

BRIEFING NOTE ON
POLICE
BRUTALITY
IN TURKEY
EXCESSIVE USE OF FORCE
AGAINST ASSEMBLIES AND
DEMONSTRATIONS





1. INTRODUCTION

Police brutality is a tool for undermining democracy which is frequently employed by governments worldwide that violate human rights, such as the freedom of expression and the right to peaceful assembly. These governments view mass protests as a security issue, rather than an indispensable feature of democratic participation. While police brutality can refer to a number of practices, ranging from verbal abuse to extrajudicial killings by the police, this brief will focus on the excessive use of force against people participating in peaceful demonstrations and assemblies in Turkey.

Freedom of peaceful assembly, association and expression are fundamental human rights and play an essential role in the prevention of violence. An assembly is “an international, temporary gathering in a private or public space for a specific purpose”. It may “take the form of demonstrations, meetings, strikes, processions, rallies, or sit-ins with the purpose of voicing grievances, aspirations, or celebrations.”¹

Both lawful, peaceful assemblies and unlawful, non-violent assemblies are protected under international human rights instruments.

Any restriction imposed on the right to freedom of assembly must be “in conformity with the law and [...] necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”² Under international human rights law, “law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.”³ The regulation of the use of force by international law indicates the importance of this issue. Yet, in many countries governments use aggressive methods, such as excessive force and criminal sentences, to dissuade citizens from protesting. In 2021, UN experts called for an end to police brutality worldwide, asking law enforcement officials to meet the following four requirements when using force:

1 - Legality: any use of force must pursue a lawful purpose and respect equal treatment of all persons before the law in accordance with the principle of non-discrimination;

2 - Necessity: force must only be used when, and to the extent, strictly necessary for the achievement of a lawful purpose, noting that lethal force may only be used when unavoidable to protect against grievous bodily harm or an imminent threat to life;

3 - Proportionality: the harm likely to be inflicted by the use of force must not be excessive compared to the benefit of the lawful purpose pursued, and

4 - Precaution: law enforcement operations must always be planned, prepared and conducted so as to minimise, to the greatest extent possible, the resort to force and, whenever it becomes unavoidable, to minimise the resulting harm.⁴

1. A/HRC/20/27, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf

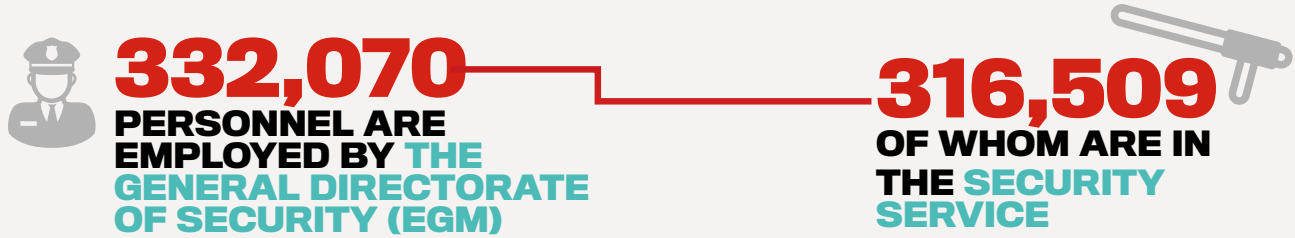
2. Article 21, *International Covenant on Civil and Political Rights (ICCPR)*.

3. *Basic Principle 4, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)*, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement>

4. <https://www.ohchr.org/en/press-releases/2021/08/un-experts-call-end-police-brutality-worldwide>

2. GENERAL INFORMATION ON LAW ENFORCEMENT AND NATIONAL LEGISLATION IN TURKEY

In Turkey, the Police (the General Directorate of Security) and the Gendarmerie serve as law enforcement forces in urban areas and rural and border areas, respectively, under the control of the Turkish Ministry of Interior. The armed forces, which will not be discussed in this brief, have overall responsibility for border control and external security. According to statistics published in 2022,⁵



Among the list of EU member states and candidate states for 2017-2019, Turkey has the second highest number of police officers.⁶

Furthermore, the number of law enforcement officials in Turkey (excluding the Gendarmerie) increased by **39%** between 2012⁷ and 2022. According to 2021 statistics⁸, the Gendarmerie employs around **203,000** personnel. These numbers suggest that in the last decade Turkey has heavily invested in its law enforcement capacity. With a total of half a million law enforcement personnel,

TURKEY IS IN THE PROCESS OF ENABLING THE USE OF EXTRAORDINARY MEANS IN THE NAME OF SECURITY. ”



The same stance is also visible in law enforcement legislation. Recent amendments to Turkish Law No. 2559 on the Powers and Duties of the Police (Article 16), the Law on Gendarmerie, Anti-Terrorism Law (Additional Article 2) and Law No. 2911 (Section 4) have expanded the powers of law enforcement officials to use force, including firearms, and have raised concerns about impunity for police brutality and misconduct. Ill-defined boundaries of power in the legislation explain the widespread excessive use of force. In its 2016 Concluding Observations, the Committee against Torture expressed serious concerns about reports of the extrajudicial killing of civilians in counterterrorism operations in the southeast of Turkey. It also noted with concern that “the allegations of excessive use of force against demonstrators [had] increased dramatically”.⁹

5. EGM Performance Report 2022, <https://www.egm.gov.tr/kurumlar/egm.gov.tr/lcSite/strateji/MaliDurum/2022-PERFORMANS-PROGRAMI.pdf>

6. https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Police,_court_and_prison_personnel_statistics#One_police_officer_per_299_people

7. <https://www.blogarti.com/turkiyede-yillara-gore-polis-sayilari.html>


8. <https://www.jandarma.gov.tr/kurumlar/jandarma.gov.tr/Jandarma/indirilebilir-icerikler/Jandarma-Genel-Komutanligi-2021-Yili-Performans-Programi.pdf>

9. <https://digitallibrary.un.org/record/857920?ln=en>


It is known that demonstrations in the southeast of Turkey have long been subject to much more severe restrictions than those in the west. The Human Rights Association (HRA) explains that rampant police brutality is a consequence of the Turkish Government's adoption of a policy of impunity for law enforcement officials, following the end of the Peace Process on the Kurdish Issue in 2015.¹⁰

Freedom of assembly is guaranteed under Article 34 of the Constitution of the Republic of Turkey¹¹. However, it is rarely respected in practice. According to Articles 17 and 19 of Turkish Law No. 2911 on Meetings and Demonstrations, meetings or demonstrations may be postponed or banned if they threaten national security, public order, public health, or public morals. The law also requires advance notice to be submitted to the authorities by the committee organising a demonstration. However, some activists claim this procedure serves as a de facto permission procedure and is used by the local authorities to prevent protests.¹² The ambiguity of Turkish Law No. 2911 allows for different interpretations by the administration.

The Law on Police Use of Force Worldwide website, an academic review of national regimes governing the use of force by law enforcement officials, ranks



TURKEY'S COMPLIANCE WITH INTERNATIONAL STANDARDS IN THE LOWEST CATEGORY (RED) AND RECOMMENDS AMENDING NATIONAL LEGISLATION, IN PARTICULAR ON THE USE OF ARMS BY POLICE.¹³



10. <https://www.evrensel.net/haber/406191/ihd-polis-siddetinin-artmasi-cezasizliktan-kaynaklaniyor> and the interview by Öztürk Türkdoğan on *Geniş Açık*, <https://www.youtube.com/watch?v=fSs2-0mTwG0>

11. Article 34: "Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission."

12. https://freedomhouse.org/sites/default/files/2020-02/03202015_updated_Voices_in_the_Street_Freedom_of_Assembly_report.pdf

13. <https://www.policinglaw.info/country/turkey>

3. IMPUNITY OF LAW ENFORCEMENT OFFICIALS.

ECtHR has repeatedly addressed police misconduct in Turkey, specifically the use of tear gas against protesters, the violation of the right to life, torture and ill treatment, and the failure to conduct an effective investigation into the applicant's allegations.¹⁴ Impunity shields law enforcement and other public officials in Turkey from accountability for any misconduct when policing demonstrations or giving orders, for many years. This is a consequence of the abovementioned legislative amendments, the manipulation of judicial process and the Turkish government's administrative intervention.

According to the Human Rights Foundation of Turkey (TİHV-HRFT), the majority of prosecutions are based on charges of "preventing police officers from performing their duties" and "resisting arrest", under Article 265 of the Turkish Penal Code, with the aim of dissuading people from filing torture complaints.¹⁵ On 27 April 2021, the Turkish General Directorate of Security issued a circular banning all audio-visual recordings of law enforcement officers at protests on the pretext of personal data protection. The ban, which was initially imposed for May Day demonstrations in 2021, has been interpreted as a move to prevent civilians and journalists from reporting on police brutality.¹⁶

The directive has continued to be enforced, with police arresting protestors and bystanders for taking videos during subsequent protests. The brutal arrest of the AFP photojournalist, Bülent Kılıç, while he was covering the Pride March in Istanbul is just one example.

14. Some ECtHR judgements on the use of force in the policing of demonstrations are *Oya Ataman v. Turkey*, *Abdullah Yaşa and Others v. Turkey*, *İzci v. Turkey*,

15. https://tihv.org.tr/wp-content/uploads/2020/06/Tedavi-Raporu-2019-TURKCE_TUM_BASKI.pdf

16. <https://freeturkeyjournalists.ipi.media/turkey-iji-condemns-police-directive-preventing-audio-visual-reporting-on-protests/>

The incident was reminiscent of the murder of George Floyd by a police officer in the US,

AS KILIÇ WAS HEARD SAYING:

“I CAN'T BREATHE”

during the arrest in which the officers pressed their knees on his back, leaving him out of breath.¹⁷

There have been only a few cases in which the Turkish Interior Ministry has granted permission for law enforcement officials to be investigated. Formal protection and an informal code of silence within Turkish law enforcement agencies reinforce each other.

17. <https://freeturkeyjournalists.ipi.media/i-cant-breathe-turkish-photo-journalist-brutally-detained-while-covering-istanbul-pride-march/>

4. A CLIMATE OF INTIMIDATION AND FEAR

The human rights violations of law enforcement agencies in Turkey are creating a climate of fear and intimidation that is stifling the civic space. The full extent of this problem is unclear due to the lack of official data. However, human rights organisations' efforts to monitor police brutality offer a glimpse of the situation. The Turkish Government is using a three-pronged strategy, comprising suppression (law enforcement agencies), prosecution (judiciary) and prohibitions (local administrations).¹⁸

A study by the HRFT reveals that, based on the information in their database, between 2015 and 2019, freedom of assembly was violated at no fewer than **4,771** events in Turkey.¹⁹ Not all these events were demonstrations or protests –they also included political rallies, cultural activities, sports activities and funerals. In the same period, **20,071** people were taken into custody, **662** were detained, **4,450** were physically attacked, and 19 were killed by the police. In its Treatment Report for 2019²⁰, the HRFT estimated that one in **500** persons in Turkey have been subjected to torture. HRFT Treatment and Rehabilitation Centres²¹ received a total of **572** applications in 2020 from people aged between **5** and **70**. Five hundred and seven (**90.2%**) of these applicants stated that they were arrested because of their political views, identities or actions. Despite the Covid-19 pandemic and restrictions, **61%** of the applicants reported that the police tortured them on the street or in open public spaces.

18. https://tihvakademi.org/wp-content/uploads/2021/05/Yurttaslik_Alani_Bilgi_Notu_2.pdf

19. *Ibid*

20. https://tihv.org.tr/wp-content/uploads/2020/06/Tedavi-Raporu-2019-TURKCE_TUM_BASKI.pdf

21. <https://tihv.org.tr/tedavi-ve-rehabilitasyon-raporlari/2020-tedavi-ve-rehabilitasyon-merkezleri-raporu/>

The Association for Monitoring Equal Rights (AMER/EŞHİD) identified at least **614 police interventions on assemblies taking place in 50 cities in 2021**. The top five cities on the list were **Istanbul (217), Ankara (109), İzmir (40), Diyarbakır (37) and Şanlıurfa (21)**. **In 348 of these police interventions, 3,228 persons were arrested.**²²

Protestors against the Emergency Decrees, Kurdish people, workers, women, LGBTI+, journalists, lawyers, politicians, students and environmentalists are among the diverse groups targeted by police attacks. **Any form of dissent in the civic space is obstructed.**

While it is impossible to produce an exhaustive list of police brutality in Turkey, the following cases indicate the breadth of groups targeted:

- In May 2011, the police intervened in a demonstration protesting against Hydroelectric Power Plants in Hopa district of Artvin, which was taking place shortly before the rally of then Prime Minister, Recep Tayyip Erdoğan. Environment activist, Metin Lokumcu, died of a heart attack following the use of tear gas by the police. **The trial for Lokumcu's death is now in its 11th year** and the senior officials who ordered the police action are yet to stand. The people of Hopa and environmentalists continue to seek justice.²³
- Turkish riot police used excessive force during the wave of leaderless and largely peaceful grassroots demonstrations in 2013 across Turkey, known as the Gezi Park Protests. Eventually, **22 people, including 14-year-old Berkin Elvan, were killed, and more than 8,000 injured**. More than 3,000 people were arrested. The police officer who shot Berkin Elvan with a tear gas canister was sentenced to 16 years and eight months in prison, pending appeal. However,

he has not yet been detained.²⁴ The Gezi Case has become one of the most notorious political prosecutions of so-called protest organisers. Osman Kavala was sentenced to life without parole, while seven other defendants were sentenced to 18 years and immediately imprisoned.²⁵

- A group known as the **Saturday Mothers** had been gathering every week for a peaceful sit-in at Galatasaray Square since 1995, with the aim of discovering the whereabouts of relatives who had disappeared in custody. During their 700th vigil on 25 August 2018, they were attacked by the police with pepper gas and plastic bullets. Members of parliament attending the meeting were also beaten. A lawsuit was filed against 46 members of this group, who were detained on charges of violating the Law on Meetings and Demonstrations. Their next hearing will be on 21 September 2022. **Since the 700th vigil, they have been banned from meeting in Galatasaray Square.**²⁶

- On 28 April 2020, Ali al-Hamdan, an 18-year-old Syrian refugee and textile worker,

was shot dead on his way to work by a police officer in Adana.

It is alleged that he was violating Turkey's nationwide Covid-19 curfew for people under the age of 20, and had failed to stop when warned by the officer who shot him. The court sentenced the officer to life imprisonment for "deliberate killing" but later reduced it to 25 years.²⁷

22. Association for Monitoring Equal Rights (AMER/EŞHİD), 2022 Monitoring Report on Freedom of Assembly, soon to be published on <https://www.esithak-lar.org/publications/>

23. <https://m.bianet.org/english/human-rights/255101-metin-lokumcu-case-those-who-gave-the-order-must-be-put-on-trial>

24. <https://www.failibelli.org/dava/berkin-elvan-davasi/>

25. <https://freedomhouse.org/article/turkeys-gezi-trial-verdict-travesty-justice>

26. <https://m.bianet.org/english/law/241359-we-were-subjected-to-violence-the-state-should-have-been-put-on-trial>

- **In November 2021,**

Çetin Kaya was killed

**in Istanbul by a police officer
having also allegedly failed to
stop on warning.**

It is reported that Kaya died after being handcuffed and shot at close range in the back of the head. İstanbul MP, Oya Ersoy, of the Peoples' Democratic Party (HDP) submitted a Parliamentary question about the killing. According to the reports of the Progressive Lawyers' Association (ÇHD),

**the police shot some
403 people dead
in Turkey
for disobeying “stop”
warnings** between 2007 and 2020.

The Human Rights Foundation of Turkey (TİHV-HRFT) reports that

**15 people, including
three children,
were killed by the
security forces in
2020.**²⁸

- On 1 April 2021, dozens of Boğaziçi University students staging a demonstration demanding

the end of the house arrests for several students were detained following a violent police response. This is just one of a series of incidents relating to protests both inside and outside the university campus.²⁹ Throughout the Boğaziçi Protests, which began with the appointment of Melih Bulu as a rector from outside of the university by President Erdoğan, **the police have frequently resorted to excessive use of force, including pepper gas, plastic bullets, and beatings.**

- **On 25 November 2021, the police used tear gas against women and LGBTI+ marching against gender-based violence** and pressing for Turkey's return to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). One month later, two women were arrested in a police raid for violating Turkish Law No. 2911 and insulting the President.³⁰

- **The police detained 200 striking workers** at Farplas automotive factory, who had locked themselves inside the factory to protest the dismissal of their colleagues over unionisation efforts. **The police broke into the factory, smashing the windows and using tear gas, despite the presence of pregnant women workers.** One worker suffered a broken leg, and several others were injured while being arrested.³¹

27. <https://www.amnesty.org.tr/icerik/elhemedantakdim>

28. <https://m.bianet.org/english/human-rights/254253-hdp-brings-cetin-kaya-s-killing-by-the-police-to-parliamentary-agenda>

29. <https://m.bianet.org/english/freedom-of-expression/241754-dozens-detained-during-violent-police-response-to-bogazici-protest-in-kadikoy>

30. <https://www.birgun.net/haber/25-kasim-a-katilan-kadinlara-gozalti-374755>

31. <https://artigercek.com/haberler/farplas-iscileri-polis-siddetini-anlatt-i-can-kaybi-da-olsa-sizi-indiririz-dediler>

5. RECOMMENDATIONS:

The OMCT urges the authorities of the Government of the Republic of Turkey to:

- publicly reiterate and reinforce the absolute prohibition of torture and ill-treatment by law enforcement forces;
- end impunity and ensure effective investigation into all allegations of police brutality and the prosecution of any law enforcement official or other public official implicated in criminal conduct, irrespective of rank or status;
- make comprehensive legislative changes that align with the ECtHR judgements and international obligations on the protection of fundamental rights and freedoms, primarily the freedom of peaceful assembly and freedom of expression;
- ensure and promote the proper role of law enforcement officials within the framework of the national legislation;
- ensure that the criminal and disciplinary penalties for the use of force in breach of the domestic and international law are commensurate with the committed offence or fault;
- regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
- ensure that the command leadership of the law enforcement agencies create an operational framework including decision-making criteria and the conditions for the use of force.
- prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unnecessary risk.
- facilitate reporting on and monitoring of assemblies and demonstrations by the media and independent observers, including the use of audio-visual recordings of law enforcement officers at protests.
- create a transparent system of command responsibility and accountability.
- ensure that the policing of assemblies is guided by the concept of facilitation of the assembly to protect human rights
- create an independent and impartial external oversight mechanism for the conduct of the law enforcement officials and transparently share the relevant data on the accountability of the law enforcement officials for the use of force and firearms in line with the human rights standards.
- build the capacity of law enforcement agency personnel through training.