

„In a strong family there're no homosexuals" - LMBTQI rights in Turkey

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"If two men commit adultery among you, punish both of them. If they repent and turn to the right path, let them go. Indeed, Allah is the Forgiving, the Merciful.

(Quran 4:16)

Abstract. *In 2017, the new Prime Minister and since then the President of the Republic, Recep Tayyip Erdogan, declared that supporting gay people is against the national interest. This is not the first time he has made a statement: in 2014, he justified the banning of Pride in Istanbul. In 2017, the authorities in Ankara, the capital of Turkey, banned all LGBTQ-related cultural events, citing threats to order and fear of provocative activity from certain segments of society. According to ILGA (International Lesbian, Gay, Bisexual and Intersex Association), Turkey is currently the second worst country in Europe for LGBTQ rights. While Turkey has a strong economic position among Western countries, the situation of sexual minorities falls short of the standards considered basic by human rights organizations, which are defined by the UN General Assembly, the European Court of Human Rights and the Supreme Court. Although the Republic of Turkey was founded as a secular state, traditional Islamic values are still pervasive in most governmental and social institutions. The impact of these values on Turkish policymaking has resulted in further marginalization, stigmatization, and socially disadvantaged outcomes for those who do not conform to dominant heteronormative gender norms and sexual identities. This study asks two research questions. First, what are the Turkish government's prospects for the LGBT community under Erdogan's presidency? Second, what problems and challenges do homosexual and trans people face in Turkey?*

Keywords: *LMBTQI rights Erdogan, Turkey, civil fights, homosexuality*

Introduction:

In 2017, the new Prime Minister and since then the President of the Republic, Recep Tayyip Erdogan, stated that supporting gays is against the national interests and such persons do not occur in a strong Turkish family: „A strong family means a strong nation. (...) Can LGBT exist in a strong family? It does not exist. As representatives of the will of the people, we protect our nation from the attacks of deviant and evil currents!”

This is not the first time he has made such a statement: in 2014, he justified the banning of Pride in Istanbul. In 2017, the authorities in Ankara, the capital of Turkey, banned all LGBTQ-related cultural events, citing threats to order and fear of provocative activity from certain segments of society. According to the ILGA (International Lesbian, Gay, Bisexual and Intersex Association), Turkey is currently the second worst country in Europe for LGBTQ rights. While Turkey has a strong economic position among Western countries, the situation of sexual minorities falls short of the standards considered basic by human rights organizations, which are defined by the UN General Assembly, the European Court of Human Rights and the Supreme Court. Although the Republic of Turkey was founded as a secular state, traditional Islamic values are still pervasive in most governmental and social institutions. The impact of these values on Turkish policymaking has resulted in further marginalization, stigmatization, and socially disadvantaged outcomes for those who do not conform to dominant heteronormative gender norms and sexual identities. This study asks two research questions. First, what are the Turkish

government's prospects for the LGBT community under Erdogan's presidency? Second, what problems and challenges do homosexual and trans people face in Turkey?

1. From past to nowadays

Turkey was established as a secular democracy after the fall of the Ottoman Empire under the leadership of Mustafa Kemal Atatürk. The cultural and political atmosphere of Turkish society was strongly influenced by the Kemalist movement, which idealized modernization, secularization and democracy and greatly shaped it in the 20th century. the meaning of Turkish identity in the 19th century.

Atatürk's political reforms began with the abolition of the caliphate and the adoption of the secular European model of the Swiss civil code. The modernization efforts included the implementation of secular public education, the adoption of the Latin alphabet and the change of the official national language to Turkish. Religious clothing, such as headscarves and fez, was also banned in state institutions. Another goal of the newly established Turkish government was to improve the social status of women. Polygamy was banned and women were given equal access to divorce and inheritance. They became entitled to vote and hold public office. These reforms aimed to weaken the power of religion in government institutions, infusing Turkish culture with Western liberal ideas to create a new type of citizenship and modern society. The goal was to remove Islam from public affairs through state control.

However, anti-discrimination laws protecting the rights of LGBT people were not included in these reforms¹

In the 1920's and 1930's, Turkish society underwent a dramatic cultural, political, and economic transformation that resulted in the implementation of a wide range of social and political reforms. These policies aimed to weaken the power of religion, promote modernization, and spread a common sense of Turkish national identity.²

The newly founded Republic and its institutions were absorbed with the overriding goal of Europeanizing society, with the aim of creating an ideological foundation for a "modern", secular, Turkish national society rooted not in religion but in the ideals of the Enlightenment. The guidelines were: Mustafa Kemal Atatürk's principles, namely, populism, nationalism, secularism, statism, revolutionaryism, and republicanism. The emancipation of women and their participation in the economy, science, technology, tolerance of minorities were all among the goals.

Until the 1960s, LGBTI people enjoyed great freedom, such as the ability to perform publicly in theaters, music venues, and nightclubs. A prime example of this is the extremely famous singer Zeki Müren, whose songs and feminine appearance remain in the public memory to this day, so Müren continues to serve as a role model for many LGBTI people. Müren's widespread social recognition is evident from the fact that it was not only named "Day of Art" but also "Pasha".

In the 1980s, the Radical Democratic Green Party expressed support for gay rights, including the work of a transgender group to protest police brutality. However, many members of the LGBT community in Turkey only started organizing for their human rights in the 1990's.³ Lambda Istanbul was established in 1993 to campaign for LGBT rights in Turkey. In 1994, the Freedom and Solidarity Party banned discrimination based on sexual orientation and gender identity within the party and nominated Demet Demir, a leading voice of the community, as the first transgender candidate in the local council elections in Istanbul.

In 1993, the organizers were denied permission to hold an LGBT pride parade. The government expressed similar opposition in 1995 and 1996 in connection with an LGBT film festival and scientific conference. Government officials cited vaguely worded laws intended to protect public morals as justification for refusing to hold these public events.

In 1996, however, a major change occurred: the Supreme Court overturned a lower court ruling and removed a child from its lesbian mother on the grounds that homosexuality was "immoral." Unfortunately, this turned out to be a rare "swallow" in a country that still continues to have unequal rights. In the 1990s, reports by the IHD, the Human Rights Association of Turkey, and international human rights organizations such as Amnesty International claimed that transgender people were often harassed and beaten by the police. One of the articles even stated that the police set fire to an apartment block where many transgender people lived. In 1995 and 1996, LGBT film festivals and scientific conferences were not allowed either.⁴

2. Nowadays rights status quo

Although homosexuality is not prohibited in Turkish society, it is largely seen as immoral and unnatural behavior. The government has no anti-discrimination laws that prohibit discrimination based on sexual orientation and gender identity. As a result, discrimination and violence experienced by LGBT individuals remains an institutionalized problem. For example, the military specifically disapproves of gay men in the Turkish armed forces because it considers homosexuality a psychosexual disorder. The Turkish military has a long history of defending the gender binary of the Turkish nation by excluding women and homosexual men. It is a social institution that promotes hegemonic masculinity by excluding women's bodies from service. As Basaran points out, „the active/passive (penetrating/penetrating) binary correlates with the male/female binary that governs the dominant perception of homosexuality” in Turkey, similar to some Caribbean and South American cultures.⁵

Individuals construct and reconstruct their gay, lesbian, bisexual, and transgender identities, their own narratives consistent with their culture and experiences. However, gay people are often seen as feminine and assumed to play a passive role in homosexual relationships in Turkish culture.⁶

In predominantly Muslim societies such as Turkey, the role of religion intersects with gender and sexuality more than in most Western societies, resulting in alarming levels of institutionalized discrimination. LGBT individuals have minority status because they have been

1 SZÜCS Lászlóné Dr. Siska Katalin, Az Atatürkizmus „hat nyila”, Iustum Aequum Salutare XIII. 2017. 2. 201., valamint: SZÜCS Lászlóné Dr. Siska Katalin, Folytonosság és változás. Iszlám és szekularizmus a késő Ottomán birodalomban és a fiatal Török Köztársaságban, 23. évfolyam 2017. 1. szám, p. 131-139.

2 Cenk ÖZBAY, "Nocturnal Queers: Rent Boys' Masculinity in Istanbul." *Sexualities* 13, 2010, 645-63.

3 Sibel YÜKLER: Now, it' High Time!Kaos GL. 2020 December. <https://kaosgl.dernegi.org/images/library/s-imdi-tam-da-sirasi-eng.pdf> (Download 2023. 10. 11.), Özge Ceren Apalı - İkra Baba - Fatma Bayrakçı - Deniz Değerli - Arda Erden - M Sacit Peker - Fatma Gül Perk - İrem Sibel Sipahi - Ezgi Şenoğlu - Salih Yılmaz - Nur Yıldız Zengin - Sinem AKGÜL : Experience of sexual and gender minority youth when accessing health care in Turkey, *International Journal of Adolescent Medical Health*, 2020 Jun 8;33(6):445-448, <https://pubmed.ncbi.nlm.nih.gov/32549160/> (Download: 2023. 10. 28.)

4 SZÜCS Lászlóné Dr. Siska Katalin, Folytonosság és változás. Iszlám és szekularizmus a késő Ottomán birodalomban és a fiatal Török Köztársaságban, 23. évfolyam 2017. 1. szám, p. 131-139.

5 Oyman BASARAN, "You Are Like a Virus": Dangerous Bodies and Military Medical Authority in Turkey." *Gender & Society* 28, 2015, 562-8.

6 Bawer ÇAKIR: "Public Morality" Disturbed by LTGB organization. 2009.10.23. Bianet, <https://bianet.org/english/minorities/117799-public-morality-disturbed-by-ltgb-organization> (Download: 2021. 10. 06.)

systematically oppressed because of their sexuality and gender identity. Their oppression is a result of the patriarchal regime, which punishes same-sex relationships according to the Islamic faith. Religiosity contributes to the social and legal punishment of those who do not conform to rigid gender norms.

Turkey has no legal regulation of homosexuality (Sodomy Laws, 21 April 2007; France 13 July 2005). Although homosexuality is not illegal, gay and lesbian Turks are not specifically protected by any law (Kaos GL 5 2006; IHT 2 May 2007). In addition, gay activists have complained that municipalities use morality-based laws to discriminate against gay and lesbian Turks (US 6 Mar 2007; section 5; Kaos GL 5 Mar 2007; IHT 2 May 2007).

In January 2004, Turkey's parliamentary justice committee drafted a law that included a clause to outlaw "discrimination based on sexual orientation" (Kaos GL n.d.; The New York Times, February 5, 2006; France, July 13, 2005). However, this clause was removed in July 2004, prompting a gay rights advocate to state that while there have been significant improvements in general human rights in Turkey, lesbian, gay, bisexual, and transgender (LGBT) rights have been left out (The New York Times, 5 February 2006).

The situation has changed somewhat since the 2000s, but trans people can be fined under the Penal Code, and homosexuals have to deal with additional disadvantages. Some courts have occasionally applied the principle of "unreasonable provocation" in favor of the perpetrator of a crime against a trans person. In 2003, Turkey was the first Muslim-majority country to hold a gay pride parade in Istanbul, followed by Ankara (2008). Since then, they have been held every year, but the legal inequality has not disappeared. In 2008, a homosexual Kurdish-Turkish student, Ahmed Yildiz, was shot by his father in front of a cafe and died in hospital. His father killed his son because of his homosexuality, sociologists consider this to be the first openly gay honor killing in Turkey since then.⁷

Turkish President Recep Tayyip Erdogan is waging a legal and political battle against Turkey's LGBTQI community. The fight began to escalate in 2014, when more than 100,000 people marched at the opening of Pride and the police decided not to allow the marches. Since then, there has been a continuous struggle between organizations protecting the rights of gays and sexual minority groups and the authorities.

In 2017, the Istanbul governor's office banned the LGBT pride parade, citing security and public order concerns, even though thousands of people attended it each year. The same thing happened in 2018 and 2019. According to DPA, the police came out in force to stop the unauthorized march, which was banned by the authorities shortly before it started. The armed forces also fired tear gas and, according to some reports, shot the marchers with plastic bullets. Several participants were detained.

Although same-sex marriage is possible under civil law, in light of the current situation, it is not known how long this will last. In 2015, the first "gay wedding" was held in Turkey. Ekin Keser and Emrullah Tuzun held a "wedding" in Istanbul in September, namely on a yacht sailing on the Bosphorus.

In November 2016, Turkey was the only Asian country at the UN to vote to be appointed, along with Georgia, Israel, Japan, Mongolia, Nepal, the Philippines, South Korea, Sri Lanka, Thailand, East Timor and Vietnam. an expert to investigate the fact that they draw attention to discrimination against the LGBT community and find ways to protect them.

In November 2015, the Turkish Armed Forces removed the clause that the conscript had to "prove" his homosexuality. Recruits can choose to verbally disclose their sexuality and receive an "unfit" medical examination that exempts them from service, or they may not disclose their orientation in any form for a year if a military doctor agrees to issue a "fitness report." Those who reveal their homosexuality and receive an "unfit" status may be subject to discrimination in public life in the future, as there have been several public leaks about homosexuals in the military during the drafting process.⁸

In such circumstances, the courts and the investigation of legal cases related to the LGBTQI community have a very important role to play.

In January 2019, Istanbul's 34th Labor Court issued the first verdict in the case of three men working at a landfill who were fired by a municipality for allegedly having a homosexual relationship with one of their co-workers. The court found in favor of one of the plaintiffs, identified as R.S., and concluded that his contract had been wrongfully terminated. Three drivers of a garbage truck owned by Istanbul's Kağıthane municipality have been fired by their employer after they alleged they had a romantic relationship with a 27-year-old garbage collector. The garbage hauler, identified only as M.Ş., told authorities that he had sex with the three truck drivers "from time to time." The drivers, aged between 43 and 51, sued the municipality and its subcontractor in April 2018, alleging that they had wrongfully terminated their contracts.

Istanbul's 34th Labor Court ruled in favor of one of the plaintiffs, identified as R.S., on January 29, concluding that his contract had been wrongfully terminated. His lawyer told the court that the claimant had "nothing to do with this incident", while lawyers for the company argued that his dismissal was part of a "fair dismissal" for having sex at work. The judgment was also approved in the appeal process, so the contractor was forced to return the plaintiff to his former workplace or pay compensation. Unfortunately, the Erdogan era also controls the media, so many films and series cannot be viewed at all or in a cut

7 Appeals Court Says Gay Rights Unit is OK. 2009.01.24. <https://www.hurriyet.com.tr/gundem/appeals-court-says-gay-rights-unit-is-ok-10844193> (Download: 2023. 10. 06.)

8 Turkey: Update to TUR20708. E of 30 May 1995 and TUR26081. 22 January 1997 on the homosexual community, and on redress available to them following sexual assaults. Author: Research Directorate, Immigration and Refugee Board, Canada, 1999. <https://www.refworld.org/docid/3ae6ad8e3c.html> (Download: 2023. 10. 04.)

form in the country. Of course, LGBT films are not openly banned, *Brokeback Mountain* (Beyond Friendship), for example, was seen in Turkish cinemas without any government censorship. Anyone eighteen years of age or older could buy a ticket to see the film.

LGBT-themed DVDs can also be sold legally in Turkey, although DVDs with sexual content can only be sold to persons eighteen years of age or older.⁹

In contrast, some Disney films could be viewed censored, and in 2013 a Turkish seller was accused of selling "immoral" DVDs because the DVDs contained gay sexual content. Mahmut Erdemli, the judge of the Istanbul court, annulled the criminal proceedings. He stated that gay sex is natural, stated that an individual's sexual orientation should be respected, and cited examples of same-sex marriage in Europe and America.

The Turkish government is restricting the freedom of expression of LGBT-related material - including works of art, novels and magazines - arguing that gay relationships are "obscene and against morality". In the restrictive publications that cover sexual orientation and gender identity, the Turkish government takes advantage of the fact that "public morality" is not clearly defined in national law.

On June 25, 2019, the governor of Mersin banned for 20 days all LGBT events held in the province in accordance with the Turkish Law on Meetings and Demonstrations "to maintain public welfare and peace, prevent crimes and protect public health", public morality, as well as the safety of life and property of citizens." The ban took effect during the 5th Mersin Pride Week, which was to be held from July 1 to 7.¹⁰

Gay men and transgender people face beatings, robberies, police harassment and murder on a daily basis. Human Rights Watch found that in most cases the attitude of the authorities is inadequate or non-existent.

According to KAOS GL research, 27% of LGBT people who did not hide their sexual identity were discriminated

against during recruitment in 2017, 8% in 2018, and 11% in 2019. The study found that LGBT people who believe that the institutions they apply to are biased are more likely to hide their sexual identity, so this rate will be higher if applicants open up to employers.

Summary

Enlargement report of the European Commission¹¹ however, there are many examples of discriminatory application of legislation in relation to LGBTQ people. In addition, the lack of explicit legal protections for LGBTQ people constitutes tacit legal approval of violent and discriminatory acts. There is still no law in Turkey that protects LGBTQ citizens from discrimination in employment, education, housing, health care, public accommodation or credit management.

The report of the Amnesty International¹² LGBTQ people experienced discrimination, intimidation and violent crimes during their everyday lives. Police and prosecutors often failed to investigate cases of violence against LGBTQ people and, accepting the perpetrators' motives, rarely arrested or detained suspects. When arrested, the defendants could plead "unjust grave provocation" under the Penal Code and seek a reduced sentence. Judges have also regularly used the law to reduce the sentences of those who kill LGBTQ individuals. Courts of appeal have previously upheld these convictions, citing in part the "immoral nature" of the victim. LGBTQ advocates have reported that police have detained transgender sex workers, while courts and prosecutors have created impunity for attacks on transgender sex workers.¹³

We cannot know the future, but unfortunately, all signs point to the fact that the situation will not improve, and hopefully it will not get so bad that it becomes unbearable for LGBTQI people.

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⁹ SZÜCS Lászlóné Dr. Siska Katalin: *Emberi jogok Törökországban*, 2023, Kalliópé, Budapest, 58.

¹⁰ www.gazeteduvar.com.tr (in Turkish). 26 June 2019. Retrieved 17 July 2019.

¹¹ Turkey Progress Report 2009. 2010.02.10. https://www.europarl.europa.eu/doceo/document/TA-7-2010-0025_EN.html?redirect (Download: 2023. 10. 08.)

¹² Turkey's LGBT+ Community Suffered Attacks in Every Month of 2020. Turkey's LGBT+ Community has Suffered Verbal and Physical Attacks in Every Month of 2020, with the Perpetrators Ranging from Top Government Officials to Public Servants. 2021.01.01. <https://www.duvarenglish.com/turkeys-lgbt-community-suffered-attacks-in-every-month-of-2020-news-55717> (Download: 2023. 10. 11.)

¹³ Zülfikar ÇETİN: The Dynamics of the Queer Movement in Turkey before and during the Conservative AKP Government. Working Paper, Research Group EU/Europe 2016/01, January 2016, SWP Berlin. https://www.swp-berlin.org/publications/products/arbeitspapiere/WP_RG_Europe_2016_01.pdf (Download: 2023. 10. 28.)

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