

171 Women's and LGBTI+ Organisations, Call Opposition Parties to Say:

NO to the Amendment to the Constitution!

We, the women and LGBTI+ organisations whose signatures are below, reject the proposed amendment to the Constitution, which is discriminatory and expressly against the principles of equality and secularism of the Constitution. We call on all opposition parties to oppose and say NOT to this proposal.

On 9 December 2022, AKP tabled a proposal, signed by 336 deputies including those of MHP and BBP, to amend two articles of the Constitution, article 24 titled “freedom of religion and conscience” and article 41 titled “protection of the family and the rights of the child”. The proposed amendment is explicitly discriminatory and against the spirit of the Constitution and universal norms of human rights. Furthermore, the proposal is unacceptable both as a constitution-making technique and in the way it is introduced to the public.

Constitutions are inclusive, pluralist, founding and fundamental texts that build a society. A constitution provides the highest level of safeguard for rights and freedoms and is a guarantee that everyone fully and equally enjoys universal human rights that belong to them from birth. Therefore, democratic rule-of-law states that are respectful of human rights do not have constitutions that grant privileges to a certain person, group or community nor do their constitutions contain provisions that generate discrimination among citizens. As a requirement of a democratic, secular and social state which is based on rule of law and respectful of human rights, the Constitution of Turkey, in its article 10 titled “equality before the law” guarantees that “everyone is equal before the law” and that “state authorities are obliged to act in compliance with the principle of equality in all their proceedings”.

Proposed Amendments to the Constitution are Fundamentally in Conflict with the Principles of the Constitution Pertaining to Equality, Secularism and Respect for Human Rights.

1. The proposed amendment to Article 24 titled “freedom of religion and conscience” introduces an additional provision stipulating that “women’s enjoyment of fundamental rights and freedoms as well as goods and services provided by public or private sector should not be conditional on whether a woman covers her head or not” and that “under no circumstances should any woman be deprived of fundamental rights and freedoms, including the right to education and training, the right to work, to elect and be elected, to engage in political activities and to enter public service, or be deprived of any goods and services provided by public or private sector, nor should she be condemned, accused or be discriminated against on the ground of wearing a headscarf or an attire of her preference as part of her religious faith”.

The proposed amendment stipulating the addition of a first paragraph to article 24 should be considered in light of the fact that Turkey already has an obligation not to discriminate on the ground of religion and faith, in accordance with the Constitution and the international human rights conventions to which it is a party.

- Article 10 of the Constitution states that no one can be discriminated against on the grounds of sex, religion or sect and that “state organs and administrative authorities are obliged to act in compliance with the principle of equality in all their proceedings” and, they are in particular obliged to “ensure equality between women and men in the enjoyment of rights”. This point is expressly made in the justification of the proposed amendment to the article: The justification states that “women in our country, those who cover their heads or those who do not cover their heads, are able to enjoy all fundamental rights and freedoms as well as the goods and services provided by the public or private sector”, pointing out that “discriminatory practices against women who cover their heads and wear attire as part of their religious faith are against the Constitution”. Furthermore, according to article 9 titled “freedom of thought, conscience and religion” and article 14 on “prohibition of discrimination” of the European Convention on Human Rights, to which Turkey is a party, Turkey has the obligation to ensure that all its citizens have the freedom of thought, conscience and religion including the freedom to change their religion or faith, the freedom to worship and the freedom to manifest their religion or

faith. In addition, Turkey is a party to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which already imposes the obligation on Turkey to ensure that no woman shall be exposed to any “distinction, exclusion or restriction on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

When the two proposed paragraphs to article 24 are considered in conjunction with each other, it is apparent that the amendment does not expand the domain of right with respect to religion and conscience; on the contrary, it **contracts the domain of right, it is discriminatory and in conflict with the principle of secularism.**

- The proposed amendment does not include a general freedom of religious symbols or attire used as part of a religious faith but refers to a specific sect of the Islamic religion and stipulates regulations on headscarf used only by women, as opposed to addressing everyone regardless of sex. In order to achieve the freedom of religion and faith, the state is **obliged to keep an equal distance to all religions and faiths of its citizens.** Nevertheless, the proposed regulation to article 24 describes the freedom of religion and conscience only from the point of a specific religious faith. The fact that the proposed paragraph references only the headscarves of women pave the way for state intervention in women’s appearances, which is an intervention made over women’s body, in an extremely narrow and discriminatory fashion that is in conflict with the principle of secularism.

- This regulation is extremely dangerous and discriminatory in the way that it makes a distinction between women as those who cover their heads and those who do not cover their heads. Discrimination against women who wear headscarves has existed in various forms throughout Turkish history; nonetheless, significant headway has been achieved thanks to years of concerted efforts made again by women, both those who wear headscarves and those who do not wear headscarves, and LGBTI+ persons.¹ Women in Turkey experience discrimination and male violence both in public and private space **because they are women**, regardless of their religious faith or attire; they are subject to oppression by patriarchy and excluded from public life. While women are subject to male violence and discrimination just because they are women, the state’s obligation, as clearly laid out in article 10 of the Constitution, is to **combat male violence and discrimination against women without making any distinction among women and achieve de facto equality between women and men.** The proposal, in its current form, is a mere manifestation of the domination men try to establish over women’s body; an indication of the patriarchal mentality that seeks to exclude women from public space and strip them off of their status as subjects of rights by imposing norms and exerting pressure to dictate what women should and should not wear.

2. Article 41: The proposal also includes an amendment to article 41 of the Constitution titled “protection of the family and the rights of the child”. The amendment suggests adding to the article the following expression “union of marriage can only be established woman and man”.

- The proposed amendment to article 41 is **discriminatory and against both the Constitution and the international human rights conventions** that Turkey is a party to; **it constitutes an assault to human dignity and pluralist democracy.**
- At first glance, this regulation seems an exceedingly redundant repetition of the relevant articles of Turkish Civil Code which already stipulate that the union of marriage can only be established between a woman and a man. Nevertheless, a closer read of the justification of the amended article reveals that the proposed amendment is discriminatory and expressly against the universal norms on human rights and the Constitution. So much so that the justification of the amended article states that the purpose of the amendment is to "protect

¹ A review on the History of Headscarf Bans and Regulations in Turkey is available at: <https://www.dogrulukpayi.com/zaman-tuneli/turkiye-de-basortusu-yasak-ve-duzenlemelerinin-gecmisi>

the family and the institution of marriage against all types of danger, threats, assaults, decadence and impositions by perverted movements.

- Given that the government has engaged, at the highest level, in hatred politics and has been openly targeting LGBTI+ persons in the last 2 years, it is obvious to the public that the mention of “perverted movements” in the justification is an implication directed at lesbians, gays, bisexuals, transgender and intersex persons under the guise of protecting the family. According to article 10 of the Constitution, everyone is equal before the law and state authorities are obliged to act in compliance with the principle of equality in all their proceedings. The principle of equality guaranteed by the Constitution requires that this obligation similarly applies to lesbians, gays, bisexuals, transgender and intersex persons as well. Although the article does not list “sexual orientation” and “gender identity” among grounds of discrimination, the term “and similar grounds” used in the article requires that discrimination on the ground of sexual orientation and gender identity is also prohibited under the principle of equality.
 - International human rights conventions that Turkey is a party to, including the United Nations human rights conventions, particularly the International Covenant on Economic, Social and Cultural Rights as well as the European Convention on Human Rights clearly specify that no one can be discriminated against on the grounds of sexual orientation and gender identity in the enjoyment of their human rights. The European Court of Human Rights in particular has a well-developed case-law, that may be considered as a corpus, on discrimination on the grounds of sexual orientation and gender identity and rights violations on these grounds.
 - The term “perverted movement” used in the justification for the proposed amendment to article 41 of the Constitution poses extremely dangerous consequences and risks including the exclusion of LGBTI+ persons from the protection provided by the principle of equality under article 10 of the Constitution, targeting of LGBTI+ persons with hate speech, dehumanizing of LGBTI+ persons and the risk of paving the way to certain amendments that are discriminatory and fundamentally against the legislation, primarily the Civil Code and the Penal Code. Furthermore, in case a term such as “perverted movement” is used in the Constitution with respect to LGBTI+ persons, this will impede identifying rights violations and discrimination on the grounds of sexual orientation or gender identity, both in applications submitted to the courts and in the access to rights and services.
 - Justifications for articles are exceedingly important texts that have historic and cultural significance in the interpretation of Constitutions. In addition to the term “perverted movement”, the general justification for the proposed amendment includes terms such as “sanctity”, “understanding of culture and civilisation”, “strong family”, “relation suitable to human nature” and “decadence”. All of these terms are in conflict with universal norms on human rights and reflect the standpoint of the government with respect to women and gender equality. The government imposes a standpoint which denies the fact that gender norms are the source of gender roles and ignores the relations of domination between the sexes, reducing the societal position of women to their biological features. Such vague and discriminatory terms which should have no place in the constitution of a rule-of-law state based on human rights constitute a direct threat to pluralistic democracies.
3. The proposed amendment is not only discriminatory and against the spirit of the Constitution and universal norms on human rights, but also **unacceptable as a constitution-making technique and in the way it is introduced to the public.**
- In democratic rule-of-law states, constitutional amendments are law-making processes that entail active participation of all segments of society and are carried out with utmost care. The government did not consult any women organisations, nor did it share the draft with the public in any way during the drafting of the proposed amendment to the Constitution.
 - The constitutional amendment in question is often associated with the possibility of a referendum. In a democratic rule-of-law state, under no circumstances can the fundamental rights and freedoms be a subject of referendum.

We reject the proposed amendment to the Constitution tabled by those who violate or fail to implement the Constitution when it comes to the fundamental rights and freedoms of women, children and LGBTI+ persons and who unconstitutionally withdraw from the Istanbul Convention in total disregard of women's most fundamental rights. The Constitution cannot be amended in this political environment where there exist years of attempts to legally pave the way to child abuse under the guise of "early marriage" or "consent of the minor", where gender equality and women's gained rights are under attack and hate crimes are committed against LGBTI+ persons each passing day. Women's bodies, the dignity of LGBTI+ persons and human rights and freedoms cannot be a political material. The duty of the State is, as underlined by the Istanbul Convention, to develop and carry out holistic policies in order to keep women, children and LGBTI+ persons safe from violence and not imprison them in violent families. We unequivocally reject the proposed amendment to the Constitution and call on the public and the opposition to oppose and say no to the proposal.

Signatories:

Women for Women's Human Rights (WWHR) – New Ways Association

1. Adana Kadın Danışma Merkezi Sığınmaevi Derneği (AKDAM)
2. Adana Kadın Platformu
3. AĞ-DA Toplumsal Cinsiyet Eşitliği Dayanışma Ağı
4. Akdeniz Antalya Aileleri Grubu
5. Alevi Bektaş Derneği Kadın Meclisi
6. Alevi Bektaşi Federasyonu Kadın Meclisi
7. Alevi Kadınlar Birliği
8. Anadolu Güç Birliği Konfederasyonu'ndan Kadınlar
9. Anadolu Kadın Hareketi Derneği
10. Anka Üreten Kadın Derneği
11. Ankara Gökkuşluğu Aileleri Derneği-GALADER
12. Ankara Kadın Platformu
13. Antakya Kadın Dayanışması
14. Antalya Kadın Danışma Merkezi Ve Dayanışma Derneği
15. Aramızda Toplumsal Cinsiyet Araştırmaları Derneği
16. Avcılar Kadın Platformu
17. Avrupa Alevi Kadınlar Birliği
18. Avrupa Kadın Lobisi Türkiye Koordinasyonu
19. Aydın Kadın Efeler Derneği
20. Aydın LGBTİ+ Dayanışması
21. Ayvalık Kadın İnisyatifi
22. Bir Kadın Bir Hayat Derneği
23. Birleşik Metal-İş Sendikası Kadın Komisyonu
24. Bodrum Kadın Dayanışma Derneği
25. Cinsel Şiddetle Mücadele Derneği
26. Cinsiyet Eşitliği Politikaları Derneği
27. Çağdaş Hukukçular Derneği Kadın ve Toplumsal Cinsiyet Çalışmaları Komisyonu
28. Çağdaş Yaşamı Destekleme Derneği'nden Kadınlar
29. Çanakkale Feminist Dayanışma
30. Çanakkale Kadın Platformu
31. Çanakkale Muaf LGBTİA+
32. Çankaya Kent Konseyi Kadın Meclisi
33. ÇEKEV Çiğli Evka 2 Kadın Kültür Evi Derneği

34. Çukurova LGBTİ Dayanışma
35. Datça Kadın Platformu
36. Demir Leblebi Kadın Derneği
37. Demokratik Alevi Derneği'nden Kadınlar
38. Demokratik Kadın Hareketi
39. Denizli Kadın Platformu
40. Denizli LGBTİ Aileleri Grubu
41. Denizli Soroptimist Kulübü
42. Direnişin Renkleri
43. DİSK Emekli-Sen Çanakkale Kadın Birimi
44. DİSK Basın-İş'ten Kadınlar ve LGBTİ+'lar
45. Diyarbakır Barosu Kadın Hakları Merkezi
46. Diyarbakır Barosu LGBTİ+ Hakları Komisyonu
47. Edirne Kadın Merkezi Danışma Derneği
48. Ege Kadın Buluşması Platformu
49. Ekmek ve Gül
50. Elder Kadın Danışma Merkezi El Emeğini Değerlendirme Derneği
51. erktolia
52. Eşit Yaşam Derneği
53. Ev Eksenli Çalışan Kadınlar Çalışma Grubu
54. Ev Hanımları Dayanışma ve Kalkındırma Derneği (EVKAD)
55. Feminamfi
56. Feminart Uluslararası Kadın Sanatçılar Derneği
57. Fethiye Kadın Danışma Dayanışma Derneği
58. Foça Barış Kadınları
59. Genç Lezbiyen Gey Biseksüel Trans İnterseks Gençlik Çalışmaları ve Dayanışma Derneği
60. Girişimci Kadınların Desteklenmesi Derneği
61. Günebakan Kadın Derneği
62. Hacettepe Üniversitesi Kuir Araştırmalar Topluluğu
63. Halkevci Kadınlar
64. Hatay Kadınlar Birlikte Güçlü
65. Hatay Mor Dayanışma Kadın Derneği
66. Havle Kadın Derneği
67. HEVİ LGBTİ+ Derneği
68. İKUIR
69. İnsan Hakları Derneği Kadın Komisyonu
70. İnsan Hakları Derneği Aydın Şubesi Kadın Komisyonu
71. İstanbul Kent Konseyi Kadın Meclisi
72. İstanbul Üniversitesi Eşitlik Topluluğu
73. İzmir Kadın Dayanışma Derneği
74. İzmir Kent Konseyleri Kadın Meclisleri Birliği
75. İzmir LGBTİ+ Aileleri ve Yakınları Grubu
76. Kadın Adayları Destekleme Derneği Ankara Şubesi
77. Kadın Çalışmaları Derneği
78. Kadın Dayanışması
79. Kadın Dayanışma Vakfı

80. Kadın Hakları Derneđi
81. Kadın Haklarını Koruma Derneđi Denizli Őubesi
82. Kadın İŐçi DayanıŐma Derneđi
83. Kadın Koalisyonu Uluslararası ÇalıŐma Grubu
84. Kadın Kùltùr Sanat Edebiyat Derneđi
85. Kadın Meclisleri
86. Kadın Partisi
87. Kadın Savunma Ađı
88. Kadın Yazarlar Derneđi
89. Kadın Zamanı Derneđi
90. Kadının İnsan Hakları – Yeni Çözùmler Derneđi
91. Kadınlar Birlikte Güçlü
92. Kadınlarla DayanıŐma Vakfı – KADAV
93. KAHDEM
94. Kahraman Kadınlar Kooperatifi
95. Kampùs Cadıları
96. Karaburun Kadın Platformu
97. Kaos GL
98. Katre Kadın DanıŐma ve DayanıŐma Derneđi
99. KAZETE Kadın Gazetesi
100. Keskesor Amed LGBTİ+ OluŐumu
101. Keskesor Dersim LGBTİ+ OluŐumu
102. Keskesor Van LGBTİ+ OluŐumu
103. Kepez Özgür Kadın DayanıŐması
104. Kamu Emekçileri Sendikalar Konfederasyonu (KESK) Kadın Meclisi
105. Kırkyama Kadın DayanıŐması
106. Kırmızı Biber Derneđi
107. Kırmızı Őemsiye Cinsel Sađlık ve İnsan Hakları Derneđi
108. Kocaeli Ekmek ve Gül Kadın DayanıŐma Derneđi
109. Kocaeli Kadın Platformu
110. KuirAnka
111. Kuir AYBÜ
112. KuirMar (Marmara Üniversitesi LGBTİQAA+ DayanıŐma Ađı)
113. Kvinnofrigörelse I Förorten Stockholm
114. Lambdaistanbul LGBTİ+ DayanıŐma Derneđi
115. Lion Queer
116. LİSTAG – LGBTİ+ Aileleri ve Yakınları Derneđi
117. Lotus Kadın DayanıŐma ve YaŐam Derneđi
118. Mardin Őahmaran Kadın Platformu
119. Mavigöl Kadın Derneđi
120. Mersin Lgbt 7 Renk Derneđi
121. Mersin Bađımsız Kadın Derneđi
122. Mor Çatı Kadın Sıđnađı Vakfı
123. Mor DayanıŐma Kadın Derneđi
124. Mor Salkım Kadın DayanıŐma Derneđi
125. Mor SarmaŐık

126. Muamma LGBTİ+ Derneđi
127. Muđla Kadın Dayanışma Grubu
128. Ordu Kadını Güçlendirme Derneđi
129. Özgür Renkler Derneđi
130. Pembe Hayat LGBTİ+ Dayanışma Derneđi
131. Patiska – Yaşlılıkta Kadın ve Teknoloji Platformu
132. Puduhepa e.V.
133. Rosa Kadın Derneđi
134. Sağlıkta Genç Yaklaşımlar Derneđi'nden Kadınlar ve LGBTİ+'lar
135. Sensiz Bir Eksik Derneđi
136. SES Eşitlik ve Dayanışma Derneđi
137. Seyhan Kadın-Çocuk Dayanışma Eğitim ve Kültür Derneđi
138. Sosyal Politika, Cinsiyet Kimliği ve Cinsel Yönelim Çalışmaları Derneđi (SPoD)
139. Sosyal Hizmet Uzmanları Derneđi Kadın Komisyonu
140. Star Kadın Derneđi
141. Şanlıurfa Yaşam Evi Kadın Dayanışma Derneđi
142. Tarlabası Toplum Merkezi'nden Kadınlar ve LGBTİ+'lar
143. TJA (Tevgera Jinên Azad/Özgür Kadın Hareketi)
144. Toplumsal Rehabilitasyon Derneđi'nden Kadınlar
145. Türk Kadınlar Konseyi Derneđi Denizli Şubesi
146. Türk Kadınlar Birliđi
147. Türk Üniversiteli Kadınlar Derneđi
148. Türkiye Gazeteciler Birliđi Kadın ve LGBTİ Komisyonu
149. Türkiye İşçi Partili Kadınlar
150. Türkiye Kadın Dernekleri Federasyonu
151. TMMOB Adana İKK Kadın Çalışma Grubu
152. TMMOB İstanbul İKK Kadın Komisyonu
153. TMMOB İzmir İKK Kadın Çalışma Grubu
154. Troida Kadın Girişimi Üretim ve İşletme Kooperatifi
155. TTB Kadın Hekimlik ve Kadın Sağlığı Kolu
156. Uçan Süpürge Vakfı
157. Urla Kadın Dayanışma Derneđi
158. Urla Kadın Platformu
159. ÜniKuir Derneđi
160. Üniversiteli Feminist Kolektif
161. Yalnız Yürümeyeceksin
162. Yeni Demokrat Kadın
163. Yeni Mahalle Kent Konseyi Kadın Meclisi
164. Yođurtçu Kadın Forumu
165. 7 Renk LGBT Mersin
166. 17+ Alevi Kadınlar
167. 17 Mayıs Derneđi
168. 18 Haziran LGBTİ+ Dayanışma Derneđi
169. 29 Ekim Kadınları Derneđi
170. 78'liler Girişimi'nden Kadınlar
171. 87 İnisiyatifi (87 Ayrımcılık ve Nefret Suçlarıyla Mücadele İnisiyatifi)'nden Kadınlar

