching LGBT Events,” 2017[[29]](#footnote-29)

* The Ankara governor banned all LGBTQ+ events within the province for an indefinite period of time due to “public security” reasons.
* This ban has been mirrored in other parts of the country which has resulted in the shutting down of film screenings, exhibitions, forums, panel discussions, and public meetings.
* In 2010, the Committee of Ministers of the Council of Europe (which includes the Turkish minister of foreign affairs) adopted LGBTQ+ recommendations which stipulate that “member states should take appropriate measures at national, regional and local levels to ensure that the right to freedom of peaceful assembly can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity.”

2. “Country Profiles: Sexual Orientation and Gender Identity,” 2017[[30]](#footnote-30)

* The Turkish government has continued to frequently impose arbitrary bans on public assemblies and violently disperse peaceful demonstrations, especially when such public assembly activity is centered around the LGBTQ+ community.
* For the second year running, the Istanbul governor’s office banned the annual Istanbul Gay and Trans Pride marches in June 2016, citing concerns about security threats and public order.

***Kaos GL, IGLHRC and LGBTI News Turkey***

1. “Republic of Turkey Human rights Violations of LGBT in Turkey,” 2014 – Submission to the United Nations Universal Periodic Review[[31]](#footnote-31)

* Lack of Domestic Legal Protection for LGBTQ+ Individuals in Turkey
	+ **Employment discrimination:** “Article 125/E(g) of Turkey’s Law on Civil Servants includes a clause that allows for dismissal if a government employee is found “to act in a shameful and embarrassing way unfit for the position of a civil servant”. In 2012, that clause was used to dismiss a police officer due to his perceived gender identity.”
	+ **Violations of right to free speech:** There are government regulations that can impose fines on a communications network for airing a video that may “promote” homosexuality.
	+ **Legal discrimination:** Turkish judges have routinely reduced the sentences of people who have been convicted of murder of LGBTQ+ individuals.
	+ **Hate crimes:** “Between 2010 and June 2014, there were at least 41 reported hate murders of individuals known to self-identify as lesbian, gay, bisexual, or transgender.”
* State Involvement in Discrimination against LGBT Individuals
	+ **Homophobic comments made by State Officials:** “Türkan Dağoğlu, Istanbul MP and Deputy President of the Committee on Health, Family, Labor, and Social Affairs, stated in 2013 that “‘LGBT’ is a behavior that is outside the bounds of normality’.”
	+ **Failure to Include Sexual Orientation and Gender Identity in New Legislation:** The terms “gender”, “gender identity”, or “sexual orientation” are not referenced or defined in any Turkish law.
	+ **Army’s Prejudicial Policies toward Gay Men and Trans Individuals:** “The Turkish military’s Medical Competence Regulation continues to use the antiquated Diagnostic and Statistical Manual of Mental Disorders (DSM) from 1968, which labels homosexuality and transsexuality as psychosexual illnesses. On that basis, those who self-identify as gay, bisexual, or transgender are deemed ‘unfit to serve’ after a grueling process of interviews with military and hospital personnel.”

## Media Reports and Local Expertise

**Media Coverage on Domestic Jurisprudence**

1. “Father gets life imprisonment for murdering gay son in Turkey” (2014)[[32]](#footnote-32)

**Summary:** While the father was sentenced to a lifetime imprisonment for murdering his homosexual son, the murder was not defined as a hate crime.

* A man murdered his son because he was homosexual and brought shame to the family. The accused was convicted of manslaughter and sentenced to life imprisonment.
* The murder was not defined as a hate crime.
* During the trial, police claimed that they could not “guarantee the security” of LGBTQ+ rights advocates, who were then forced out of court.
1. Constitutional Court of Turkey: Referring to Gays As “Perverts” Is Hate Speech (2014)[[33]](#footnote-33)

**Summary:** Referring to gays as “perverts” qualifies as hate speech.

* An article was written about Attorney Sinem Hun and to the Kaos GL Association, referring to both in hateful terms.
* The Constitutional Court held that hate speech regarding sexual tendencies are as serious as hate speech on the grounds of “race, ethnicity or color.”
1. Turkish Court says gay sex is ‘natural’ in ruling against pornography vendor, as per LGBTQ Nation (2013)[[34]](#footnote-34)

**Summary:** Gay sex is natural and DVDs depicting gay sex cannot be deemed “unnatural sex” videos.

* The defendant, identified by his initials, DM, had faced up to four years’ imprisonment under Article 262/2 of the Turkish penal code, which prohibits owning, trafficking, distributing and publishing “unnatural sex” videos.
* International regulations prohibit discrimination with respect to sexual preference, and it is therefore an obligation to respect sexual orientation.
* Judge Erdemli added that contemporary societies allow same-sex couples “to achieve this legal status and therefore the contents of the DVDs cannot be seen as unnatural.”

**Media Coverage on Other Issues**

1. “'She insulted my manhood': murder underlines Turkey's LGBT backlash,” August 2018[[35]](#footnote-35)

* A trans woman was murdered in a smaller city where transwomen are openly discriminated against.
* There is a discussion of “unjust provocation” as a defense by cis men in cases of violence against trans women.

2. “Istanbul gay pride march hit with tear gas as Turkish police try to enforce ban,” July 2018[[36]](#footnote-36)

* The authorities banned the gay pride parade for the 4th year in a row, but 1000 people still gathered.
* Authorities used tear gas and rubber bullets to disperse the crowds and 11 people were detained.

3. “Turkish capital Ankara bans all gay rights functions,” November 2017[[37]](#footnote-37)

* Citing security reasons, the governor’s office has banned all LGTBQ+ festivals, screenings, forums, and exhibitions.
* The announcement followed a ban of a festival of German-language LGBTQ+ films. The festival had already been attacked on social media before the ban.

4. “Turkish police break up gay pride protest in Istanbul,” June 2017[[38]](#footnote-38)

* Police fired rubber bullets at a group of around 40 LGBTQ+ activists demonstrating in defiance of authorities’ decision to ban the pride parade.
* City authorities banned the parade after threats from far-right and conservative groups.
* Eleven activists went on trial in Istanbul for defying last year’s ban on the Pride march, but all were acquitted.

5. “‘They turn their backs’ In Turkey, violent homophobia festers in Erdogan's shadow,” June 2017[[39]](#footnote-39)

* Mustafa Yeneroglu, the Chief of Turkey's Parliament's Human Rights Observation, tried to explain away recent attacks as “individual cases,” often engaging in victim-blaming because many of the victims are sex workers.
* In 2013, Erdogan described homosexuality as a "sexual preference" that was incompatible with the "culture of Islam" in Turkey.
* Homophobia and anti-gay rhetoric have been on the rise in Turkey since the 2017 referendum.

6. “Trans activist detained at Istanbul airport ‘without reason,’” March 2017[[40]](#footnote-40)

* A transgender rights activist was detained at the Istanbul airport whilst trying to travel to Germany for a conference on women’s rights.
* Despite being a transgender woman, authorities threatened that she would be detained in a cell with 20 men.
* Her lawyers managed to have the authorities backtrack on this and hold her in a separate cell.

7. “Queer refugee advocate says Canada is neglecting LGBT refugees in Turkey,” February 2017[[41]](#footnote-41)

* According to Arsham Parsi, executive director of the Iranian Railroad for Queer Refugees, Turkey is not a safe country for LGBTQ+ individuals.
* As the country becomes more conservative, there is an increase in religious homophobia. As a result, LGBTQ+ persons are not safe in Turkey.
* Parsi expresses particular concern about LGBTQ+ refugees who don't have support or an understanding of the Turkish language (i.e. people who identify as Kurdish) and are thus faced with additional challenges. He is concerned that such persons are likely being discriminated against within the refugee community.

8. “Turkey uses tear gas to break up gay pride gathering, June 2016”[[42]](#footnote-42)

* Police in Istanbul used tear gas and detained activists who gathered to issue a statement marking Pride week, after authorities banned the rally in the city.
* At least 19 activists were rounded up, according to the organizers.

9. “UN expresses concern over LGBT rights in Turkey,” July 2015[[43]](#footnote-43)

* The United Nations expressed concern over a spate of violent and discriminatory acts against Turkey’s LGBTQ+ community and called on the country to combat homophobic acts and uphold LGBTQ+ rights.

10. “Police Raid on Firuzaga Hammam,” June 2014[[44]](#footnote-44)

* The police raided a bathhouse in Istanbul, claiming that sexual activity occurs in every bathhouse.
* 60 individuals were arrested on the grounds of prostitution.
* Raids against hammams, which act as “gay hangouts,” are common.

## Scholarship

1. **Meltem Ince Yenilmez, “Socio-political Attitude Towards Lesbians in Turkey,” *Sexuality & Culture,* 2017**[[45]](#footnote-45)
* People who identify as lesbian, or simply queer, experience multiple silencing and suffocating factors in Turkey. These include: religious, ethics, state-sanctioned laws and homophobic violence which lead to systemic violations of the rights of lesbians in Turkey with respect to areas such as employment, education, housing, family and public life, and health care.
* Even when it comes to strong universal policies, implemented by organizations such as the United Nations (i.e. the United Nations’ Universal Declaration of Human Rights (1948)), lesbian and queer citizens are still not put on equal footing with other Turkish citizens, something that will continue unless equal citizenship rights of lesbian and queer people are recognized.
* Currently, traditional Islamic values remain dominant in the majority of government and societal institutions. This has given rise to a concerning level of institutionalized discrimination for individuals who do not conform to the predominant gender and sexual standards.
* The Turkish legal system under-punishes people who commit crimes against those who identify as lesbian and queer, receiving reduced fines and minimal jail time.
* Adopting anti-discrimination law is a good starting point in working towards allowing lesbian and queer citizens to enjoy the freedom awarded to other citizens.
1. **Ipek Gocmen & Volkan Yilmaz, “Exploring Perceived Discrimination Among LGBT Individuals in Turkey in Education, Employment, and Health Care: Results of an Online Survey” Journal of Homosexuality, 2017**[[46]](#footnote-46)
* The collection and analysis of 2,875 web-based surveys completed by LGBTQ+ Turkish citizens suggest that such individuals perceived both direct and indirect forms of discrimination while accessing services or throughout their involvement in the areas of education, employment, and health care.
* Anti-discrimination law does not currently exist, and such perceived discrimination rarely becomes a formal legal complaint.
* When legal complaints are made, the majority of LGBTQ+ individuals in the sample did not feel that their grievances had been addressed within the Turkish justice system.
1. **Nurten Sargin & Osman Circir, “The Attitudes of Prospective Teachers towards Homosexuality: A Case Study in Konya,” *International Journal of Psychology and Educational Studies,* 2015**[[47]](#footnote-47)
* In modern day Turkey, LGBTQ+ individuals are among some of the most discriminated against and marginalized people in the country.
* The study of 448 university students at Necmettin Erbakan University in Konya, Turkey suggests that men have more negative attitudes towards homosexuality that their female peers.
* It was also shown that students aged 21-22 years had more positive attitudes towards homosexuality than others within the 19-22 age range.
* This article recommends that prospective teachers be provided with training on homosexuality, that research should be done to better understand the negative attitudes towards homosexuality, that the negative attitudes towards homosexuality amongst men should be reduced with training, and that students should be informed about homosexuality so they can foster positive attitudes towards it.
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2. *Ibid*, art 103(1)(a). [↑](#footnote-ref-2)
3. *Ibid*, art 102-105. [↑](#footnote-ref-3)
4. *Ibid*, arts 226-229. [↑](#footnote-ref-4)
5. See section IV, source III of this report for English media coverage. Turkish jurisprudence is not available in English. [↑](#footnote-ref-5)
6. *Penal Code (Turkey), supra* note 1, arts 230-234. [↑](#footnote-ref-6)
7. *Türkiye Cumhuriyeti Anayasasi (Turkey)* online: <https://www.tbmm.gov.tr/anayasa/anayasa\_2011.pdf>. See translated: *Constitution of the Republic of Turkey (Turkey)* online: <<https://global.tbmm.gov.tr/docs/constitution_en.pdf>>. [↑](#footnote-ref-7)
8. *Ibid*, arts 12-15. [↑](#footnote-ref-8)
9. *Türk Medeni̇ Kanunu* *(Turkey)* online: <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4721.pdf>. See translated: *Turkish Civil Code (Turkey*) online: <https://www.tusev.org.tr/userfiles/image/turkey%20tr%20civil%20code%20provisions.pdf>. Note that the most up-to-date translated civil code does not include Art 40, available in the Turkish language version of the civil code. [↑](#footnote-ref-9)
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