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Enhancement of Participatory Democracy in Turkey:  
Monitoring Gender Equality Project Phase II

# Women Refugees and Gender Equality

Mapping and Monitoring Study

## Extended Summary

Cavidan Soykan  
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Ceki Hazan



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## Acronyms

<b>AFAD</b>	Disaster and Emergency Management Presidency
<b>1951 Refugee Convention</b>	UN Convention Relating to the Status of Refugees
<b>1967 Protocol</b>	1967 Protocol Relating to the Status of Refugees
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CEİD</b>	Association for Monitoring Gender Equality
<b>CPT</b>	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>CRC</b>	Convention on the Rights of the Child
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CSO</b>	Civil Society Organization
<b>DG-ILF</b>	General Directorate for International Labour Force
<b>EU</b>	European Union
<b>ECtHR</b>	European Court of Human Rights
<b>ECHR</b>	European Convention on Human Rights
<b>EC</b>	European Commission
<b>ECHO</b>	European Civil Protection and Humanitarian Aid Operations
<b>Eurostat</b>	European Statistics (Europe Statistics Office)
<b>ExCom</b>	Executive Committee of UNHCR Programme
<b>CoE</b>	The Council of Europe
<b>ExPat Centre</b>	Expatriation Centre
<b>GAP</b>	South-eastern Anatolia Project
<b>GE</b>	Gender Equality
<b>GIGM</b>	General Directorate of Migration Management
<b>GREVIO</b>	Group of Experts on Action against Violence against Women and Domestic Violence
<b>Hevi-LGBTI</b>	Association for LGBTI Solidarity for Rights, Equality and Existence
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>CERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>İGAM</b>	Research Centre on Asylum and Migration Association
<b>İHD</b>	Human Rights Association
<b>İKGV</b>	Human Resources Development Foundation
<b>Istanbul Convention</b>	Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence



<b>KADAV</b>	Foundation for Solidarity with Women
<b>KADEM</b>	Women and Democracy Association
<b>KAOS GL</b>	Kaos Gay and Lesbian Cultural Studies and Solidarity Association
<b>KÇD</b>	Women's Studies Association
<b>KDV</b>	Women Solidarity Foundation
<b>KEDV</b>	Foundation for Supporting Women's Work
<b>KİH-YÇ</b>	Women's Human Rights - New Solutions Association
<b>KSGM</b>	General Directorate on the Status of Women
<b>LFIP</b>	Law on Foreigners and International Protection
<b>LGBTI+</b>	Lesbian, Gay, Bisexual, Transsexual and Intersex
<b>MAEK</b>	Enhancing Access to Justice and Legal Aid for Refugees in Turkey Project
<b>MDG</b>	Millennium Development Goals
<b>MoLSS</b>	Ministry of Labour and Social Security
<b>MoFLSS</b>	Ministry of Family, Labour and Social Services
<b>MAZLUMDER</b>	Association for Solidarity for Human Rights and Victims
<b>MoNE</b>	Ministry of National Education
<b>MHD</b>	Refugee Rights Centre Association
<b>Mülteci-Der</b>	Association for Solidarity with Refugees
<b>OHCHR</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>RESLOG</b>	Project for Resilience in Local Governance
<b>RSD</b>	Refugee Status Determination
<b>SGBV</b>	Sexual and Gender-Based Violence
<b>SGDD-ASAM</b>	Association for Solidarity with Asylum Seekers and Migrants
<b>SIDA</b>	Swedish International Development Cooperation Agency
<b>SIHHAT</b>	Project on Improving Health Status of Syrians under Temporary Protection and Relevant Services Provided by the Republic of Turkey
<b>SPoD</b>	Association of Studies on Social Policies, Gender Identity and Sexual Orientation
<b>SPT</b>	UN Subcommittee on Prevention of Torture
<b>SUY</b>	Social Adaptation Assistance Programme
<b>ŞÖNİM</b>	Violence Prevention and Monitoring Centres
<b>TBMM</b>	Grand National Assembly of Turkey
<b>TİHEK</b>	Human Rights and Equality Institution of Turkey
<b>TNSA</b>	Turkey Population and Health Survey
<b>TMMOB</b>	Union of Chambers of Architects and Engineers of Turkey
<b>TOBB</b>	Turkish Union of Chambers and Stock Exchange
<b>TTB</b>	Turkish Medical Association
<b>TÜBAKKOM</b>	Union of Turkish Bar Associations Women's Law Committee
<b>TÜİK</b>	Turkish Statistical Institute
<b>UDHR</b>	Universal Declaration on Human Rights

<b>UGKDD</b>	International Association for Solidarity with Migrant Women
<b>UN</b>	United Nations
<b>UNCAT</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UN Charter</b>	United Nations Charter
<b>UN Women</b>	United Nations Women Entity for Gender Equality and the Empowerment of Women
<b>UNDP</b>	United Nations Development Programme
<b>UNFPA</b>	United Nations Population Fund
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>WFP</b>	United Nations Food and Agriculture Organization
<b>WHO</b>	World Health Organization

## I. Introduction

Regional and national developments related to migration and asylum have led to a fragmented and problematic situation in international law. The 1951 Refugee Convention and its Optional 1967 Protocol do not envisage either an individual complaint procedure or an inter-state monitoring mechanism as different from the other UN and the CoE human rights conventions. Neither is there any upper supervisory body established by the 1951 Refugee Convention. The reason is for that migration is always associated with national sovereignty/territorial integrity issues.

Asylum itself has never been defined in international law. Both World Wars caused the displacement of large numbers of people. With the foundation of **League of Nations in 1920, states authorized the establishment of the High Commissioner for Refugees in 1921. The Office of the Commissioner mainly served for humanitarian purposes and provided 'Nansen passports' to facilitate the travel of particularly Russian and Armenian refugees to the USA and Canada.** These passports were documents used only as identity cards without guaranteeing asylum. As the two countries that admitted the most people with these passports than others, France and the US regarded this as labour migration. Protection policies that European states developed in the period between the two wars in line with European values and norms had an impact for decades.

The definition of the term refugee adopted today was laid down during the bipolar world order of the Cold War period. The definition itself was the outcome of the presentation of asylum and resettlement as a solution in a milieu where two opposing ideologies tried to gain the upper hand against each other. Indeed, the definition came out in the period 1949-51 when the Eastern Block boycotted the UN. From the Soviet Union's side it seemed meaningless to contribute to an organization that sought to protect its enemies fleeing the country. **As a result, the 1951 Refugee Convention was used for the protection of those who intellectually shared the ideological position of Western states and, thus focused more on the violation of civil and political rights. It was thought that the problem of refugees was a temporary one that could be solved. Yet, the 20<sup>th</sup> century provided ample indications that it was an on-going historical problem (i.e. mass population movements of Russians, Armenians, Jews, Greeks and Turks).** Even today, the prevailing norm is that people should live in a stable and territorially delineated state order. Those who fled would eventually return to their home countries.

The Universal Declaration on Human Rights is the most fundamental document in international human rights law adopted after the World War II. Article

14 of the Declaration that grants persons the **right to asylum** states that **“Everyone has the right to seek and to enjoy in other countries asylum from persecution.”** As defined here, seeking asylum is a right, but recognition of this right and granting the refugee status is left to the jurisdiction of the nation state concerned.

While the 1951 Refugee Convention was being prepared, England and Belgium maintained that the Convention should have had a universal scope. In other words, they argued that if non-European states guarantee the right to seek asylum for persons coming from outside Europe, the same should also be applied to all other states in the world. **This approach, however, was rejected by the Conference of Representatives.** Instead, the expression “events occurring before 1 January 1951” was adopted. The definition of the term “refugee” is made so as to refer to any person who is “(...) owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country ; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

The convention offers two options to states parties. According to these options, the statement “Events occurring before 1 January 1951” will be taken either as (a) “Events occurring in Europe before 1 January 1951” or (b) “Events occurring in Europe or elsewhere before 1 January 1951” and when signing, acceding to or ratifying the convention each state party is expected to make a statement about her option with respect to obligations she would undertake with the convention. **While becoming a state party in 1961 Turkey opted for (a) and later made no notification for lifting this geographical limitation.** In 1967, the UN General Assembly adopted the Additional Protocol to the 1951 Refugee Convention, which introduced amendments to the Convention. The most important change introduced by the 1967 Protocol is the removal of the expression “events occurring before 1 January 1951” that appeared in the definition of refugee which, therefore, lifted the time limitation while leaving the choice of keeping the **geographical limitation to the states.**

Nation states are only obliged to evaluate asylum applications made within their territory. In fact, many problems that refugees experience today arise from the deferral and deterrence practices of nation states that aim to prevent the entry of refugees into their territory; to exercise their rights before they cross the border or, once they are in the country, to curtail these rights.

Nevertheless, monitoring mechanisms of conventions in the field of international human rights law have adopted decisions, thematic comments and principles that gradually became binding also with respect to non-citizens within a

rather large area (i.e. entry, residence, access to rights, protection against deportation). Of these, the most important one is the **principle of non-refoulement** which originated from the **absolute prohibition of torture** in international law. With the 2010s, we start to see exceptions to international law in favour of states' hegemony in the name of protecting individuals. Developments in international case law have gone beyond the simple compliance with the **principle of non-refoulement** and evolved towards to the point where states are assigned **positive duties** as well. Examples to these achievements in this regard cover the inclusion of women and girls into the "vulnerable group" definition and the recognition of legal statuses other than the refugee status to provide protection to non-citizens.

In international refugee law, the **problematization of women and girls as well as the issue of gender in the field of forced migration started** in the 1990s. The first and foremost reason for this was the male dominant mentality of the 1951 Refugee Convention. If women and girls have a place in international agenda today, it is because of the feminist theory and women's rights activists' significant role. The text of the 1951 Refugee Convention **contains no special clause with respect to ensuring gender equality. Indeed, while women constituted more than half of all refugee population in the world since the 1950s, there was not a single woman in the group that drafted the text of the convention.** This is the result of an understanding which interpreted the term "persecution" in the text of the convention as something related mainly to men; in other words it was thought that it was only men who had to flee their countries for political reasons and political persecution was the only determining factor in defining the term "refugee."

As a matter of fact, when we look at the definition of the term refugee in the Convention we see that gender pronouns used in the text [he, his] consistently referring to men:

*"...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his<sup>1</sup> nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence..."*

**In conclusion, by definition, the refugee was thought to be a man.** Later, same as the 1967 Protocol that lifted time limitation in the Convention, the Organization of African Union (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) did not include any provisions related to women

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<sup>1</sup> Emphasis is by authors.

in particular. Even the **UNHCR Handbook** developed to assist states in their interpretation of the 1951 Refugee Convention **has no mention of women**.

The period from the drafting of the 1951 Refugee Convention up to 2010 is examined under four headings. In the first period from 1950 to 1985 we see that women were included in fundamental refugee texts for the first time. **From 1985 up to our times, women were focused as a specific social group with special needs. The period from 1997 to the mid 2004 can be characterized by gender mainstreaming of the refugee issue. This period was later coined as the “mainstreaming of age, gender and diversity”.** While the last period is still in evolution, we see after 2009 that attention is again directed at refugee men and boys and their communities. We now face a time period marked by gender stereotyping, restrictions, and men coming to the fore not only as perpetrators but also victims of violence.

The first step was taken in Mexico with the 1975 UN World Conference of the International Women’s Year. The action plan adopted in this conference includes statements on internally displaced women and migrant women, but the term “refugee women” was still missing. The 1980 Copenhagen mid-decade conference adopted recommendations for the UNHCR and the other relevant agencies concerning refugee women. **Together with other UN agencies, the UNHCR was set into action to develop a programme to respond to special needs of women, but without any focus on why they had to flee and become refugees.** In 1985, at the conference organized in Nairobi to mark the end of the UN Women’s Decade, the need to develop programmes to respond women’s special needs were again on the agenda.

In the same year (1985) the Executive Committee (ExCom) in charge of ensuring the implementation of the 1951 Refugee Convention adopted the **Conclusion no. 39 on Refugee Women and International Protection**. This is the first resolution in international law related to women refugees. In this conclusion it was stated that refugee women and girls made up the majority of the total refugee population in the world and they had specific problems regarding international protection. **These problems stem from their more frequent exposure to physical violence, sexual abuse and discrimination, and their vulnerable position. In 1988, the ExCom adopted another conclusion, Conclusion no. 54 on Refugee Women.<sup>2</sup> This Conclusion stated that women were vulnerable to hazards in terms of their physical safety and sexual abuse and requested the UNHCR as an office to develop plans and programmes on this issue and to train its personnel accordingly. Upon this Conclusion the UNHCR set up an**

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<sup>2</sup> UN Executive Committee of the High Commissioner’s Programme (EXCOM). (1988). **Conclusion** No. 54 (XXXIX) Refugee Women- 1988. 10 October 1988. No. 54 (XXXIX), <https://www.refworld.org/docid/3ae68c4370.html> (Last Accessed:17.06.2020)

**Administrative Committee.** In 1989, the work was given a start for the inclusion of the special needs of women refugees in training programmes. In July 1990, a committee of experts from CSOs UNHCR, UNICEF and other UN agencies gathered and the first comprehensive plan on women refugees was adopted. **It can therefore be said that the approach to women in international law evolved from regarding women merely as victims and vulnerable persons towards recognizing their status as independent actors and economic agents.**

A year after, in 1991, the *Guidelines on the Protection of Refugee Women*, a thirty-page booklet was adopted. The *UN World Conference on Human Rights* gathering in Vienna in 1993 **adopted a report which underlined that women and girls were vulnerable to gender-based discrimination and harassment in environments of war and conflict.** Then the UN Beijing Conference was held in 1995. This fourth UN Conference on Women was marked by the actions and campaigns of women's rights defenders, and the Beijing Declaration and Action Plan was adopted. Again in 1995, the UNHCR released *Sexual Violence against Refugees: Guidelines on Prevention and Response*<sup>3</sup>. In 1996, the UNHCR organized a symposium titled 'Gender-Based Persecution' and held a stronger position against states on this issue. It is a very important development that the UNHCR adopted this institutional stance, stated that gender-based persecution should be recognized as a criterion and norm in international law in granting refugee status, and invited states to make necessary arrangements in their domestic law in this respect. The first countries taking action upon this were the Netherlands, France and Germany and these three countries started to interpret sexual violence within the context of the concept "persecution" existing in the convention. For the period concerned, Germany was the only country declaring gender as a cause of persecution per se.

The next significant step relating to women refugees was five commitments that the UNHCR declared in 2001. These five commitments were as follows: Participation of women and girls to decision-making processes (especially in camp environments); recording and documentation of women refugees; combating sexual and gender-based violence -*SGBV*- including domestic violence; ensuring women's participation to food distribution and giving priority to the provision of hygienic materials to women. Following these commitments, in 2002 the UNHCR adopted two guidelines to help state authorities to be used for refugee status determination procedures. These are the **Guidelines on Gender-related Persecution and "Membership of a Particular Social Group" within the context of Article 1A(2) of the 1951 Convention and 1967 Protocol relating to the Status of Refugees.** In the first one the UNHCR explicitly states that **gender should also be taken as a basis for persecution** although it is not listed in the Convention.

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<sup>3</sup> These principles were updated in 2008.

**Australia, Canada, the US and England were the countries that developed guidelines on this issue. The EU also has its Council Directive 2004/83/EC on the same issue. The 1991 Handbook was updated in 2008 as the 'Handbook for the Protection of Women and Girls.'**

These guidelines and the adoption of concepts had different effects . **It can be said that gender-based persecution implies going beyond domestic violence, assault and sexual violence, female genital mutilation, forced marriage, trafficking in women or ethical norms of present-day societies.** However, having feminist views too may be the basis of political persecution. Since the Convention was drafted under the influence of male dominant mentality, it was not considered that women might flee their countries for political reasons such as leadership of an organization or affiliation with a political movement.

**In the period after 2004, we see gender mainstreaming policies becoming effective in the UN and UNHCR.** This approach was also criticised for merely adding and stirring the term 'refugee women' into existing policy documents. During these years, while feminist thought had its weight and feminist movement had some experience, **the term gender appeared in the UN documents as a neutral concept rather than a concept having its political connotations and targeting a system change. Further, there were also criticisms that the distinction between the concepts of biological sex and gender was just removed and there was drifting away from the objective of gender equality with the addition of men into the policies.**

Following the events of 2015 coined as "Europe's Migration Crisis" during which over a million people reached Europe via Turkey and Greece by using land or sea borders, the UN General Assembly organized a special session on 19 September 2016 for the first time in its history to address the issue of migration and refugee movements reaching such a scale which resulted in the adoption of the **New York Declaration for Refugees and Migrants.** This document mainly underlined the importance of existing conventions and envisaged the drafting of two Global Compacts: One related to refugees and the other on safe, orderly and regular migration. **Upon the strong objection by host states, the Refugee Compact had to stress that local integration is up to the decision of the 'sovereign state'. On the other hand, the Compact also states that political solution in the country of origin cannot be taken as a precondition for voluntary returns.** We can say that the document brings some ease to Turkey in her refugee policies. Thousands of Syrians, particularly women and children under temporary protection were directly affected by this development since they were sent back to Syria without UNHCR's monitoring.<sup>4</sup> Examining the Compact with respect to women

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<sup>4</sup> Principles and case law related to issue will be explained in the next part while examining supervisory mechanisms related to UN Conventions. Turkish authorities stated that within the last few years 315,000 Syrians voluntarily returned to their country while the Amnesty International said just the opposite in its report. In this report, Syrians who returned and



refugees the first point to make is that **the document has the potential to exacerbate gender inequality due to gaps in the system since its implementation is totally left to states.** In conclusion, the Refugee Compact: 1) defines women and girls as a group with special needs and places them in Part B in the “area where support is needed”, and 2) in areas where urgent action such as in education, jobs, courses and protection is required by using expressions like ‘inclusion of women’ and ‘girls in particular’. This suggests that the way of thinking of the 1980s which we describe as ‘add and stir women in’ **is dominant among protection officials in charge of this area.**

The issues of refugee women and gender equality have long been neglected in international law. In addition, asylum seekers are treated as foreigners/irregular migrants in the state they entered until they gain refugee status. **Human rights conventions in general and those relating to women’s rights in particular as well as all international instruments that have provisions on gender equality and prohibition of discrimination must be applied to asylum seeker and refugee women.**

The main objective of this report is that although there is a legal gap in implementation of the 1951 Refugee Convention due to Turkey’s geographical limitation, international standards and norms that ensure gender equality and combat gender discrimination must apply to refugee women and girls and in some respects to LGBTI+ refugees in Turkey. Secondly, another objective of the report is to develop indicators specific to Turkey that are needed for monitoring this field according to the present legislation and the adopted public policies by civil society organizations. This will first facilitate the monitoring job of civil society organizations in Turkey and strengthen their institutional capacity while ensuring equal access to rights by refugee women and girls; combating discrimination and ensuring gender equality for them. In addition, stronger advocacy work by civil society organizations will create opportunities for intervening to public policies regarding refugee women and girls and the cooperation with public agencies and institutions in the field.

The most fundamental argument of this work is as follows: **Where asylum legislation remains insufficient in protecting women and girls, in eliminating discrimination and in preventing sexual and gender-based violence, international human rights law must be immediately introduced and implemented.**

If we evaluate the case of Turkey with respect to this argument, it must be first stated that there are still problems in the field when it comes to the implementation of the Law on Foreigners and International Protection. Although seven years passed

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interviewed say they were misinformed about the state and security in their country and forced to undersign ‘voluntary return’ documents (Amnesty International, 2019: 5).

since the law came into force, neither necessary infrastructure was built and trainings delivered nor sound and smooth working of the system could be ensured. What we mean here is that guidelines related to international protection procedures adopted by the UNHCR are not applied to admission to country, refugee status determination interviews and regarding the principle of non-refoulement. These handbooks and guidelines do not exist in the legislation and documents section of the website of the General Directorate of Migration Management. First of all, a woman asylum seeker who comes to Turkey for protection must be able to reach these documents easily.

In the case of Turkey, we can say that the biggest problem in implementation is, as was the case before the adoption of YUKK, access to asylum. As is explained in this report, conventions on women's rights and violence against women that Turkey is a party to and their monitoring mechanisms have explicit statements and comments regarding this issue. Women refugees must be able to enjoy some special protection measures at the borders as a start. Similarly, as required by ratified international human rights conventions, there are special arrangements in domestic procedures that are designed for women refugees to ensure their access to rights and protection from violence. However, Syrian refugee women under temporary protection and those who apply for international protection cannot enjoy the provisions of the Istanbul Convention, which are not either, applied to Turkish citizen women.

More importantly, the two-track protection system of Turkey provides no information to Syrian and non-Syrian refugees about their rights. The system is rather based on duties and mechanisms that aim to keep people under control. Refugee women are open to discrimination, racism and sexual violence and have no idea about mechanisms that they can use since they are not informed about them. Starting from the entry into the country,, the General Directorate of Migration Management provides no information, about rights and procedures for refugee status determination; shares no gender-based up-to-date data; and does not inform in what ways women victims of violence can make their complaints and ask for protection. As the authors of this report, we could not form an opinion in the light of available evidence that the personnel in the provincial units have been given necessary and sufficient training in such issues as gender equality, sexual and gender-based violence. Unfortunately, we can claim the same for refugee law and international human rights law. As a first step, an all-inclusive training programme on these issues must be developed by taking the opinions of experts and trainings must be delivered to all relevant Ministry of Interior personnel including security officers working at the border areas.

## II. Brief History of the Development of Asylum Issue in Turkey

With the start of the EU accession process in 1999, the Accession Partnership Document was adopted in 2001 along with Turkey's first National Programme. Accordingly, one of the criteria to be met in this context was related to Turkey's adaptation of her domestic legislation so as to comply with the EU Acquis in the field of migration and asylum. Turkey's first comprehensive response to this requirement was the adoption of the **Law on Foreigners and International Protection** on 4 April 2013. Turkey did not lift the geographical limitation in the **1951 Refugee Convention**. Accordingly, Turkey grants **refugee status** only to applicants from the countries of the Council of Europe (CoE). As a consequence, there is an implementation gap in terms of access to asylum and rights for **non-European asylum seekers as well as women refugees** with respect to international law in the context of our study. In the LFIP, a new status in the name of "**conditional refugee**" was created for non-European asylum seekers.

Under the 1951 Refugee Convention, the basic guarantee for women asylum seekers is the **principle of non-refoulement** that Turkey committed to with other international human rights treaties. This principle is valid not only for the conditional refugee status which has a temporary character but for the **Temporary Protection Status** which was guaranteed by a regulation in 2014. Since international law has no convention applicable to forced migration movements *en masse* due to such cases as armed conflict or war, **Turkey made her own national arrangement for Syrian refugees**. As a result, on the one hand there is **international protection** introduced by the LFIP for non-European asylum-seekers and on the other **temporary protection** for refugees who fled Syria due to civil war.

The basic characteristic of this two-track system is that **it provides temporary protection** to all women applicants regardless of their country of origin and that it **imposes obligations rather than granting rights. Legal texts in both protection systems contain no special provisions that recognize gender equality in the case of refugee women, girls and LGBTI + or take into consideration their special needs during protection process.**

Nevertheless, there are international instruments that are binding for Turkey with regard to women and LGBTI+ refugees under Article 90 of the Constitution. Being a part of international customary law, these instruments include the following: **UN International Declaration of Human Rights, UN Charter, Istanbul Convention** containing special arrangements for women refugees which took effect in 2014, human rights conventions and mechanisms of the **Council of Europe**, human rights conventions within the **UN protection system** including the **UN**

**Convention on the Elimination of All Forms of Discrimination against Women**, decisions taken by monitoring bodies under these instruments upon individual or collective complaint procedures and relevant comments and recommendations.

In this context, there are some other instruments that both relevant state institutions and their personnel working with refugee women must take into account.. Although the LFIP and the Temporary Protection Regulation do not contain special clauses related to gender and the equality of women and men, these instruments that must be considered such as the recommendations of the **ExCom** that functions under the **1951 Refugee Convention** and the updated UNHCR handbook prepared for the broader interpretation of the definition of persecution for women in cases of SGBV.

Considering that asylum seekers are treated in the territory of the state they entered as foreigners/irregular migrants until they gain refugee status, **all human rights instruments in general and those relating to women's rights in particular as well as those provisions concerning gender equality and prohibition of discrimination must be applicable to all asylum seeking and refugee women.**

## III. Gender Equality Related Norms and Standards in Asylum Procedures

### A. Human Rights Documents on the Realization of Gender Equality

#### 1. United Nations (UN) Documents

##### [The UN Charter \(Related articles: 1/3, 2, 14/1\)](#)

The 3<sup>rd</sup> clause in Article 1 under Chapter I: Purposes and Principles provides for the **prohibition of discrimination**.

##### [The Universal Declaration on Human Rights \(Related articles: 1/3, 2, 14/1\)](#)

It is the first international instrument in which there is a mention of the **right to asylum**. Article 14 in this document states that everyone has the right to seek and to enjoy asylum in other countries; however, this right depends on the the state whether it admits or not the the person in question into its territory. Secondly, the state then should grant protection to this person (i.e. granting of refugee status).

##### [The UN International Covenant on Civil and Political Rights \(Related articles: 2/1,3,7,10,13\)](#)

In this convention, **apart from provisions (political) in which there is direct reference to the "citizen", the rights to assembly, expression, freedom of thought, conscience and religion, assembly, equality before the law, recognition as a person, private life, fair trial and freedom and safety are applicable to all persons with the status of international protection (refugees) and to the other groups under any kind of protection (i.e. temporary protection)**.

The monitoring body of the UN International Covenant on Civil and Political Rights is the **Human Rights Committee** established by the Optional Protocol to the Convention to which Turkey became a State Party in 2006. In its **General Comment 28 on Article 3**, the Committee asks States Parties to give information about measures adopted to protect women against sexual and gender-based violence, abduction and abduction especially in environments of domestic and international armed conflict (paragraph 8). It is also stated that States Parties should ensure that alien women are accorded the right to submit arguments against their expulsion as provided in Article 13 (paragraph 17). In this context, women may also submit arguments related to gender-based violence.

## The UN International Covenant on Economic, Social and Cultural Rights (Related articles: 2,3,7,11,13)

**Any person in the territory of a State Party is entitled to enjoy the rights stated in the Convention and this hold true in case the person is an irregular migrant as well. Despite the fact that the 1951 Refugee Convention grants States Parties a wide discretion in the realization of economic and social rights and Turkey does not grant refugee status to any asylum seeker due to not lifting the geographical limitation, rights listed in the Convention must still be applied so as to supplement the 1951 Refugee Convention.**

**According to the General Comment No. 20 by the Committee on Economic, Social and Cultural Rights, citizenship cannot be taken as a precondition for access to rights stipulated in the Convention (Paragraph 30).**<sup>5</sup> Meanwhile, according to the **General Comment No: 18**, apart from the right to engage in self-employment, there must be no discrimination between refugee and citizens of the country, **in access to labour market and education, which play an important role in the integration of refugees**. This is important also in reducing the dependency of refugees to charity organizations and to the state (Paragraph 31).<sup>6</sup>

**The essential ones among rights that the Committee has commented on in the past also relate to the duty of keeping people free from hunger, access to water and other essential needs, access to medicine and ensuring basic standards in education in the context of the right to education.**

As stated under the preceding heading, with the adoption of the **New York Declaration for Refugees and Migrants** by the UN General Assembly on 19 September 2016, the Committee on Economic, Social and Cultural Rights made a statement on how rights laid down by the Convention are to be applied to migrants and refugees.<sup>7</sup> According to this statement, the enjoyment of economic, social and cultural rights by migrants and refugees in transit and/or destination countries is also of great importance while the international community seeks solutions to the problems of people fleeing armed conflict and persecution. It is to the extent that **all persons within the territory of a State Party have the right to enjoy rights**

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<sup>5</sup> UN Committee on Economic, Social and Cultural Rights (CESCR). (2009). **General Comment No. 20: Prohibition of discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)**. 2 July 2009. E/C.12/GC/20. <https://dspace.ceid.org.tr/xmlui/handle/1/1463>

<sup>6</sup> UN Committee on Economic, Social and Cultural Rights (CESCR). (2006). **General Comment No. 18: The right to work**. 6 February 2006. E/C.12/GC/18. <https://dspace.ceid.org.tr/xmlui/handle/1/1432>

<sup>7</sup> UN Committee on Economic, Social and Cultural Rights (CESCR). (2017). **The Duties of States Towards Refugees and Migrants under the International Covenant on Economic, Social and Cultural Rights Statement**. 24 February 2017. E/C.12/2017/1. <https://dspace.ceid.org.tr/xmlui/handle/1/1430>

**covered by the Convention and this holds true even when persons concerned are irregular migrants.**

The statement by the Committee dated 24 February 2017 also stresses that the importance of **registration** of refugees, particularly those belong to the vulnerable groups such as **“single women with children, LGBTI +”**. The Committee **underlines the vulnerable position of migrant and refugee women and girls with respect to the possibility of their exposure to sexual and gender-based violence and harassment adding that they may abstain from reporting such cases to avoid deportation and, states must be attentive to such issues** (Paragraph 16).

### [UN Convention on the Elimination of all Forms of Racial Discrimination](#) [\(Related articles: 1,2,5\)](#)

This convention is important in the sense that it is the **first one adopted prior to all thematic conventions**. Article 5 of the Convention in particular, envisages **“equal status of all”** with respect to the **rights to marriage, housing, education, work and health and elimination of racial discrimination**. **This article is of binding character when the case is migrants, asylum seekers, Syrians under temporary protection and conditional refugees in Turkey.**

According to the **General Recommendation No. 30** by the Committee on the Elimination of Racial Discrimination, which is the monitoring body of the Convention, States Parties must adopt all necessary measures to remove **“obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health and to ensure that housing agencies refrain from engaging in discriminatory practices.”** (29-32 para.).<sup>8</sup> Further, the **General Recommendation No. 22** of the Committee relating to Article 5 is directly in the context of the 1951 Refugee Convention and its 1967 Protocol. Here, the Committee makes reference to paragraph 48 of its Resolution No. 20 which is about the same article, and states that the Convention obliges States Parties to eliminate and prohibit discrimination in the enjoyment of civil, political, economic, social and cultural rights.<sup>9</sup>

Turkey has so far submitted six periodic reports to the Committee and in delay for about one year for her last report. Examining conclusions reached by the Committee on 11 January 2016 we see that **there is a special section for Syrian and Iraqi refugees** (paragraph 33 and others) In this section the Committee states the following concerns regarding refugees despite measures that are taken by the

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<sup>8</sup> UN Committee on the Elimination of Racial Discrimination (CERD). (2004). General Recommendation 30 Discrimination against non-citizens 23 February-12 March 2004, 64th session. CERD/C/64/Misc.11/rev.3. <https://dspace.ceid.org.tr/xmlui/handle/1/1461>

<sup>9</sup> **General recommendation XXII on article 5 of the Convention on refugees and displaced persons**, forty-ninth session (1996), Contained in document A/51/18

state: **Risk of racial discrimination; inadequate housing conditions of Syrian refugees; absence of work permits; women's exposure to trafficking and violence in camps; and poor access to their native language and education by Syrian children.**

### [The UN Convention on the Rights of the Child \(Related articles: 2, 22\)](#)

Concluding observations (non-judicial) by the **UN Committee on the Rights of the Child** make it possible to interpret the **principle on non-refoulement** in refugee law in a broader context. As required by "the principle of **the best interests of the child**" in the Convention, the **ban on refouling/deporting** children is expanded to include **parents and mothers** in the context of Article 22.

On 16 November 2017, the UN Committee on the Rights of the Child and the Committee on the **UN Convention on the Protection of the Rights of All Migrant Workers and their Family Members** together drafted **General Comment<sup>10</sup>** relating to Article 22 of the Convention. According to this General Comment, States Parties, as required by the principle of "the best interests of the child" are supposed to ensure the enjoyment by children of all rights in the Convention regardless of children's or their parents' migration-related status including the statuses of refugee, asylum seeker, statelessness, regular-irregular migrant and so on. It is known that States resort to migration control mechanisms at borders, airports, international seaways and transit zones to avoid their obligations deriving from the Convention. This joint general comment thus stressed again the need to respect the rights of all, particularly girls. **To be more specific, a child and his/her family stopped at the border cannot be returned to a country where they would be under serious risk and the source of this risk does not necessarily have to be the state as envisaged by 1951 Refugee Convention. Threats by non-state actors and inactivity of the state concerned in this regard must also be considered.**

The Committee states that rights related to child refugees and asylum seekers in particular should be incorporated into domestic law (Paragraph 9-13). The Committee also draws attention to the shortage of data on migration and the need to collect information. Data that can expose cases of intersectional discrimination like age, gender, ethnic origin and disability should be regularly collected and reported to the UN monitoring organs and efforts should be made, with the participation of civil society organizations, to develop indicators in this field through a rights-based approach (Paragraph 16).

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<sup>10</sup> UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). (2017). **Joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration.** 16 November 2017. CMW/C/GC/3-CRC/C/GC/22. <https://dspace.ceid.org.tr/xmlui/handle/1/1434>



## The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Related articles: 1, 3)

The most fundamental and core principle of international law is the prohibition of torture. This ban lays the basis of the **ban of refoulement** in refugee law. The **UN Convention against Torture** as called shortly was adopted on 10 December 1984 and it took effect on 26 June 1987. The **Committee on the Prevention of Torture** was set up on the basis of Article 17 to monitor States Parties' compliance with their obligations stemming from the Convention. According to the latest **Committee report dated 27 December 2018**, there is no information supplied by Turkey to confirm that **sufficient procedural<sup>11</sup> guarantees (access to asylum, evaluation of individual appeals and identification of asylum seekers who have suffered torture) are in place for persons applying for asylum in the context of the principle of non-refoulement** as stressed in the earlier reporting period in relation to Article 3.<sup>12</sup> It is **also requested the adoption of necessary steps to lift the geographical limitation** to the 1951 Refugee Convention. According to the Committee, **there is need for a more attentive approach to issues such as access to healthcare, reproductive health, and cases of violence that may be committed by non-state actors where women are deprived of their freedom** (Paragraphs 21-22).

The prohibition of discrimination is explicitly stressed in the **General Comment No. 2** by the Committee.<sup>13</sup> According to this General Comment, **all vulnerable groups including refugees and asylum seekers** regardless of their race, colour, ethnicity, age, religious belief, political opinion, national or social origin, gender, sexual orientation, transgender identity, mental or other disability and health status **must be considered in the context of preventive measures against torture under the Convention obligation of protection from torture and maltreatment. The Committee stresses that States fail to supply sufficient information and in reporting particularly in relation to the state of women.** The Committee maintains that **gender** is a crucial factor. **When deprived of their freedom in particular, women and girls may be more vulnerable to maltreatment and torture as a result of some intersectional factors such as migration status, race, sexual orientation, citizenship and religion.**

The **General Comment No. 3** by the Committee mentions the need to ensure the access of vulnerable groups including asylum seekers and refugees to

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<sup>11</sup> Principles related to how standards should be in the case of women applicants will be given under the heading "1951 Refugee Convention."

<sup>12</sup> UN Committee Against Torture. (2008). **Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations**. 27 December 2018. <https://dspace.ceid.org.tr/xmlui/handle/1/1894>

<sup>13</sup> UN Committee Against Torture. (2008). **General Comment No. 2 Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment**. 24 January 2008. CAT/C/GC/2. <https://dspace.ceid.org.tr/xmlui/handle/1/1893>

opportunities of rehabilitation. **(Paragraph 15).**<sup>14</sup> According to Committee's **General Comment No. 4**, a person **cannot be deported to a state where his/her life would be in danger. Detention of such persons should always be an exceptional measure and this measure should be regularly reviewed by a competent authority** (Paragraphs 9-14).

The **UN Subcommittee on Prevention of Torture (SPT)** was set up in 2006 with an additional protocol introduced to the Convention. The most important characteristics of the SPT is its authority to visit all places in States Parties where persons deprived of their freedom are kept. Turkey is a **State Party** to this protocol too. All States Parties are obliged to set up a national preventive mechanism which is to have preventive effects on any act of torture. **In addition to return centres where migrants and refugees are kept, this body is also authorized to make visits without prior notification to such locations as airports and police and gendarmerie stations.** The **Human Rights and Equality Institution of Turkey (TİHEK)** is reported to the UN as the national preventive mechanism in this context. In its first periodic report on Turkey, the SPT made a remark on the **weakness of this national prevention mechanism.**

#### [The UN Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\) \(Related articles: 1, 2, 3, 4, 6, 10, 11, 12, 14, 15, 16\)](#)

For the purposes of the Convention, the term "discrimination against women" means **any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.**

Article 17 of the Convention sets up the **Committee on the Elimination of Discrimination against Women.** Turkey acceded to the Optional Protocol to the Convention in 2000 and ratified it on 30 July 2002. Two important novelties brought in by this Protocol is the "individual complaint mechanism" and the authority granted to the Committee for 'examining' cases brought up.

Since her ratification, Turkey submitted seven periodic reports to the committee. The report dated 25 July 2016 which is the last one evaluated by the Committee addressed the situation of refugee and asylum-seeking women starting from paragraph 14.<sup>15</sup> For the year 2016, the Committee made an assessment of camps with respect to hygiene, health, gaps in ensuring the rights of girls to education,

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<sup>14</sup> UN Committee Against Torture. (2012). General Comment No.3 Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment. 13 December 2012. CAT/C/GC/3. <https://dspace.ceid.org.tr/xmlui/handle/1/1436>

<sup>15</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW). (2016). Concluding observations on the seventh periodic report of Turkey. 25 July 2016. CEDAW/C/TUR/CO/7. <https://dspace.ceid.org.tr/xmlui/handle/1/1437>

responding to basic needs including food, housing and heating and not providing means to ensure self-sufficiency. **The Committee made its warnings particularly about 15-20 years old refugee girls' and young women's were driven into prostitution for their basic needs, failure on the part of the state to report violence and, in particular, sexual violence that refugee women suffer and the absence of relevant support mechanisms against these violations. The Committee also noted the need to solve such problems as forced marriage of refugee women and girls to Syrian and Turkish men and the cases of second unofficial marriages for socioeconomic purposes or for protection.**

The Committee states the following in its **General Recommendation No. 30:**<sup>16</sup>

**...Another important problem faced by women in access to asylum is related to the substantiation of gender-based persecution mainly due to the fact that the 1951 Convention lacks gender-related provisions. The training of relevant officials (border officials) is of great importance in this regard (...)** Also important is the registration of women refugees and asylum-seekers. **This will prevent possible future problems with respect to marriage, divorce and children born. As gender-based violence, forced and child marriages too must be penalized. Such acts constitute a barrier for women to choose their spouses freely. Further, forced pregnancies and abortions are also violations of women's rights provided by the convention** (Paragraph 62-64).

Another important document in this respect is Committee's **General Recommendation No. 32.**<sup>17</sup> Here the **Committee notes that considering the experiences of women during displacement, from asylum to integration, return or settlement in a third country, in addition to those of stateless women, States parties bear the primary responsibility for ensuring that asylum-seeking women, refugee women, stateless women within their territory are not exposed to violations of their rights under the Convention, by private persons and non-State actors** (Paragraph 7) The Committee **underlines that violence against women constitutes one of the severest forms of discrimination in asylum seeking and refugee status. These forms of violence may include the threat of female genital mutilation, forced/early marriage, threat of violence and/or so-called "honour crimes", trafficking in women, acid attacks, rape and other forms of sexual assault, serious forms of domestic violence, the imposition of the death penalty or other physical punishments existing in**

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<sup>16</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW). (2013). **General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations.** 1 November 2013. CEDAW /C/GC/30. <https://dspace.ceid.org.tr/xmlui/handle/1/1438>

<sup>17</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW). (2014). **General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women.** 5 November 2014. CEDAW/C/GC/32. <https://dspace.ceid.org.tr/xmlui/handle/1/1439>

**discriminatory justice systems, forced sterilization, political or religious persecution for holding feminist or other views and the persecutory consequences of failing to conform to gender-prescribed social norms and mores** (Paragraph 15). Gender-related claims to asylum may intersect with other proscribed grounds of discrimination, including age, race, ethnicity/nationality, religion, health, class, caste, being lesbian, bisexual or transgender (LGBTI +) and other status (Paragraph 16).

### **[The UN Convention on the Rights of Persons with Disabilities \(Related articles: 1, 2, 3, 4, 5, 6, 7, 34\)](#)**

The **Committee on the Rights of Persons with Disabilities** was established by Article 34 in the Convention. The next report by Turkey is due October 2023. Taking a look at Committee's response<sup>18</sup> to Turkey's 2015 report with regards to refugee women with disabilities, we see that the Committee has its concerns about the limited information supplied by Turkey as is the case with other UN convention committees. There is no sufficient country information about what kind of procedural facilities are provided in the process of identifying asylum seekers and refugee status. The Committee also draws attention to the absence of public policies that address the rights of refugees and asylum seekers with disabilities together with CSOs and come up with some support mechanisms (Paragraph 38). **The Committee states that information relating to refugees with disabilities in particular must be kept as disaggregated by age, gender and ethnic background; that there must be accommodation centres to inform them about their procedural rights throughout the process in accessible formats (i.e. including sign language); and that extension of technical support and housing must be adopted as a policy by relevant public authorities (Paragraph 39).**

Since the Convention is a relatively new one there are yet not too many General Comments made by the Committee. Its **General Comment No. 3<sup>19</sup> is about women and girls**. Here, we see the definition of intersectional discrimination that we mentioned earlier and related factors to be considered in this regard including **migrant and asylum-seeking women and women with refugee status**. Women with disabilities do not constitute a homogeneous group (Paragraph 4) and refugee and asylum-seeking women with disabilities face more difficulties than others. This discrimination is further aggravated in the case of health systems in particular (Paragraph 39). Similarly, their risk of exposure to violence may be higher than other women also with disabilities (Paragraph 49).

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<sup>18</sup>UN Committee on the Rights of Persons with Disabilities (CRPD). (2018). **Concluding observations on the initial report of Turkey**. 1 October 2019. CRPD/C/TUR/CO/1. See: <https://dspace.ceid.org.tr/xmlui/handle/1/1440>

<sup>19</sup> UN Committee on the Rights of Persons with Disabilities (CRPD). (2016). **General comment No. 3 (2016) on women and girls with disabilities**. 25 November 2016. CRPD/C/GC/3. See: <https://dspace.ceid.org.tr/xmlui/handle/1/1442>

The General Comment No.6 of the Committee is about equality and non-discrimination.<sup>20</sup> The General Comment states that States Parties that receive a high number of asylum-seekers, refugees and migrants should **put in place formal, legally defined procedures to ensure accessibility for women and children with disabilities** and persons with psychosocial and intellectual disabilities in reception facilities and asylum systems. other settings. **States parties must also ensure that protection services in this area are sensitive to disability, gender and age** (Paragraph 73/p).

### [The 1951 UN Convention Relating to the Status of Refugees \(Related articles: 1, 7, 22, 31, 33\)](#)

Turkey is a State Party to all thematic UN Conventions listed above. Norms and standards that can be inferred from all these decisions and comments is of great importance since Turkey implements the **1951 Refugee Convention with geographical limitation. Due to this limitation, international protection provided by Turkey is of temporary nature since it requires placement in a third country.**

**As an option granted to States Parties to the Convention, geographical limitation remains effective unless a notification otherwise is made by a State Party even if that State is also a party to the 1967 Protocol.** With respect to gender, the Convention has never, since its adoption, considered fleeing a country just for being a woman as a criterion for granting of refugee status. In this regard, the criterion used is **“membership of a particular social group”** from among five criteria.

The definition of the term “refugee” in the Convention is based on **one of the five criteria stated and in this context a person under persecution or facing the risk of it must be living out of the country where there is persecution or its risk. This status is recognized after an individual interview as a result of an objective and a subjective risk assessment.** The UNHCR Handbook says any person who satisfies the criteria is considered as a refugee at that moment and thus the refugee status is **“self-explanatory”**. **Independently of RSD interviews by States or UNHCR and statuses accorded to individuals, any person out of his or her country where there is reasonably justified risk of persecution and who cannot return there must be considered as refugee under the five criteria determined in the 1951 Refugee Convention.**

As allowed by the UNHCR Statute Article 9, the span of authority of the UNHCR was expanded with broader definition of “refugee” upon the resolutions of

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<sup>20</sup> UN Committee on the Rights of Persons with Disabilities (CRPD). (2018). **General comment No. 6 (2018) on equality and prohibition of discrimination. Committee on the Rights of Persons with Disabilities.** 26 April 2018. CRPD/C/GC/6. <https://dspace.ceid.org.tr/xmlui/handle/1/1441>

the UN Security Council and Economic and Social Council. As a consequence, those who fall into the category of “refugee” today upon the UNHCR Statute and resolutions by the UN General Assembly, Council and **ExCom** include, in narrower and broader sense, **refugees, stateless persons, asylum-seekers, internally displaced persons, those who had to leave their habitual residences under the threat of persecution, those who have fled their countries and no desire to return.**

Principles that must be taken as basis in RSD (Refugee Status Determination) interviews with respect to women refugees are the **Guidelines on Gender-related Persecution and “Membership of a Particular Social Group” within the context of Article 1A(2) of the 1951 Convention and 1967 Protocol relating to the Status of Refugees.** The **Handbook for the Protection of Women and Girls,** which was first released in 1991 and updated in 2008 is also guiding. Though not explicitly stated in the Convention, the UNHCR states that according to the **Guidelines on Gender-Related Persecution** gender must also be taken as a possible cause of persecution.

## 2. The Council of Europe Documents

### [The European Convention on Human Rights \(Related articles: 1, 3, 4, 5, 13, 14\)](#)

The European Convention on Human Rights\_(ECHR) safeguards a limited portion of personal and political rights that we describe as first-generation rights. The **Protocol No. 4** dated 16 September 1963 that recognizes rights and freedoms other than the Convention for the Protection of Human Rights and Fundamental Freedoms and its First Protocol, was signed by Turkey on 19 October 1992 but not ratified. Therefore, Turkey is not a State Party to it. The **Protocol No.7** was signed by Turkey on 14 March 1985 and ratified on 1 August 2016. Finally, the **Protocol No. 12** dated 4 November 2000 was signed on 14 April 2001, but not ratified and therefore Turkey is not a Party to this Protocol either.

## The European Court of Human Rights (ECtHR) Case Law Relating to the Issue

In its publication explaining the case law on the prohibition of discrimination, which was updated on 31 August 2020, the ECtHR gives an account of its decisions related to migration although the Convention does not cover the right to asylum (Paragraphs 213-216).<sup>21</sup> The Court repeatedly stressed that the Convention does not guarantee the right of an alien to enter a particular country. Nevertheless, in cases concerning **family reunification and the maintenance of the link between children and their parents**, the Court accepts that the case may fall within the scope of the Convention and its Protocols. Although Article 8 of the Convention that provides for respect to private and family life does not call for family reunification, any specific migration mechanism may lead to the breach of the prohibition of discrimination together with this right (Abdulaziz, Cabales and Balkandali v. the United Kingdom, 1985, § 71; Biao v. Denmark [GC], 2016, § 118). Indeed, in a decision adopted in 2016, the Court found it as a violation of the principle of non-discrimination when national case law allows for family reunification in the case of heterosexual couples but not for homosexual couples (Pajić v. Croatia).

## The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) (Related articles: 4, 60, 61)

The Convention sets forth high standards for the prevention of all forms of violence against women and their protection from violence and prosecution and penalization of perpetrators of such acts; and since the Convention is in effect in domestic law the term **persecution** used in the definition of refugee in the 1951 Refugee has to be interpreted on **gender basis** in Turkey as well.

According to Article 60 in the Istanbul Convention, Parties are expected to develop gender-sensitive **reception procedures**, provide support services like **women interpreters**, and to adopt legal or other measures to develop **gender-sensitive asylum procedures** including refugee status determination and application for international protection. **Under Article 61**, Parties have to take the necessary legislative or other measures **to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.**

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<sup>21</sup> Council of Europe/European Court of Human Rights. (2020). **Guide on Article 14 of the Convention (prohibition of discrimination) and on Article 1 of Protocol No. 12 (general prohibition of discrimination)**. 31 August 2020. <https://dspace.ceid.org.tr/xmlui/handle/1/1443>

The first evaluation term of the GREVIO started in 2016 and Turkey submitted the first report in 2017. The parts of the GREVIO report on Turkey that are worth mentioning are as follows: **Personnel working with women asylum-seekers and refugees including social workers and interpreters seem to have received little training on the issue from the point of Article 15; this gap in training has its implications on various levels of procedure and may weaken the quality of decisions taken about and services extended to women asylum-seekers (Paragraph 121).** There is need to develop comprehensive policies and measures to prevent and combat against child and forced marriages including in refugee population (Paragraph 245). In the field of migration and asylum, the Istanbul Convention requires that **legislation related to residential status and asylum procedures should not overshadow the realities of women who face abusive relations or are exposed to sexual violence, exploitation and other forms of gender-based violence.** Accordingly, asylum procedures **must be sensitive to gender, allow women to give full account of their stories, and causes of persecution must be interpreted in gender-sensitive ways.** This can be achieved only if existing reception procedures and support services are made truly sensitive to the needs of women victims and the risk of violence (**Article 60**) (Paragraph 321).

Although the LFIP and the 1951 Refugee Convention **do not explicitly define violence against women as a form of persecution, authorities maintain that victims of this form of violence may be considered as having the fear of persecution due to their membership of a “specific social group”** (Paragraph 339). The **development of gender-sensitive reception procedures including supply of information to women and girls about gender-based violence and available services in this regard is of key importance in ensuring victim’s access to protection. There is no data** from Turkey indicating how frequently asylum requests based on gender-based violence are met and how many of such requests are rejected (Paragraph 342).

### **The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (and CPT)**

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment adopted in 1989 is the basis of the supervision mechanism known as the European Committee on the Prevention of Torture (CPT). The CPT organizes visits to detention centres to see how persons deprived of their freedom are treated and develops thematic standards. Such detention centres may include prisons and reformatories, police stations and other centres where migrants, asylum-seekers and refugees, who are our concern here are kept. Firstly, if we take a look at the information note on “Illegal Migrants in Detention”<sup>22</sup> we see that a

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<sup>22</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). (2017). **Illegal Migrants in Detention**. March 2017. CPT/Inf(2017) 3. <https://dspace.ceid.org.tr/xmlui/handle/1/1449>



foreign national may be deprived of his or her freedom for entering the country through illegal ways and violating (claim to have violated) the law on foreigners. In many member countries of the Council of Europe this kind of detention is an administrative measure and called as “detention of migrants”. One of the most important problems emerges when persons under administrative detention seek asylum. These persons treated as illegal migrants must be informed about the asylum system and the ways of making an asylum application (procedural rights). **“Asylum seekers” are not “illegal migrants” (even if they fall into this definition when their asylum applications are turned down and their residence permits are cancelled).** While asylum-seekers wait for the outcome of their applications and when their freedoms are restricted as an exceptional measure, they must be accorded some guarantees beyond those accorded to illegal migrants in accordance with their status. The CPT is of the opinion that long time detention of persons under the law on foreigners **without any time limit** and expectation of freedom without any certainty **may easily be categorised as inhuman treatment.**

**There must be special screening procedures to identify victims of torture and other vulnerable persons and proper care must be accorded to these persons. If we look at** the information note on ‘Women Deprived of their Freedom’<sup>23</sup> the duty of the state to provide care to persons deprived of their freedom also covers their protection against those who may want to harm them. **As a principle, women deprived of their freedom must be kept in places physically separate from places where men are kept.** The Committee draws attention to the fact that the **needs of these women significantly differ from men’s and to other issues related to health and hygiene** (Paragraph 30).

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## B. Listing of Norms Related to Gender Equality

International conventions to which Turkey is a State Party set some **norms** for refugee women and girls that are repeated in many instruments. There is an **implementation gap** due to Turkey’s geographical limitation to the 1951 Convention.. Thus, in order to **pursue a monitoring and rights-based struggle particularly for women refugees, prevent violations and to improve implementation**, it is always necessary to keep in mind a number of norms that are based on a consensus. These are: **equality, gender equality, intersectional discrimination ban, non-refoulement, and prohibition of sexual and gender-based violence.**

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<sup>23</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). (2017). **Women Deprived of their Freedom.** 2000. CPT/Inf(2000)13-part. <https://dspace.ceid.org.tr/xmlui/handle/1/1450>

## 1. Identifying Standards, Criteria and Good Practices

### The Inter-American Human Rights Commission Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Human Trafficking

Declared on 7 December 2019, it covers all migrants, refugees, asylum-seekers, stateless persons and even victims of human trafficking. Being principles, they are not binding, but the document provides definitions all together for the first-time such as the definitions of migrant and refugee, international protection, accompanied or unaccompanied minors, etc. and develops common standards for all these groups.<sup>24</sup>

**Principle 8: Gender perspective and differentiated approach, Principle 12: Non-discrimination and equal protection, Principle 13: Right to prevention and protection against stigma, racism, xenophobia and related intolerance, Principle 14: Prohibition of all forms of violence, Principle 16: Protection of migrants in vulnerable situations, Principle 22: Nationality, Principle 24: Marriage and nationality, Principle 26: Naturalization, Principle 55: Asylum and Refugee, Principle 57: Identification of persons with international protection needs, Principle 61: Prohibition of separation of families.**

### The Beijing Declaration and the Action Platform

In 1995, the Beijing Declaration and Action Plan was adopted and twelve critical areas of concern were identified in the context of women's rights and violence against women. The Beijing Action Platform assigned the CEDAW Committee with the task of monitoring. The UN Commission on the Status of Women is in charge of monitoring States' compliance with their commitments in this field in every five years.

As of 2010, there are seven mechanisms worldwide relating to women's rights within such organizations as the UN, Organization of African Union, Organization of American States, and the Council of Europe which includes Turkey as well. All these mechanisms require their States Parties to take into account the **Beijing Action Plan**. These mechanisms stand in a system of complex relations in which they complement each other. With respect to women refugees, the following statements

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<sup>24</sup> Inter-American Commission on Human Rights (2019). **Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Human Trafficking**. Resolution 04/19 approved by the Commission on December 7, 2019. <https://dspace.ceid.org.tr/xmlui/handle/1/1451>

come to the fore when we take a look at the **analysis prepared for the 25<sup>th</sup> year of the Action Plan**.<sup>25</sup>

**Intersectionality must be recognized and considered in protecting women from gender-related violence.** Women's experience in violence is shaped by a range of factors including race, colour, faith, political or other opinion, ethnic or social origin, property, marital status, sexual orientation, HIV/AIDS, status as migrant or asylum-seeker, age and disability. In conclusion, interventions must contain appropriate measures that target specific women groups.

### **Human Mobility and Human Rights in Covid-19 Pandemic: Principles and Standards for the Protection of Migrants, Refugees and other Displaced Persons**

**1. Equal Treatment and non-Discrimination:** State policies as intervention to the COVID-19 situation should guarantee equal and non-discriminatory care for all individuals regardless of their migration or citizenship status or their displacement.

**3. Obligations of the State in combating stigmatization, racism and xenophobia:** In cases where stigmatization is related to nationality or migration status, States should make sure that its own actions or actions by others do not stigmatize individuals or do not instigate violence against persons due to their actual or perceived health status.

**11. Gender-related comments:** States should ensure the protection of the rights of displaced women, girls, and with gender nonconformity and (in the context of COVID-19 pandemic) identify and reduce threats to their health, safety, and health status.

### **UN Global Compact on Migration**

**The New York Declaration for Refugees and Migrants was adopted on 19 September 2016 for the first time in the history of the UN General Assembly.** This document once more underlined the importance of existing legal instruments and envisaged the drafting of two new global compacts: one on refugees and the other on safe, orderly and regular migration. **However, neither of these compacts would have a binding nature and they would serve merely as guidelines to States Parties in their development of relevant national policies.**

The Global Compact on Refugees **makes its gender-related commitment mainly in the action programme and states its objective as supporting gender equality, empowering women and girls, and eliminating all forms of sexual and gender-based violence, trafficking in human beings, sexual exploitation,**

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<sup>25</sup> UN Special Rapporteur on violence against women, its causes and consequences, with the Office of the High Commissioner for Human Rights. **25 Years in Review of the Beijing Platform for Action - OHCHR.**  
<https://dspace.ceid.org.tr/xmlui/handle/1/1452>

**harassment and undesired practices.** In paragraph 82 of the Compact which is relevant to the issue, it is stated that “**Civil and birth registration** helps States to have accurate information about the persons living on their territory, and is a major tool for protection and solutions, including for **refugee women, girls and others with specific needs.**” Paragraph 92 mentions **investment in robust reception and integration services for resettled refugees** including women and girls under risk. Paragraph 106 says, “States and relevant stakeholders will facilitate meaningful participation of refugees, **including women, persons with disabilities, and youth,** in Global Refugee Forums, ensuring the inclusion of their perspectives on progress.”

## IV. Present State Analysis for Turkey

### A. Development of Rights in the Field of Asylum in Turkey

This part of the report examines to what extent the existing legislation in Turkey relating to refugees (women) complies with international norms which are observed and frequently underlined by human rights conventions presented in the report, their monitoring bodies, and decisions taken by them. The first point to note here is that the **LFIP** as the fundamental legislation in this regard **provides no special arrangement for refugee women**. Even **temporary protection** which needs to be provided by law since it is related to fundamental rights **is arranged by a regulation and it contains no provision relating to women**. Both the YUKK and the Temporary Protection Regulation leave issues related to women and gender to the definition **"group with special needs"**. As explained earlier, this approach is in fact in compliance with the 1951 Refugee Convention, but with its deficits. Since human rights law is complementary to refugee law, **Articles 60 and 61 of the Istanbul Convention must be applied throughout the asylum process as a requirement of domestic law**. In addition to the availability of gender-sensitive reception procedures and relevant support services, this means there is need for gender regulations and gender-sensitive asylum procedures that also cover the determination of refugee status and application for international protection. Further, there is need to train all who are involved in the process starting from personnel that women first meet at the borders those who receive and process their applications and even those who provide support services in the field; shortly, all personnel and officials that women encounter regarding issues related to all their rights. Though not mentioned in the 1951 Refugee Convention, **"violence against women"** must be considered in the context of the "risk of persecution" that is a criterion for refugee status. In the same vein, any woman **victim of violence (even when violence is by non-state party related/by private persons and agents) must absolutely not sent back to a country where her life will be in danger**.

**With respect to conditions of admission to the country**, it is of great importance to provide protection at the border to any woman or girl victimized by any act of violence and facilitate their access to asylum as stated in CEDAW comments and the GREVIO report on Turkey. Even in cases of irregular entry, detention (administrative) of women asylum seekers (including in airports and police stations) must be used as a last resort according to both CPT and CEDAW standards. **Women must certainly be informed that violence against women (in its various forms) is a form of persecution that requires protection**. Personnel in charge of

women must be in the same sex and trained in gender issues and gender-related violence.

As required especially by prohibition of gender-related discrimination, it must be ensured that women applicants are able to talk about their experiences that they are unable to share in the presence of their family members to trained women personnel in settings where they can feel at ease. In the process of application for international protection and while temporary protection continues, the relevant legislation has no arrangement sensitive to gender and gender equality **that informs women about legal mechanisms they can use for protecting themselves against violence**

The Committee on Economic, Social and Cultural Rights **assigns states the duty of providing shelter to refugees and asylum seekers.** According to the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of Persons with Disabilities, **states must ensure equality with respect to the rights to housing, marriage, education, health and employment and avoid intersectional discrimination.** Girls must have equal access to education and women refugees must equally enjoy health services and particularly those related to reproductive health. Though it may be with some limitations, the right to employment is also necessary to ensure that refugee women are able to make a living and stand on their feet. **The rights to marriage and divorce are also recognized for both citizens and non-citizens as required by the norm of equality in international human rights law.** While domestic legislation provides these, the **important point is to ensure the exercise of these rights and to prevent violations.**

With an amendment made in the LFIP in December 2019, the time period in which applicants for international protection can enjoy **health services was limited to one year.** Again with arrangements made during the OHAL (State of Emergency-Article 54) the **non-refoulement** principle which we mentioned in the context of international law ) **was seriously flouted.** Under LFIP Article 42, "Refugees, conditional refugees and subsidiary protection beneficiaries as well as persons under temporary protection or humanitarian residence permit holders are not entitled to the right of transfer to a long-term residence permit." There is no special arrangement in this regard in the Law on Citizenship. **There are provisions that entitle citizenship only to those making financial investment in the country and others who are found eligible.** It is known that Turkish citizenship is accorded to some Syrians under temporary protection based on these provisions. This brings about a line of demarcation between international protection applicants and Syrian refugees under temporary protection which creates legal inequality between these two groups having different statutes.

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## B. Mapping Domestic Legislation

In the report, the Turkish Constitution, Turkish Civil Code, Turkish Penal Code, Law on the Protection of Family and Combatting Violence against Women, YUKK (LFIP), Temporary Protection Regulation, the two regulations on work permits in two-track asylum system, Municipality Law, Law on Turkish Citizenship and its regulation were all examined in terms of their compliance with norms on equality, gender equality, non-discrimination, non-refoulement and ban on sexual and gender-based violence that are covered by international human rights standards. **As the basic law in this field, the LFIP has no special provision relating to women refugees. Temporary protection which needs to be provided by law since it is related to fundamental rights is presently arranged by a regulation and it contains no specific provision relating to women.**

## C. Mapping of Institutional Structure and Related Policy Documents

### 1. Central administration and related policies

This part covers ministries that, include the issue of migration in their strategic plans, implement projects in this field and/or release reports. No institution other than the Ministry of Interior included any statements related to migration in their missions and visions; nevertheless it appears that the issue has started entering into the strategy documents of many. Other than the issue of migration, gender sensitivity is not addressed by any organization/body except the General Directorate on the Status of Women.

**Table 1:** Migration and gender in policy documents of relevant institutions in Turkey

Central Government Agency /Title of Policy Document	Date	Reference to migration		GE sensitivity	
		Yes	No	Yes	No
<b>PRESIDENCY OF TURKEY, PRESIDENCY OF STRATEGY AND BUDGET</b>					
11 <sup>th</sup> Development Plan	2019-2023	✓			✓
<b>MINISTRIES</b>					
<b>MINISTRY OF DEVELOPMENT</b>					
10 <sup>th</sup> Development Plan	2014-2018	✓			✓
<b>MINISTRY OF INTERIOR</b>					
Ministry of Interior Strategic Plan	2019-2023	✓			✓
<b>MINISTRY OF FAMILY, LABOUR AND SOCIAL SERVICES (MoFLSS)</b>					
MoFLSS Strategic Plan	2019-2023	✓			✓
<b>MINISTRY OF NATIONAL EDUCATION (MoNE)</b>					
MoNE Strategic Plan	2015-2019	✓			✓
MoNE Strategic Plan	2019-2023	✓			✓
<b>MINISTRY OF HEALTH</b>					
Ministry of Health Strategic Plan	2019-2023	✓			✓
<b>DEPARTMENT OF RELIGIOUS AFFAIRS</b>					
Department of Religious Affairs Strategic Plan	2012-2016	✓			✓
Department of Religious Affairs Strategic Plan	2017-2021		✓		✓
Department of Religious Affairs Strategic Plan	2019-2023	✓			✓



MINISTRY OF JUSTICE					
Ministry of Justice Strategic Plan	2019-2023		✓		✓
AFFILIATED INSTITUTIONS					
GENERAL DIRECTORATE OF MIGRATION MANAGEMENT					
General Directorate of Migration Management Strategic Plan	2017-2021	✓			✓
DISASTER AND EMERGENCY MANAGEMENT PRESIDENCY					
AFAD Strategic Plan	2019-2023		✓		✓
GENERAL DIRECTORATE ON THE STATUS OF WOMEN					
Women's Empowerment Strategy Document and Action Plan	2018-2023	✓		✓	
Action plan on Combating Violence against Women	2016-2020	✓		✓	
SOUTH-EASTERN ANATOLIA REGIONAL DEVELOPMENT ADMINISTRATION					
GAP Administration Strategic Plan (Ministry of Development)	2018-2022	✓			✓
GAP Administration Strategic Plan (Ministry of Industry and Technology)	2019-2023		✓		✓
PUBLIC OMBUDSMANSHIP					
Public Ombudsmanship Strategic Plan	2017-2021		✓		✓
HUMAN RIGHTS INSTITUTION OF TURKEY					
Human Rights Institution of Turkey Strategic Plan	2019-2023		✓		✓

**Table 2:** Public institution projects with gender sensitivity related to refugees

Project Title	Year	Project Objective
MINISTRIES		
MINISTRY OF HEALTH		
Project on Improving Health Status of Syrians under Temporary Protection and Relevant Services Provided by the Republic of Turkey (SIHHAT)	2016-on-going	Support to women and reproductive health services is one of the project components
MINISTRY OF JUSTICE		
Project on Facilitating Refugee Access to Justice	2018-2019	One of the four areas that the project seeks to contribute is improving justice and safety for women and girls by combating sexual and gender-based violence.

AFFILIATED INSTITUTIONS		
GENERAL DIRECTORATE OF MIGRATION MANAGEMENT		
Improving Turkey's Compliance with her Regional and International Obligations in Relation to Asylum Applications	2017-2020	One project component is about preventing gender-based violence by identifying the needs of special groups, LGBTI and foreigners in vulnerable positions in the process of assessing and concluding international applications for protection.
GENERAL DIRECTORATE ON WOMEN'S STATUS		
Humanitarian Assistance Programme on Combating Gender-Based Violence and Related Interventions	2013	Building awareness related to gender-based violence among Syrians in Turkey, improving the capacity of personnel who deliver services to Syrians in intervening to cases of gender-based violence and extending technical support to Turkey in this area.
SOUTH-EASTERN ANATOLIA REGIONAL DEVELOPMENT ADMINISTRATION		
Project Social and Economic Adaptation of Syrian Women Living in South-eastern Anatolia Region	2016-2017	Multi-Purpose Community Centre (ÇATOM) activities with Syrian women in Turkish language courses, psychosocial support, trainings in women's health, trainings in personal development, income generating activities, workshops and social-cultural activities.
Project on Ensuring Social Cohesion between Syrians and Host Communities by Empowering Women in the GAP Region	2019-2020	There is a project component on supporting Syrian and host communities in their participation to economic production and carrying out social-cultural activities for social cohesion.
Project on Strengthening Social and Economic Stability and Resilience of Syrian Women and Girls under Temporary Protection	At planning stage	The project aims to improve women's and girls' access to economic life and sustainable means of livelihood through lifelong learning opportunities and to encourage application to protection mechanisms, psychosocial support and judicial aid services in cases of violence against women.

**Table 3:** Reports on refugees prepared by public institutions

Report Title	Year	Report Content	GE	
			Yes	No
DISASTER AND EMERGENCY MANAGEMENT PRESIDENCY				
Syrian Women	2014	Problems Syrian women in Turkey face are examined in the light of qualitative and quantitative research findings with respect to such themes as housing, health, education and employment.	✓	
Population Movements from Syria to Turkey, As Guests on Fraternal Land	2014	Report on the field survey-based research by AFAD marks differences between in and out of camp ways of life and experiences of women and	✓	

		men and evaluates data obtained from the survey.		
Our Syrian Guests are on Fraternal Land	2016	While providing demographic data related to Syrian refugees, it addresses camp management systems and working of sheltering centres in comparative terms with situations in other countries.		✓
Demographic Profile of Syrians in Turkey	2017	While providing comprehensive demographic data related to Syrian refugees, it focuses on future expectations of Syrians with reference to themes such as health, employment, housing conditions and adaptation.		✓
<b>GENERAL DIRECTORATE OF FAMILY AND COMMUNITY SERVICES</b>				
Research on Marital Relations between Syrians and Citizens of Turkish Republic	2016	It covers pre-war demographic and socioeconomic structures and marriage laws in Syria and Turkey and the issue is addressed within the framework of both relevant international literature and in-depth interviews conducted in Turkey.	✓	
<b>PUBLIC OMBUDSMANSHIP</b>				
Special Report on Syrians in Turkey	2018	It covers services extended by some state agencies to Syrian women and children under temporary protection and some observations and suggestions including those related early marriages and protection of women victims of violence.	✓	
<b>TBMM HUMAN RIGHTS INVESTIGATION COMMISSION- SUB-COMMISSION ON REFUGEE RIGHTS</b>				
Migration and Adaptation Report	2018	It covers international and national legislation related to migration and asylum seeking, information shared by institutions and agencies that conducts studies in these issues, field visits (i.e. to temporary accommodation centres), observations, and assessments and suggestions under various headings.	✓	

## 2. Local administrations and related policies in project provinces

This part takes a look at strategic plans and projects of municipal units and metropolitan municipalities in provinces covered by the CEiD project and where there is considerable refugee population. In general, strategic plans regard migration inflow as a threat, present demographic data on low levels of education and qualification of incoming migrants, and stress that rapid population increase triggered by migration has its negative consequences such as distorted patterns of

urbanization, stress on infrastructure, informal employment, and problems deriving from poor social-cultural adaptation to urban life. The point is that while plans developed before 2020 mention these problems mainly in the context of domestic migration, the issue of “Syrians” come to the fore in new ones. However, highly generalized mentions are made about this new migrants population without sharing any demographic information which had been the case in earlier mentions around internal migrants.

**Table 4:** Migration and gender in policy documents of local administrations in Turkey

Local Administration/Policy Document Title	Date	Mention of migration		GE sensitivity	
		Yes	No	Yes	No
<b>UNION OF MUNICIPALITIES OF TURKEY</b>					
TBB Strategic Plan	2020-2024	✓			✓
<b>MARMARA UNION OF MUNICIPALITIES</b>					
Marmara Union of Municipalities Strategic Plan	2020-2024	✓			✓
<b>SOUTH-EASTERN ANATOLIA REGION UNION OF MUNICIPALITIES (GABBB)</b>					
GABBB Strategic Plan	2015-2019	✓			✓
GABBB Strategic Plan	2020-2024		✓		✓
<b>ADANA METROPOLITAN MUNICIPALITY</b>					
Adana Metropolitan Municipality Strategic Plan	2020-2024	✓			✓
<b>ANKARA METROPOLITAN MUNICIPALITY</b>					
Ankara Metropolitan Municipality Strategic Plan	2020-2024	✓			✓
Ankara Metropolitan Municipality Local Equality Action Plan	2019-2020	✓		✓	
<b>GAZİANTEP METROPOLITAN MUNICIPALITY</b>					
Gaziantep Metropolitan Municipality Strategic Plan	2020-2024	✓		✓	
<b>İSTANBUL METROPOLITAN MUNICIPALITY</b>					
İstanbul Metropolitan Municipality Strategic Plan	2020-2024	✓			✓
<b>İZMİR METROPOLITAN MUNICIPALITY</b>					
İzmir Metropolitan Municipality Strategic Plan	2020-2024	✓		✓	

## D. Mapping the Capacity of Civil Society Organizations and Other Public Actors

This part examines the gender-based monitoring capacity of civil society organizations and public actors that have an important role in the context of rights of and services to refugees in Turkey. The thirty civil society organizations that were covered in this research are classified in five groups with respect to their fields of work and priorities, including those working in various fields, in the field of migration and refugees specifically, on women’s issues, on LGBTI+ issues and sexual health. Two professional organizations are also included and eight UN agencies as other public actors. Having Evaluated here these various organizations mentioned in the report with respect to their gender equality monitoring capacity, the projects they are implementing and the reports they released, we see that they mainly concentrate on projects related to improving access to public services particularly in the fields of education and health and increasing participation to employment and supporting social adaptation. While their reports reflect the present situation in various areas, it is observed that there are significant gaps in terms of monitoring continuities and changes in such situations.

**Table 5:** Mapping the capacity of CSOs working in various areas in monitoring the rights of women refugees

CSO	Report	Year	Whether there is rights-based monitoring*		Content	GE sensitivity	
			Yes	No		Yes	No
Anadolu Kültür	A Brief Assessment of Civil Society Organizations Engaged in Activities Related to Syrian Refugees from Waiting Room to Sitting Room	2015		✓	-	✓	
Bridge of Peoples	Turkey Refugee Report	2017		✓	-	✓	
Support to Life	Report on Vulnerability Assessment for Syrian Refugees in İstanbul	2016		✓	-	✓	
	2018 Activity Report	2019		✓	-	✓	
	Report on the Empowerment of Refugee Women in their Access to Civil Rights and Services	2018		✓	-		

	2019 Activity Report	2020		✓	-	✓	
İHD	Those who are ignored: Report on Syrian Refugees Living out of Camps	2013		✓	-	✓	
	Report on Human Rights Violations in Turkey	2014		✓	-	✓	
	Report on Gender-Based Laws, Conventions and Regulations	2019		✓	-	✓	
MAZLUMDER	Syrian Refugees in Turkey: Report on the Case of İstanbul	2013		✓	-	✓	
	Report on Syrian Women Refugees Living out of Camps	2014		✓	-	✓	
İKGV	A Stop on the Way of Migration: Esenler	2018		✓	-	✓	
Kırkayak	Doms, The 'Other' Refugees from Syria: A Report on Discrimination, Isolation and Social Exclusion	2017		✓	-	✓	
Blue Pen	"Girls Study, World Changes' Meeting Report	2017		✓	-	✓	
	Survey on the Education of Syrian Children	2019		✓	-	✓	
	Child Protection Project Awareness Survey Report I	2018		✓	-	✓	
	Child Protection Project Awareness Survey Report II	2019		✓	-	✓	
Turkish Red Crescent	-	-	-	-	-	-	
YUVA	In-situ Access Project Evaluation Report	2018		✓	-	✓	

**Table 6:** Mapping the capacity of CSOs active in migration and refugee issues in monitoring the rights of women refugees

CSO	Report	Year	Whether there is rights-based monitoring*		Content	GE sensitivity*	
			Yes	No		Yes	No
İGAM	Difficulties and Opportunities in the Integration of Refugees in Turkey	2016	✓		Reference to the rights of refugee and migrant women within the framework of CEDAW Article 14	✓	
	Media Monitoring Report	2019		✓	-	✓	
	Participation of Syrian Refugees to Economy in Turkey	2019		✓	-	✓	
	Examples of Good Practice in Sheltering Refugees in Turkey	2020		✓	-	✓	
MHD	Country Report: Turkey	2015		✓	-	✓	
Mülteci-Der	Remedy for Infinite Temporality: What Do Syrian Refugees Think about Turkish Citizenship?	2017		✓	-	✓	
	An Assessment on the State of Refugee Women	2018	✓		Refers to the rights of refugee women as stated in İstanbul Convention Article 60	✓	
Association of Refugees	2018 Activity Report	2019		✓	-	✓	
SGDD-ASAM	Report on the Analysis of Needs of Syrian Women and Girls	2018		✓	-	✓	
UGKDD	-	-	-	-	-	-	-

**Table 7:** Mapping the capacity of CSOs working with women in monitoring the rights of women refugees

CSO	Report	Year	Whether there is rights-based monitoring *		Content	GE sensitivity* *	
			Yes	No		Yes	No
KÇD	Handbook for CSOs Working with Refugee Women	2018	✓		Refers to the rights of refugee women as stated in articles 60 and 61 of the Istanbul Convention	✓	
	Refugee women in the media: Rights-focused reporting guide for local media workers "Ethically and Politically Responsible Reporting"	2018		✓	-	✓	
KDV	Combating Gender-Based Discrimination and Violence against Women	2019	✓		Refers to the rights of refugee women as stated in YUKK Article 3 and articles 60 and 61 of the Istanbul Convention	✓	
KADAV	-	-	-	-	-	-	-
KEDV	-	-	-	-	-	-	-
KADEM	Report on Refugees and Asylum Seekers in EU and Turkey	2016		✓	-	✓	
	Syrian Women in Turkey: Report on socioeconomic and Legal Problems	2017		✓	-	✓	
	Centre for Women Asylum Seekers: Profile Screening Report	2018		✓	-	✓	
KİH-YÇ	-	-	-	-	-	-	-
KAMER	Asylum Seeking Women Report for 5 Provinces	2013		✓	-	✓	
	Biz de VARIZ (We are in)	2017		✓	-	✓	
Purple Roof	Shadow Report by Civil Society Organizations Concerning the First Report by Turkey (by	2017	✓		Refers to the rights of refugee women as stated in LFIP Article 67 and states that the Law	✓	



	one of the associations involved)				no. 6284 does not stipulate citizenship as a condition		
	Activity Report 2018	2018		✓	-	✓	
	Activity Report 2019	2019		✓	-	✓	
Flying Broom	-	-	-	-	-	-	-

**Table 8:** Mapping the capacity of CSOs working with LGBTI + in monitoring the rights of women refugees

CSO	Report	Year	Whether there is rights-based monitoring*		Content	Intersectional Discrimination and Inclusion of LGBTI **	
			Yes	No		Yes	No
LGBTI for Rights, Equality, Existence Solidarity Association (Hêvî LGBTI)	Refugee LGBTIs Book	2017		✓	-	✓	
	Turkey's Ordeal with Refugee LGBTI+: Racism	2019		✓	-	✓	
Kaos Gay and Lesbian Cultural Studies and Solidarity Association (Kaos GL)	As Waiting for Safety: Turkey as the Transit Country for LGBTI Refugees	2016		✓	-	✓	
	Human Rights of LGBTI+2018 Report	2019		✓	-	✓	
	Turkey's Ordeal with Refugee LGBTI	2019		✓	-	✓	
Association of Social Policy, Gender Identity and Sexual Orientation Studies (SPoD)	-	-	-	-	-	-	-

**Table 9:** Mapping the capacity of CSOs working on sexual health issues in in monitoring the rights of women refugees

CSO	Report	Year	Whether there is rights-based monitoring*		Content	Intersectional Discrimination	
			Yes	No		Yes	No
Red Umbrella Sexual Health and Human Rights Association	Syrians under "Temporary Protection" in Turkey and Sex Work	2017		✓	-	✓	
Positive Life Association	-	-	-	-	-	-	-

**Table 10:** Mapping the capacity of professional organizations in monitoring the rights of women refugees

Institution	Report	Year	Whether there is rights-based monitoring*		Content	GE sensitivity**	
			Yes	No		Yes	No
Turkish Medical Association (TTB)	Report on Syrian Refugees and Health Services	-	-	-	-	-	-
	War, Migration and Health	-	-	-	-	-	-
Turkish Union of Bar Associations (TBB)	Report on Asylum Seekers and Refugees	2016		✓	-	✓	

**Table 11:** Mapping the capacity of United Nations agencies in monitoring the rights of women refugees

Institution	Report	Year	Whether there is rights-based monitoring *		Content	GE sensitivity**	
			Yes	No		Yes	No
IOM	Report on Third Country Settlement	2018		✓	-	✓	
	Migration Crisis Working Framework Report	2019		✓	-	✓	
	Istanbul Baseline Study: Field Observation Report	2019		✓	-	✓	
ILO	-	-	-	-	-	-	-
UNDP	UNDP Turkey Gender Equality Strategy 2017-2020	2020		✓	-	✓	
UNICEF	Country Planning for Turkey-UNICEF Cooperation, 2016-2020, 2018 Report	2019		✓	-	✓	
UNFPA	-	-	-	-	-	-	-
UNHCR	Report on the Major Events of 2019	2020		✓	-	✓	
UN Women	Report on the Analysis of the Needs of Syrian Women and Girls	2018		✓	-	✓	
	Report on the Empowerment of Refugee	2018		✓	-		

	Women in their Access to Civil Rights and Services						
	Handbook for CSOs Working with Refugee Women	2018	✓		Refers to the rights of refugee women as stated in articles 60 and 61 of the Istanbul Convention	✓	
	Combating Gender-Based Discrimination and Violence against Women	2019	✓		Refers to the rights of refugee women as stated in LFIP Article 3 and articles 60 and 61 of the Istanbul Convention	✓	
WFP	Basic Needs Programming: Determination of Target Criteria and Minimum Expenditure Basket	2016		✓	-	✓	
	Asylum seekers in Turkey: A Comprehensive Vulnerability Monitoring Work	2017-2020		✓	-	✓	
	Social Adaptation in Turkey: Online Survey with Refugee and Host Communities, Rounds 1-2-3	2017, 2020		✓	-	✓	
	Refugees in Turkey: Means of Livelihood Survey Outcomes	2019		✓	-	✓	
WHO	Provision of Prenatal Services to Local People and Syrians Living in Şanlıurfa	2019		✓	-	✓	
	Survey on Health Status, Service Utilization and Health Indicators: Syrian Refugee Population in Turkey	2019		✓	-	✓	
	Urgent Health Intervention to the Crisis in Syrian Arab Republic	2019		✓	-	✓	

## V. Sources of Indicators and data in the Field of Asylum

### A. International Indices and Indicators Related to the Field of Asylum

**The United Nations High Commissioner for Refugees** is one of the principal agencies releasing data on asylum-seekers and refugees.<sup>26</sup> These data also cover persons who are forcibly displaced in their own countries and stateless persons. In relation to refugees, they mainly focus on geography (countries of origin and destination) and application processes (decisions taken, statuses accorded) and, starting from 2001, also give age and gender distribution of total asylum-seeking and refugee population.

The **Migration Data Portal** website<sup>27</sup> which was developed, managed and made active at the end of 2017 by the Global Migration Data Analysis Centre of the **International Organization for Migration (IOM)** brings together various sources of data by different organizations and institutions in a systematic way and under various thematic headings by using visual mapping as well. Here, essentially as UNHCR data, total numbers of refugees and asylum seekers, their origin and destination countries are presented under the thematic heading as “forced migration” Though data is not by gender, there is also the thematic heading “gender and migration”<sup>28</sup> and gender distribution of migrants of foreign nationality in relevant countries is shared.

The **EUROSTAT** gives, as of 2008, the number of asylum applications in the European Union, countries of origin of applicants and countries in which asylum is sought as well as their age and gender distribution. Apart from these, there is also information on the number of unaccompanied minors applying for asylum, decisions taken about applications, and statuses given upon these decisions, but all these are in aggregate numbers. There are also Quarterly Asylum Reports again prepared by the EUROSTAT.<sup>29</sup> These reports too stress the geography of asylum

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<sup>26</sup> UHCHR (2020). **Welcome to UNHCR’s Refugee Population Statistics Database**, 18 June 2020. <https://www.unhcr.org/refugee-statistics/> (Last Accessed: 19.08.2020)

<sup>27</sup> Migration Data Portal (2019). **Total Number of International Migrants at Mid-Year 2019**. [https://migrationdataportal.org/data?i=stock\\_abs\\_&t=2019](https://migrationdataportal.org/data?i=stock_abs_&t=2019) (Son Erişim tarihi: 06.08.2020)

<sup>28</sup> Migration Data Portal (2020). **Gender and Migration**. <https://migrationdataportal.org/themes/gender-and-migration> (Last Accessed: 03.08.2020)

<sup>29</sup> Eurostat. [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum\\_quarterly\\_report](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_quarterly_report) (Last Accessed: 15.09.2020)

applications, in other words they analyse from which counties they come mostly from and which countries they head for, and reports decisions on applications by countries. There is no gender disaggregated analysis.

## B. Indicators Related to Refugee Women and Gender Equality for which Relevant Data is Collected/Used in Turkey

**Table 12:** Education - Temporary Protection

Subject	Related human right(s)	Indicator (with data available)	Data Source	Data Collection Method	Data Collection Frequency
Education	Right to Education Prohibition of discrimination Gender Equality	1. Girls' participation to primary education 1.1. Rate of children's primary school enrolment by gender 1.2. Rate of children's secondary school enrolment by gender 1.3. Rate of children's high school enrolment by gender 1.4. Distribution by gender of students in higher education 2. Distribution of women by their levels of education 2.1. Rate of illiterate women 2.2. Rate of women who have never been to school or attended primary or secondary school 2.3. Rate of women with education higher than secondary school ICCPR A. 22, ICESCR A. 2/13, CCR A. 28	MoNE General Directorate of Lifelong Learning	MoNE Education Statistics	Once a year

**Table 13:** Employment - Temporary Protection

Subject	Related human right(s)	Indicator (with data available)	Data Source	Data Collection Method	Data Collection Frequency
Employment	Right to Work Gender Equality Prohibition of discrimination	1. Gender distribution of Syrian refugees under temporary protection with their work permit 2. Proportion of employed among Syrian women ICCPR A. 2&3, ICESCR A.2&3&6&7 CEDAW A.11	MoFLSS	Work permit statistics, Ministry website	Once a year

**Table 14:** Health - Temporary Protection

Subject	Related human right(s)	Indicator (with data available)	Data Source	Data Collection Method	Data Collection Frequency
Health	Right to Health Gender Equality Prohibition of discrimination	1. Rate of access to family planning services by Syrian women 2. Rate of access to prenatal care services by Syrian women 3. Rate of Syrian women receiving postnatal care services ICCPR A.2&3, ICESCR A.2&3, 12, CERD A.5, CEDAW A.12	CSO reports	Outcomes of qualitative and quantitative surveys -representative	Once a year

## C. Values of Existing Indicators for which Data is Collected in Turkey

**Table 15:** Values of Existing Indicators for which Data is Collected in Turkey

INDICATOR NO	EXISTING INDICATOR VALUES	Women	Men
1.	Gender distribution of Syrians under temporary protection (GIGM 2021)	1,684,358	1,960,782
		46.2%	53.8%
<b>EDUCATION</b>			
2.	Rate of school enrolment of population under temporary protection and at school age		
2.1	Gender distribution of population under temporary protection whose access to formal education is ensured (MoNE HOB 2020)	337,806	393,118
		49.0%	51.0%
2.2	Gender distribution of population under temporary protection receiving preschool education (MoNE HOB 2020)	15,794	16,818
		48.4%	51.6%
2.3	Gender distribution of population under temporary protection in primary education (MoNE HOB 2020)	170,887	181,968
		48.4%	51.6%
2.4	Gender distribution of population under temporary protection in secondary education (MoNE HOB 2020)	134,292	140,155
		48.9%	51.1%
2.5	Gender distribution of population under temporary protection in high school (MoNE HOB 2020)	56,833	54,177
		51.2%	48.8%
2.6	Number of Syrian students enrolled in higher education	13,413	23,823
		36.0%	64.0%
3.	Distribution of women under temporary protection by their levels of education		
3.1	Rate of illiterates (TNSA 2018)	21.9%	
3.2	Rate of those never been to school or with incomplete primary education (TNSA 2018)	19.2%	
3.3	Rate of primary school graduates (TNSA 2018)	47.2%	
3.4	Rate of secondary school graduates (TNSA 2018)	19.5%	
3.5	Rate of high school graduates (TNSA 2018)	14.0%	
<b>EMPLOYMENT</b>			
4.	Number of Syrian citizens with work permit (MoFLSS 2019)	4,383	59,406
		6.8%	93.2%
5.	Rate of women under temporary protection who participate to subsistence activities (TNSA 2018)	9.0%	
<b>HEALTH</b>			
6.	Rate of women under temporary protection with access to family planning services and whose needs are met (TNSA 2018)	64.0%	
7.	Rate of women under temporary protection with access to prenatal care services (TNSA 2018)	92.9%	
8.	Rate of women under temporary protection receiving postnatal care (TNSA 2018)	86.0%	





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