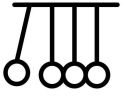


TURKEY'S UNHEARD VOICES

Türkiye'de Yaşama Hakkı

LAW

Hande Özcan

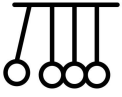


Introduction

The right to life is the most fundamental and indispensable element of human rights. The ability of an individual to sustain their existence and to exercise all other rights is only possible if the right to life is guaranteed. Therefore, modern legal systems require states not only to refrain from arbitrarily interfering with the lives of their citizens but also to take active measures to ensure their safety. The Constitution of the Republic of Turkey and the European Convention on Human Rights are among the primary texts that provide the broadest protection for the right to life. However, in Turkey, the right to life frequently becomes a matter of debate, both because the state fails to fulfill its obligation not to take life arbitrarily and because it does not take the necessary measures to protect its citizens. Femicide, occupational safety negligence, lack of precaution in natural disasters, and the disproportionate use of force by law enforcement officers constitute the most striking examples of these discussions. This study aims to present a comprehensive evaluation by examining the position of the right to life within the constitutional and international framework in Turkey, the responsibilities of the state, and the extent of violations.

Türkiye Anayasasında Yaşama Hakkı

Türkiye Cumhuriyeti Anayasasının 17. maddesi uyarınca yaşama hakkı, bütün hakların temeli olarak kabul edilmiş ve koruma altına alınmıştır. Bu maddeye göre herkes yaşama, maddi ve manevi varlığını koruma ve geliştirme hakkına sahiptir. Yaşama hakkını korumak, devletin sorumluluğundadır. Yaşama, “çekirdek haklar” kategorisinde kabul edilmektedir, dolayısıyla savaş ve olağanüstü hal gibi durumlarda bile korunması zorunludur. 1982 yılında kabul edilen anayasada kişinin yaşama hakkının, mahkeme kararı ile verilen idam cezaları doğrultusunda sınırlandırılabilceği belirtilse de, 2004 yılında idam cezasının türk hukuk sisteminden kaldırılması ile birlikte, bu hakkın sınırlandırılması durumu da bazı dar istisnalara indirgenmiştir. Madde 17 nin 4. fıkrasında sıralanan istisnaların başında meşru müdafaa gelmektedir. Meşru müdafaa, bireyin kendisinin veya başka birinin hakkına yönelik gerçekleşen bir saldırıya o anki koşullar altında kendini savunabilmesi için verilen bir haktır. Bir kişinin yaşama hakkının ihlali meşru müdafa kapsamında gerçekleşmişse TCK'nın 25. maddesi doğrultusunda faile ceza verilmez. Aynı zamanda yakalama veya tutuklama esnasında failin kaçmasını önlemek için veya isyanların bastırılması için zorunlu silah kullanımı da Anayasaya göre yaşama hakkının sınırlandırılabilceği durumlardan sayılmaktadır. Lakin belirtilen iki durumdaki silah kullanımı, usule, orantılılığa ve hesap verilebilirliğe bağlıdır, keyfî olarak kullanılamaz. Avrupa İnsan Hakları Mahkemesi bu üç istisnai durumu yaşama hakkının sınırlandırılması kapsamında onaylamış ancak kesinlikle



gerekli durumlarda kullanılması gerektiğini vurgulamıştır. Bu sayede devletin keyfi silah kullanımı ve yaşama hakkına müdahalesi hukuki açıdan engellenmiştir.

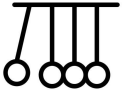
The Right to Life in the Turkish Constitution

According to Article 17 of the Constitution of the Republic of Turkey, the right to life is accepted as the foundation of all rights and is placed under protection. In accordance with this article, everyone has the right to live and to protect and develop their material and spiritual existence. It is the responsibility of the state to protect the right to life. The right to life is considered to be within the category of “core rights,” and therefore, it must be protected even in circumstances such as war or states of emergency. Although in the Constitution adopted in 1982 it was stated that the right to life could be restricted in accordance with death sentences imposed by court decisions, this limitation was reduced to a few narrow exceptions after the death penalty was abolished from the Turkish legal system in 2004. Among the exceptions listed in paragraph 4 of Article 17, the foremost is self-defense. Self-defense is the right granted to an individual to protect himself or another person against an attack on their rights under existing circumstances. If the violation of a person's right to life occurs within the scope of legitimate self-defense, no punishment is imposed on the perpetrator pursuant to Article 25 of the Turkish Penal Code (TCK). At the same time, the use of firearms to prevent a suspect's escape during arrest or detention, or to suppress riots, is also considered by the Constitution as circumstances in which the right to life may be restricted. However, the use of firearms in these two situations is bound by procedure, proportionality, and accountability; it cannot be used arbitrarily. The European Court of Human Rights (ECHR) has approved these three exceptional circumstances as legitimate limitations on the right to life, yet it has emphasized that they must be applied only when strictly necessary. In this way, arbitrary use of firearms and interference with the right to life by the state have been legally prevented.

Violations of Positive Obligations in Turkey

Femicide and the Istanbul Convention

Femicides in Turkey are one of the clearest proofs of the state's failure to take measures to protect its citizens. In cases of violence against women, the duty of the state is not only to punish the perpetrators but also to protect potential victims before the murders occur, to take preventive measures, and to conduct effective investigations. One of the most important articles of the Istanbul Convention, which was signed under the leadership of Turkey in 2011, was the principle that in cases of violence against women and domestic violence, the woman's statement should be taken as the basis. In this way, women who were



subjected to violence or under threat could give statements at police stations and legally obtain protection.

After Turkey withdrew from the Istanbul Convention in 2021, unofficial sources reported in the press that between July 1, 2024, and August 2024, there were 1,060 femicides. During this period, many women who went to police stations with written threats and reports could not receive the protection they were legally entitled to, due to the state's failure to fulfill its positive obligation. This led to a significant increase in femicides and cases of domestic violence.

The murder of İkbâl Uzuner, which made headlines both in Turkey and in the international press in 2025, also resulted from the state's failure to protect its citizens. Before the murder occurred, İkbâl had received many written and video-recorded death threats from the perpetrator; however, when she went to the police with this evidence, no action was taken. As a result, because the state failed to fulfill its duty to protect İkbâl Uzuner, she was brutally murdered by the same person who had previously threatened her. If the state had effectively implemented Article 2 of the European Convention on Human Rights, the perpetrator could have been detained based on İkbâl's statement, and İkbâl could have been safe.

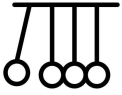
Occupational Safety

Another area where the Turkish state has failed to protect its citizens' right to life is occupational safety. Especially in the mining and construction sectors, news of work accidents caused by lack of precautions frequently appears. These safety deficiencies generally stem not only from employers' efforts to reduce costs but also from the insufficient supervision and ineffective enforcement of occupational safety regulations.

The mining disaster that occurred in Manisa in 2014 is one of the clearest examples of the state's neglect of its positive obligations regarding occupational safety. In the underground mine located in the Soma district of Manisa, 301 workers lost their lives in the accident. The report prepared by the Union of Chambers of Turkish Engineers and Architects (TMMOB) emphasized that subcontracting practices and insufficient technical inspections lay behind the explosion. A separate report authored by Prof. Dr. H. Şebnem Düzgün described this negligence as "intentional blindness," claiming that the authorities were aware of the evident risks but still failed to take necessary precautions. The Soma disaster, which resulted from such negligence, underlined that the right to life is not only about refraining from intervention but also about taking effective preventive measures.

Natural Disaster Precautions and the Zoning Amnesty

Turkey's position on an earthquake fault line imposes a major responsibility on the state in the fields of disaster management and structural safety. Under the protective measures



required by the scope of the right to life, the state must carry out effective inspections of buildings not only in earthquake zones but throughout the entire country. The state's failure to adequately prioritize these measures in Turkey has cost many lives every year.

The earthquake centered in Kahramanmaraş on February 6, 2023, was one of the most devastating earthquakes in Turkish history and attracted worldwide attention. With more than 50,000 people losing their lives, this earthquake brought with it debates about whether the state had taken the necessary protective measures regarding the right to life. The collapse of thousands of buildings during the earthquake was largely influenced by the state's zoning amnesty policy.

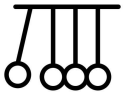
The zoning amnesty, introduced under the 2018 “zoning peace” law, was a regulation that legalized illegally or poorly constructed buildings. Under this law, millions of uninspected, structurally weak, and non-compliant buildings were granted registration certificates and thus legalized. These risky buildings were sold, and many families began living inside them. Although the zoning amnesty was presented as a policy advantageous to the state due to its economic contributions, the legalization and sale of unsafe buildings cost the lives of more than 50,000 people during the February 6 earthquakes. In this respect, the zoning amnesty is a practice in which the state placed the citizens' right to life in a secondary position.

Likewise, the delays of first aid teams, the insufficiency of equipment, and the late response in the aftermath of the earthquake caused many people who could have been saved in time to lose their lives. The February 6 earthquakes stand as a tragic example of how, in Turkey, the right to life has been subordinated to economic gain.

Negative Obligations in Turkey

One of the most significant developments in protecting the right to life in Turkey has been the abolition of the death penalty from the Turkish legal system. This practice, which continued for a while during the Republican period after the Ottoman era, was removed from the law in 2004. In this way, an important step was taken regarding the absoluteness of the right to life, compliance was achieved with Protocol No. 6 of the European Convention on Human Rights, and significant progress was made toward Turkey's alignment with the European Union. As a result, the state can no longer restrict an individual's right to life, even as a consequence of a judicial decision. However, certain exceptions still remain in effect today. The abolition of the death penalty represents the fulfillment of the state's negative obligations concerning the right to life.

One area in which the state has failed to fulfill its negative obligations regarding the right to life is the use of disproportionate force by law enforcement authorities. As guaranteed under Article 17 of the Constitution, the state cannot arbitrarily kill individuals; the only



exceptions are those accepted as a last resort and under conditions of strict necessity. However, in Turkey, police violence and excessive use of force have led to debates over the effective implementation of this article.

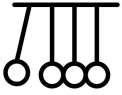
In particular, during the Gezi Park protests in 2013 and the protests that began after the arrest of Ekrem İmamoğlu in 2025, police were observed attacking demonstrators disproportionately with batons, using tear gas in enclosed spaces, spraying them with pressurized water, and injuring them with plastic bullets. According to a report by Amnesty International, the disproportionate police intervention during the March 2025 protests was, in some instances, severe enough to be considered as falling within the scope of torture or ill-treatment. Such treatment and disproportionate attacks on protesters were carried out directly by the state's own law enforcement forces, showing that the state violated its obligation not to arbitrarily take life — that is, its negative obligation.

When evaluated within the framework of the negative obligation regarding the right to life, Turkey has made progress in legal terms through the abolition of the death penalty. However, in practice, especially during protest periods, the disproportionate use of force by law enforcement has resulted in violations of this negative obligation.

Debates Within the Scope of the Right to Life

In Turkey, the practices of abortion and euthanasia give rise to debates when evaluated in terms of the boundaries of the right to life. In particular, religious and liberal segments of society present differing opinions regarding the legalization of these practices.

Abortion is the medical procedure through which a fetus is removed from the mother's womb with medical assistance. The fundamental question underlying the debates on abortion is *where the right to life begins*. From a religious perspective, a baby's right to life begins at the moment of conception, whereas according to more liberal perspectives, the baby attains this right at birth. Under the current legal system, abortion is permitted up to 10 weeks of pregnancy, yet public hospitals in Turkey do not provide abortion services. Similarly, euthanasia also generates certain debates within the scope of the right to life. Euthanasia is the act of ending a person's life through medical assistance. Euthanasia is not legal in Turkey, and physicians who perform it are prosecuted and punished for murder. The core of the debate regarding the legalization of euthanasia in Turkey lies in the question of whether the right to life is under the individual's control. Legally, the state is responsible for protecting its citizens within the framework of the right to life. However, the fact that ending one's own life at one's request is illegal gives rise to the argument that the state has more authority over a person's life than the individual themselves. From this perspective, the debates between libertarian and authoritarian ideologies concerning euthanasia continue. The debates surrounding abortion and euthanasia clearly demonstrate that the boundaries of the right to life have not yet been definitively drawn — and perhaps never can be.

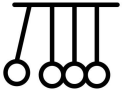


Conclusion

The right to life is the most fundamental and inviolable right an individual can possess. Although this right is guaranteed both by the Constitution of the Republic of Turkey and the European Convention on Human Rights, serious problems arise in practice. Steps such as the abolition of the death penalty have marked significant progress in fulfilling the state's obligations regarding the right to life. However, issues such as femicides, occupational safety negligence, insufficient disaster preparedness, and the disproportionate use of force by law enforcement reveal major deficiencies in the protection of this right. The ongoing debates on abortion and euthanasia further demonstrate how complex and multidimensional the boundaries of the right to life truly are. All these examples prove that, in order for the right to life to be protected not only in theory but also in practice, the state must fulfill both its negative and positive obligations more effectively. Ensuring the protection of the right to life is not only essential for the safety of individuals but also constitutes one of the most vital conditions for maintaining a democratic state governed by the rule of law.

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