

UNDERSTANDING BARRIERS TO WOMEN'S ACCESS TO JUSTICE AND LEGAL AID IN TÜRKİYE



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Contents

List of abbreviations	7
Glossary of key terms	8
Executive summary	10
1. Introduction and methodology	13
1.1. Context and background	13
1.2 Issues of definitions	14
1.3 Objectives and scope of the study	16
1.4 Methodology of the study	16
2. Women’s right to gender-responsive legal aid under international law	18
2.1 Access to justice for women	18
2.1.1 Access to justice for all	18
2.1.2 Women’s access to justice (WA2J)	19
2.1.3 Treaty rights that support women’s right to access justice	19
2.1.4 The six interrelated and essential components of WA2J	20
2.1.5 Intersectionality and women’s access to justice	21
2.2 The right to legal aid under international law	22
2.2.1 Hard law instruments	22
2.2.2 Soft law instruments	23
2.3 Gender-responsive legal aid	24
2.3.1 Guidance from the CEDAW Committee GR No. 33	24
2.3.2 Gender aspects of the features of legal aid set out in the UN Principles and Guidelines	26
2.3.3 Expounding on the state’s obligation to provide legal aid using the six inter-related components for women’s access to justice	32
3. Women’s access to legal aid in Türkiye:	
Situational Analysis of laws, policies and budgets	36
3.1 The laws relevant to legal aid in Türkiye	37
3.1.1 Constitutional law	37
3.1.2 Civil and administrative law	37
3.1.2.1 Eligibility criteria	38
3.1.2.2 Exemption from court fees	38
3.1.2.3 Scope of legal aid	38
3.1.3 Criminal law	39
3.1.3.1 Legal aid for suspects or accused persons	39
3.1.3.2 Legal aid for victims of crime	40
3.1.4 The Code of Lawyers	40
3.2 Gender-responsiveness of the legal aid laws	40
3.2.1 Gender-neutral language concerns	40
3.2.2 Private-public dichotomy	41
3.2.3 Legal aid criteria and gender implications	41
3.3. Policies related to legal aid	42
3.4 Gender-responsiveness of legal aid policies	42
3.5 Governance of legal aid delivery in Türkiye	43
3.5.1 State funded legal aid delivery	43

3.5.1 Legal aid institutions that provide primary legal aid	44
3.6. Gender analysis of legal aid institutions	44
3.6.1 State funded legal aid institutions for women	45
3.6.2 Reliance on non-state funded organisations	45
3.6.1 Other institutions that provide legal information to women	45
3.7 Legal aid budget in Türkiye	46
3.8 Gender-responsiveness of the legal aid budget	46
3.9 Analysing legal aid in the broader WA2J ramework in Türkiye	46
3.9.1 Overview of the broader legal framework relating to WA2J	46
3.9.2 Policies related to WA2J	47
4. Women’s access to legal aid in Türkiye: Situational analysis of the challenges faced by women as rights bearers and from duty bearers	48
4.1. Overview of the challenges for women’s access to legal aid	48
4.2 Challenges relating to justiciability	49
4.2.1 Lack of Awareness	49
4.2.2 Handling cases in a gender insensitive manner	51
4.2.3 Women legal aid lawyers	52
4.3 Challenges relating to availability	52
4.3.1 Geographically available	52
4.3.2 Women-friendly legal aid infrastructure	53
4.3.3 Holistic understanding of legal aid	53
4.4. Challenges relating to accessibility	53
4.4.1 Economic barriers	53
4.4.2 Physical barriers	54
4.4.3 Limited legal aid	54
4.4.4 Women’s needs	55
4.4.5 Linguistic barriers	55
4.4.6 Women with disabilities	55
4.4.7 Girls	56
4.5 Challenges relating to the quality of legal aid	56
4.5.1 Budget problems	57
4.5.2 Application procedures – Concerns with the financial criteria	57
4.5.3 Bureaucratic application procedures	59
4.5.4 Lack of trust in the legal aid system	59
4.5.5 Professional bias and gender stereotyping by legal aid providers	59
4.5.6 Lack of gender-sensitivity training	59
4.5.7 Lack of coverage for holistic legal aid services	61
4.5.8 Challenges in terms of assigning legal aid providers	61
4.5.9 Preference for women legal aid providers	61
4.5.10 Lack of codes of conduct	62
4.6 Challenges relating to the provision of remedies	62
4.7 Challenges relating to the accountability of the legal aid system	63
4.7.1 Complaint system	63
4.7.2 Monitoring	63
4.7.3 Data	63
4.8 Special case: Challenges for victims of gender-based violence against women	64
4.8.1 Present situation of gender-based violence against women in Türkiye	64
4.8.2 Victims of violence against women and their access to legal aid	65

4.8.2.1 Weak response to all of the victim’s legal needs	66
4.8.2.2 High demand for women’s rights centres	66
4.8.2.3 Specific Training on the dynamics of gender-based violence	67
4.8.2.4 Views based on gender stereotyping	67
4.8.2.5 Treatment of women legal aid lawyers	67
4.8.2.6 Reliance on NGOs rather than on state funded legal aid	68
5. Conclusion: Findings and proposals	68
5.1 Findings	68
5.1.1 Five Key Findings	69
5.1.2 SWOT Analysis	71
5.2 Proposals to improve legal aid to respond women’s needs and rights.	73
5. 2.1 Law reform	73
5.2.2 Develop gender-responsive policies and general principles	73
5.2.3 Raise awareness of women’s and girls’ rights - Right to legal aid	74
5.2.4 Invest in specialisation	74
5.2.5 Empower women lawyers	75
5.2.6 Promote training	76
5.2.7 Collaboration with NGOs, bar associations and public authorities	77
5.2.8 Enhance accountability and standards of conduct	77
5.2.9 Ensure the ability to monitor and evaluate whether legal aid is gender-responsive	77
List of References	78
ANNEXES	
ANNEX 1: Information from the E-Survey	83
ANNEX 2 Promising Practices in Türkiye	89

List of abbreviations

CEDAW	▶ Convention on the Elimination of All Forms of Discrimination Against Women
CEPEJ	▶ European Commission for the Efficiency of Justice
CMK	▶ Code of Criminal Procedure (<i>Ceza Muhakemesi Kanunu</i>)
CSO	▶ Civil Society Organisation
ECHR	▶ European Convention on Human Rights
EIGE	▶ European Institute for Gender Equality
EU	▶ European Union
FGD	▶ Focus Group Discussions
GBV	▶ Gender-based violence
GBVAW	▶ Gender-based violence against women
GR	▶ General Recommendation
HMK	▶ Code of Civil Procedure (<i>Hukuk Muhakemeleri Kanunu</i>)
ICCPR	▶ International Covenant on Civil and Political Rights
ICESCR	▶ International Covenant on Economic, Social and Cultural Rights
KSGM	▶ General Directorate on the Status of Women
NGO	▶ Non-governmental Organisation
OECD	▶ Organisation for Economic Co-operation and Development
OSCE	▶ Organisation for Security and Cooperation in Europe
SDG	▶ Sustainable Development Goals
ŞÖNİM	▶ Violence Prevention and Monitoring Services
SWOT	▶ Strengths, Weaknesses, Opportunities and Threats analysis
TKDF	▶ Federation of Women's Associations of Türkiye
UTBA	▶ Union of Turkish Bar Associations
UNDP	▶ United Nations Development Programme
UN Women	▶ United Nations Entity for Gender Equality and the Empowerment of Women
WA2J	▶ Women's Access to Justice

Glossary of key terms

Access to justice, in this study means “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, in conformity with human rights standards” (UNDP, 2005).

Gender means the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men (Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul Convention, Article 3).

Gender-based discrimination is any distinction, exclusion or restriction made on the basis of socially constructed gender roles and norms which prevents a person from enjoying full human rights, resources, opportunities and the right to contribute and influence. Discrimination can be:

- **Direct discrimination** which occurs when a difference in treatment relies directly and explicitly on distinctions based exclusively on sex and characteristics of women or of men, which cannot be justified objectively; or
- **Indirect discrimination** which occurs when a law, policy or programme does not appear to be discriminatory, but has a discriminatory effect when implemented. This can occur, for example when women are disadvantaged compared to men with respect to the enjoyment of a particular opportunity or benefit due to pre-existing inequalities. Applying a gender-neutral law may leave the existing inequality in place or exacerbate it (Council of Europe, 2007).

Gender equality means an equal visibility, empowerment and participation of both sexes in all spheres of public and private life. Gender equality is the opposite of gender inequality, not of gender difference, and aims to promote the full participation of women and men in society. It means accepting and valuing equally the differences between women and men and the diverse roles they play in society. Gender equality includes the right to be different. This means taking into account the existing difference among women and men, which are related to class, political opinion, religion, ethnicity, race or sexual orientation. Gender equality means discussing how it is possible to go further, to change the structures in society which contribute to maintaining the unequal power relationships between women and men, and to reach a better balance in the various female and male values and priorities (Council of Europe, 2007).

- **De jure equality** (sometimes called **formal equality** or “paper governance”) refers to equality under the law.
- **De facto equality** refers to equality in practice. Equality does not mean that women and men are the same or that they become identical, but rather that their similarities and differences are recognised and equally valued and that their opportunities and their benefits become and remain equal. It means equality for women and men in the allocation of resources or benefits or in access to services and recognising the diversity of different groups of women and men.

Gender blind refers to the failure to recognise that the roles and responsibilities of women/girls and men/boys are given to them in specific social, cultural, economic and political context and background. It means ignoring the different socially determined roles, responsibilities and capabilities of women and men. Gender-blind policies and activities are based on information derived from men’s activities and/or assume those affected by the policy or activity has the same (male) needs and interests.

Gender neutral refers to anything – a concept, an entity, a style of language - that is un-associated with either the female or male gender. These laws, policies or activities are not specifically aimed at

either women or men and are assumed to affect both sexes equally. However, they may actually be gender blind.

Gender-neutral, gender-sensitive and gender-transformative: The primary objective behind gender mainstreaming is to design and implement development projects, programs, policies that:

- Do not reinforce existing gender inequalities (**gender-neutral**);
- Attempt to redress existing gender inequalities (**gender-sensitive**);
- Attempt to redefine women and men's gender roles and relations (**gender-transformative**).

Gender mainstreaming is the (re)organisation, improvement, development and evaluation of policy processes so that a gender equality perspective is incorporated in all policies at all levels and all stages, by the actors normally involved in policy making. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetrated (ECOSOC, 1997).

Gender stereotypes: are generic attitudes, opinions or roles applied to a particular gender based on unjustifiably fixed assumptions. Gender stereotypes continue to be widespread and often give rise to bias and gender-based discrimination. Gender stereotypes are governed by society and reflect common social norms and ideas on how a man or woman is expected to behave. These ideas are often reinforced or reproduced by the media, religion and global political and economic processes. Stereotypes play a decisive role in perpetuating gender inequality in societies.

Gender norms are ideas about how women and men should be and should act. People internalise and learn these "rules" early in life, which sets up a life cycle of gender socialisation and stereotyping. Put another way, gender norms are the standards and expectations to which gender identity generally conforms, within a range that defines a particular society, culture and community at that point in time.

Gender-responsive legal aid, in this study means that the relevant legal aid laws, the agencies that deliver legal aid (the bar associations and courts), the legal aid processes and the outcomes do not discriminate against anyone on the basis of gender. It necessitates taking a gender perspective on the right to legal aid itself, as well as the assessment of access and obstacles to the enjoyment of this right and adopting gender sensitive strategies for protecting and promoting the right to legal aid.

Legal aid, in this study includes "legal advice, assistance and representation [...] that is provided at no cost for those without sufficient means or when the interests of justice so require", as well as legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes" (UNODC, 2013).

Women's access to justice, in this study means: "access by women, in particular from poor and disadvantaged groups, to fair, effective, affordable and accountable mechanism, for the protection of rights, control of abuse of power, and resolution of conflicts. This includes the ability of women to seek and obtain a fair and just remedy through formal and informal justice systems and the ability to influence and participate in law-making processes and institutions" (UN Women, UNDP, UNODC and OHCHR, 2018).

Executive summary

Access to justice is a multi-fold concept interlinking the protection of fundamental rights and the effective provisions of justice services to everyone without discrimination of any kind, including gender. It concerns obligations on the state to ensure accessibility, quality, and accountability of justice services as well as legal awareness and literacy among individuals to claim and defend their rights. One of the most important elements of access to justice is the provision of legal aid which contributes to eliminating barriers for people who lack financial means or capacity to defend their rights and supports them to claim their rights and benefits from available remedies and services. However, for many women in Türkiye, coming into contact with the justice system and accessing legal aid can be a challenging and overwhelming experience. Economic, social and cultural barriers reduce women's ability to obtain equal protection of their rights, acquire legal remedies established by law and access available legal aid. Moreover, lack of awareness of these barriers among front-line professionals, including legal aid lawyers, and embedded discriminatory attitudes and gender stereotypes further limit women's access to justice, including legal aid, and their enjoyment of their rights as equal citizens.

This study seeks to fill the gaps in information to ensure for a comprehensive gender assessment of the legal aid system in Türkiye. It examines all aspects of legal aid delivery – the legal framework, governance structure, budgets and delivery models – and the differential impact the services and delivery have on women and men. The study hopes to contribute to the improvements that are needed in the organisation and implementation of legal aid services to make them more accessible, gender-responsive and empowerment-oriented for women, including those from vulnerable groups.

Findings

The study draws five main findings.

1. The **legal framework** in Türkiye is complex and piecemeal, with secondary civil and criminal legal aid being covered in different laws, and no specific law setting out provisions regarding primary legal aid. In addition to this fragmented approach, the provisions are framed using gender-neutral language. There are no specific arrangements related to gender in the main laws relating to the provision of legal aid nor are there explicit gender-sensitive rules regarding legal aid delivery. Moreover, there is no acknowledgment or understanding of how the gender neutral provisions can negatively impact women.
2. Women face many **challenges in applying for legal aid and during the legal aid process**. At the application stage there are numerous obstacles faced by women, even to make the decision to apply for legal aid. There is little information about legal aid, their rights to legal aid, where to go or how to apply. State institutions who have the responsibility to inform women often fail to do so. Even when women know of their rights, they face geographic, economic and social and linguistic obstacles, as well as have a lack of trust in the justice system. Moreover, when women do decide to apply for legal aid, barriers within the system include the complex and bureaucratic application procedures and challenges with meeting the financial criteria. After the application stage, women continue to face difficulties, such as professional bias and gender stereotyping by legal aid lawyers. Moreover, it is concerning that even when the bar associations' legal aid units accept the woman's legal aid application, the courts may still reject it.
3. There is **lack of understanding of the differential legal aid needs of women and men** and how this might have a negative impact on women's access to justice. While civil and criminal legal aid are formally available to both women and men who apply and meet the required tests, the reality is that in practice the majority of criminal legal aid beneficiaries are men and the majority of civil legal aid beneficiaries are women. This appears to have negative gender consequences for women since those who receive criminal legal aid do not have to meet a means test, whereas most

women as beneficiaries of civil legal aid do have to undergo a means test and the bureaucratic procedures to prove they are financial eligible for legal aid.

- 4. Women legal aid lawyers** face a number of challenges in what is described as a male dominant legal profession and system, including facing discriminatory practices in the judicial process. Male lawyers tend to view women's legal needs and their right to legal aid as a "women problem" and many believe that women lawyers should provide this service voluntarily.
5. There is a **lack of uniformity** in delivering gender-responsive legal aid and the ability to evaluate and monitor the legal aid system to effectively address the needs of women. There is no standardised procedure for legal aid delivery in Türkiye nor is there a requirement to ensure comprehensive data collection that is sex-disaggregated.

Proposals

From these findings, a number of proposals follow.

- 1. Law reform.** Legislation concerning legal aid must be revised so as to mainstream gender considerations, taking into account experiences of women, men and LGBTQ persons and their different legal needs. This includes: reforming gender neutral legal provisions that negatively impact women, such as the financial criteria issue and the overly bureaucratic application process; recognising that women are not a homogenous group but that certain women face multiple factors of discrimination; streamlining the application process, such as providing for the ability of legal aid providers to accept cases provisionally, pending verification of the documents for eligibility; considering expanding the categories of groups under the merit test to include groups of marginalised and vulnerable women; and requiring the incorporation of gender budgeting principles in the legal aid budget.
- 2. Develop gender-responsive policies and general principles.** An integrated national policy for the provision of legal aid can provide a service standard for all legal aid which mainstreams gender, addresses discrimination faced by women and the different categories of women; and ensures early and effective legal assistance to women in the justice chain and extending to all stages of the justice system. Any policy on legal aid needs to be based on international standards and norms regarding women's access to legal aid.
- 3. Raise awareness of women's and girls' rights - right of legal aid.** It is necessary to enhance women and girls' awareness of their rights and their means of enforcing them, placing particular emphasis on the integration of women's rights and gender equality into curricula at all levels of education, including legal literacy programmes, and emphasising the crucial role of women's access to justice.
- 4. Invest in specialisation.** Promoting specialisation in legal aid institutions can ensure that gender-sensitive and trained legal aid providers are available for women seeking legal aid. Moreover, specialisation can also involve enhancing the understanding of promoting gender equality for all gender diverse persons.
- 5. Empower women lawyers.** While all legal aid providers, both women and men lawyers, have a role to play in addressing gender discrimination in the legal aid and justice systems, due to the male dominance of legal systems, it is important to remove barriers for women lawyers and actively promote their empowerment as lawyers and legal aid providers.
- 6. Promote training.** Training and capacity development can change practice. Building the capacity of all legal aid providers in how to apply the law in an appropriate and gender-sensitive manner is an important step towards ensuring a gender-responsive legal aid system.

- 7. Collaboration with NGOs, bar associations and public authorities.** The state funded legal aid system should enhance collaboration with NGOs and women's rights centres in bar associations as they have been the ones providing women's legal aid in Türkiye and are experts in the field of gender equality. Moreover, it is also important for bar associations to collaborate with NGOs that provide support services to women in order to ensure that their needs are addressed.
- 8. Enhance accountability and standards of conduct.** Ensuring accountability of legal aid providers contributes to the integrity of the legal aid system as well as the justice system as a whole. Moreover, it promotes women's trust in the legal aid and justice systems. Enhancing or developing a complaints mechanism within legal aid units and a sanctioning system for legal aid providers who fail in their duty can contribute to ensuring women's right to legal aid in a gender sensitive manner.
- 9. Ensure the ability to monitor and evaluate if legal Aid is gender-responsive.** Data is critical not only in identifying where in the system the problems lie, but also so that policy-makers and advocates can develop a streamlined and targeted solution to address those problems. Data should be age and sex-disaggregated and should allow for tracking cases in a case management system.

Introduction and methodology

Access to justice is a multi-fold concept interlinking the protection of fundamental rights and the effective provisions of justice services to everyone without discrimination of any kind, including gender. It concerns obligations on the state to ensure accessibility, quality, and accountability of justice services as well as legal awareness and literacy among individuals to claim and defend their rights. One of the most important elements of access to justice is the provision of legal aid which contributes to eliminating barriers for people who lack financial means or capacity to defend their rights and supports them to claim their rights and benefits from available remedies and services.

Effective legal aid service systems should not only improve the performance of justice systems, including law enforcement, simultaneously increasing accountability and respect for the rule of law, but should also contribute to overall gender equality and women's empowerment. However, for many women in Türkiye, coming into contact with the justice system and accessing legal aid can be a challenging and overwhelming experience. Economic, social and cultural barriers reduce women's ability to obtain equal protection of their rights, acquire legal remedies established by law and access available legal aid. Moreover, lack of awareness of these barriers among front-line professionals, including legal aid lawyers, and embedded discriminatory attitudes and gender stereotypes further limit women's access to justice, including legal aid, and their enjoyment of their rights as equal citizens. Without adequate legal aid, poor and disadvantaged women are losing custody of their children, giving up on their legitimate socio-economic rights or not being able to free themselves from violence. Improving women's access to justice and legal aid in Türkiye requires understanding women's barriers to legal aid and an exploration of gendered societal experiences and how this is connected with accessing legal aid.

1.1. Context and background

The legal aid system in Türkiye has a long-standing history with its legislative structure, organisational structure and traditional practices (EU Twinning Project, 2016). In fact, the historical background of legal aid goes back to the Ottoman State. The system functioning now is applied to legal proceedings under criminal, civil and administrative law and covers free legal counselling and representation as well as exemptions from court fees and litigation costs under certain conditions. Requests for legal aid can be made to local bar associations or to the courts. The provision of legal aid in Türkiye is regulated in different laws: the Code of Civil Procedure (Arts. 334- 340), the Code of Criminal Procedure (Arts. 150 and 234/1), the Code of Lawyers (Arts. 176-181) as well as the Union of Turkish Bar Associations' By Law on Legal Aid. Legal aid in civil law proceedings requires an assessment by legal aid units or courts based on two criteria: insufficient financial means and merits. In criminal proceedings, a defence lawyer could be assigned upon the request of a suspect or accused and representation by a lawyer is compulsory if the criminal proceedings involve a minor, a person who is deaf or mute or a suspect, detainee, victims of a crime that carries a minimum penalty of at least five years, or involves sexual assault, sexual abuse of children, insistent pursuit, or, if committed against women, intentional injury, torment, or torture.¹ Law No. 6284 to Protect Family and Prevent Violence against Women (Law No. 6284) exempts victims of violence against women from court fees and litigation expenses related to the issuance and enforcement of the protective measures foreseen under this law. Legal aid services are provided by local bar associations which are established currently in 81 provinces with a total membership of over 140 000 lawyers in Türkiye (EU Twinning Project, 2016).

According to reports and statistics, many women face barriers to access free legal aid (EU Twinning Project, 2016). Such barriers include gender biased or subjective assessment of their claims, evidential

¹ See: [Law No. 7406 on Amending the Turkish Criminal Code and Other Laws, Official Gazette, 27 May 2022](#). The amended article 239 of the Code of Criminal Procedure now provides for the right of the unrepresented victim or complainant to request legal counsel to be appointed by the bar association if the offense in question carries a minimum penalty of at least five years of imprisonment, or involves sexual assault, sexual abuse of children, insistent pursuit, or, if committed against women, intentional injury, torment, or torture. Previously, the right was provided only for sexual assault and crimes with a minimum sentence of five years in prison.

difficulties, lack of knowledge among women about their rights and available legal avenues and remedies, cumbersome procedural requirements and documentation requests. Moreover, refugee women and women in rural areas are affected by these obstacles even more so due to their limited access to information and available supports to access to justice. Türkiye is the country with highest number of refugees and asylum seekers worldwide (approximately 4 million, with more than half being women).

The importance of women's access to legal aid within the 'access to justice for all' framework has been recognised internationally as well as in Türkiye. The 2020 European Union (EU) annual report on Türkiye stressed the need for improvements in legal aid services, gender equality and measuring and addressing gender-based violence. Specifically, it calls on further aligning the procedural rights guaranteed by law including legal aid, with European standards; strengthening the implementation of the gender equality framework and the coordination, awareness and commitment of officials on addressing gender disparity and promoting gender equality (European Commission, 2020). The 2022 EU annual report on Türkiye (European Commission, 2022) noted backsliding in the areas of gender equality and addressing gender-based violence and that public awareness of legal aid in rural areas and among disadvantaged groups remained limited aggravated by the low literacy rates.

The Judicial Reform Strategy, the National Human Rights Action Plan, and the IV National Action Plan on Combatting Violence against Women in Türkiye (2021-2025) set aims to increase accessibility of legal aid and victim support services for women and enhance the sensitivity of these services towards women's needs. For instance, the IV National Action Plan includes a section on women's access to justice which specifically refers to the need to provide education to lawyers on women's human rights and for victims to have access to legal aid easily.² While this attention to women's access to justice is encouraging, a more detailed focus on gender and legal aid is lacking. There are still no existing standards or indicators relating to gender equality for ensuring access to justice at the national level in Türkiye.

Access to justice, particularly access to legal aid, for all without discrimination requires more than simply offering women equal access to and removing their barriers to the current legal aid arrangements. A gender assessment in the context of legal aid compels an examination of all aspects of legal aid delivery – the legal framework, governance structure, budgets and delivery models – and the differential impact the services and delivery have on women and men. It requires appreciating that legal aid laws and procedures that are framed in gender neutral language can hide gender bias. Re-visioning a legal aid service that is gender-responsive and contributes to overall gender equality and women's empowerment requires an exploration of gendered societal experiences and addressing structural inequalities that exist between men and women in terms of accessing justice and legal aid.

This study seeks to fill the gaps in information to ensure for a comprehensive gender assessment of the legal aid system in Türkiye. It hopes to contribute to the improvements that are needed in the organisation and implementation of legal aid services to make them more accessible, gender responsive and empowerment-oriented for women, including those from vulnerable groups. Moreover, the study seeks to contribute to the development of a common understanding among relevant agencies and civil society organisations in the development of a set of standards around gender-responsive legal aid and legal aid policies that mainstream gender in order to ensure a transformed justice and legal aid system, a system which offers substantive gender equality to women and men.

1.2 Issues of definitions

There are no universal definitions of "access to justice" or "legal aid" let alone "women's access to justice", or "gender-responsive legal aid" in the international instruments nor consistently used by governments or academics.

² See for the details: [Kadının Statüsü Genel Müdürlüğü | Kadına Yönelik Şiddetle Mücadele IV. Ulusal Eylem Planı \(2021-2025\) \(aile.gov.tr\)](https://www.aile.gov.tr)

This study relies on an expansive understanding of ‘access to justice’, moving beyond the generally more narrow understanding of access to trial or to courts to more broadly incorporating the right to a fair trial and right to an effective remedy.³ It therefore uses the definition developed by the United Nations Development Programme (UNDP, 2005) as “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, in conformity with human rights standards”. This understanding ensures conditions for having one’s voice heard along with meeting the requirements of fairness and justice.

UN Women expanded on UNDP’s definition, with guidance from the Committee on the Elimination of Discrimination against Women (CEDAW Committee) General Recommendation No. 33 on women’s access to justice of 23 July 2015, to define “women’s access to justice” as:

Access by women, in particular from poor and disadvantaged groups, to fair, effective, affordable and accountable mechanism, for the protection of rights, control of abuse of power, and resolution of conflicts. This includes the ability of women to seek and obtain a fair and just remedy through formal and informal justice systems and the ability to influence and participate in law-making processes and institutions (UN Women, UNDP, UNODC and OHCHR, 2018).

Women’s access to justice needs to be understood in an expansive and comprehensive manner. It is more than ensuring equal rights in law or reforming legal systems to make them efficient and affordable. It is about ensuring the sensitivity and responsiveness of justice systems to the needs and realities of women, as well as empowering women throughout the justice chain, starting with women being aware of their entitlement to equally enjoy their human rights and covers all of their interactions with justice systems, including the formulation and implementation of appropriate remedies. It implies that every component of justice systems, whether formal, informal, or semi-formal, is independent, impartial, effective, efficient, available, accessible, gender sensitive, of good quality, adaptable and responsive to women’s diverse needs. Reducing the impact of obstacles faced by women not only facilitates greater accessibility but is also an essential step towards achieving substantive gender equality.

While it has been stated that access to justice is used in its narrower sense as it relates to access to legal aid, the study relies on the conceptualisation by the European Commission for the Efficiency of Justice (CEPEJ) of access to justice when exploring the right to legal aid, to encompass all legal and institutional resources (i.e. legal aid, court fees, information, etc.) that determine access to judicial services and effectiveness of these services. Therefore, this study uses the definition of “legal aid” found in the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems to:

...includes legal advice, assistance and representation [...]that is provided at no cost for those without sufficient means or when the interests of justice so require, as well as legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes (UNODC, 2013).

“Gender-responsive legal aid” means that the relevant legal aid laws, the agencies that deliver legal aid (the bar associations and courts), the legal aid processes and the outcomes do not discriminate against anyone of the basis of gender. It necessitates taking a gender perspective on the right to legal aid itself, as well as the assessment of access and obstacles to the enjoyment of this right and adopting gender sensitive strategies for protecting and promoting the right to legal aid. This means taking into account the particularities pertaining to the lives of both women and men, while aiming to eliminate inequalities and promote gender equality (EIGE, 1998).

³ Access to justice has two components described at the levels of the European Union and the Council of Europe ECHR which are the right to a fair trial and right to effective remedy.

1.3 Objectives and scope of the study

The study is implemented within the Council of Europe's (CoE) action "[Fostering Women's Access to Justice in Türkiye](#)" implemented under the European Union and Council of Europe's joint programme "[Horizontal Facility for the Western Balkans and Türkiye 2019-2022](#)". The action aims to strengthen women's access to justice by integrating gender into access to justice, *inter alia*, enhancing women's access to legal aid and improving gender responsiveness of legal aid.

This study adopts a gender perspective in analysing the general problems of women's access to justice with a focus on women's access to legal aid in Türkiye. The overall objective of the study is to identify challenges for women's access to legal aid, to explore the causes and effects of gender disparities in legal aid delivery, and to provide better-informed, gender-responsive solutions to the identified barriers to women's access to legal aid.

Specific objectives of the study are as follows:

- To identify shortcomings and key barriers related to women's access to legal aid in Türkiye, including on the attitudes, perceptions and insights of legal aid professionals.
- To assess the gender-responsiveness of the current legal aid system in Türkiye.
- To propose recommendations for improvements and inform future fact-based institutional and practical changes in the legal aid response to women.

The study's aim is in line with Türkiye's commitments to international and European standards and the national legal framework as it focuses on increasing the gender responsiveness of legal aid services, legal aid lawyers and to raise awareness among key stakeholders on women's access to justice. Moreover, the study is expected to contribute to the implementation of the IV National Action Plan on Combatting Violence against Women, the National Human Rights Action Plan as well as the Judicial Reform Strategy of 2019-2023 which sets out the objectives of strengthening victim centred approaches in the administration of justice and the improvement of legal aid and judicial support services for women in Türkiye.

1.4 Methodology of the study

Taking into consideration the objectives and scope and the analytical and evaluative approaches, the study used qualitative and quantitative research methods. The qualitative study involved focal group discussions (FGD) with the legal aid providers and civil society organisations (CSOs). The quantitative study consisted of an online survey. The following research instruments have been developed: (1) questionnaire for FGD of legal aid providers (2) questionnaire for FGD of CSOs representatives, (3) questionnaire for online survey. In addition, the report also reviewed the results of multi-stakeholder meetings which were organised by the Council of Europe action. Four bar associations which are piloting activities for the Council of Europe action- Diyarbakır, Muğla, Nevşehir and Ordu – were involved in the research.

The researchers conducted six FGD (on 22, 27, 28, 29 July, 3 August and 20 October 2022) and reached a total of 33 selected participants from CSOs and legal aid lawyers from Diyarbakır, Nevşehir, Muğla and Ordu to discuss the challenges and needs in relation to women's access to justice and legal aid. Participants of the FGDs were selected from lawyers who had experience in working with women legal aid beneficiaries. These lawyers are generally members of bar associations' women's rights centres. Some of them work for NGOs. Each FGD generally consisted of five lawyers / legal aid providers. The FGDs were held online for the duration of about 2.5 to 3 hours each. The FGDs mapped the general problems of women's access to justice focusing on legal aid as well as explored stakeholders' suggestions for

common standards and indicators for women's legal aid. A moderator asked several questions while facilitating the discussion. The questions covered broad themes, such as:

- The main legal needs of women who seek legal aid (as compared to men).
- The main problems/barriers for women in accessing legal aid (criminal and civil legal aid).
- The main challenges for legal aid providers in being able to provide gender-responsive legal aid.
- Recommendations to respond to these various barriers.

In addition, an online survey was distributed with the assistance of focal points from the four pilot bar associations. A total of 96 participants – legal aid lawyers - took part in the online survey. Among them, 89.6% of the respondents were women and 10.04% were men. The online survey was focused on attitudes, perceptions and insights of legal aid lawyers of women's access to justice, to the lawyer's approach to providing services and handling of women's claims and cases. It was conducted from August to September 2022.

Furthermore, a desk review has been used to analyse relevant international and local legal frameworks, as well as an analyses of sample cases of women who were granted legal aid and lawyers who represented them in legal proceedings.

The international instruments that have been reviewed include:

- Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights
- The International Covenant on Social, Economic and Cultural Rights
- UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and CEDAW Committee Recommendations
- Convention on the Rights of Persons with Disabilities
- Bangalore Principles of Judicial Conduct.

European instruments and documents:

- European Convention on Human Rights
- The Council of Europe Gender Equality Strategy (2018—2023) -Strategic Objective III- Ensuring women's access to justice
- European Guidelines on Ethics and Conduct for Public Prosecutors (Budapest Guidelines).
- Turkish laws:
- Constitution
- Civil Law: Code of Civil Procedure
- Criminal Law: Code of Criminal Procedure

- Law 6284 to Protect Family and Prevent Violence against Women
- Union of Turkish Bar Associations' Bylaw on Legal Aid.

The information collected from the FGDs and the online survey regarding the various challenges, findings and proposals for women's access to legal aid in Türkiye has been analysed following the framework set out in the CEDAW Committee General Recommendation No. 33 on women's access to justice and will be discussed in Chapter 5 of this report.

The main limitation of the study has been the short timeframe for conducting the FGDs and the on-line survey.

2. Women's right to gender-responsive legal aid under international law

The normative framework used in analysing the situation of women's access to legal aid in Türkiye is based on the norms and standards articulated in international law. According to Article 90 of the Constitution of Türkiye, international treaties ratified by the State form an integral part of national law and that, accordingly, any violations of the rights enshrined in the conventions may be challenged by citizens before the Constitutional Court. It is useful, when starting a discussion of women's right to gender-responsive legal aid, to begin with a wide-angle lens and look at the broad issue of women's access to justice before narrowing the focus on legal aid, which is a critical component of women's access to justice. Therefore, this chapter reviews the rights to accessing justice and legal aid under international law and how they have been discussed and articulated to provide for an expansive understanding of women's access to justice and gender-responsive legal aid.

2.1 Access to justice for women

2.1.1 Access to justice for all

While there is currently no binding international instrument dealing specifically and comprehensively with access to justice, there are nonetheless a number of important treaties, such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the European Convention on Human Rights (ECHR), that articulate states' obligation to ensure access to justice for all. These human rights instruments, to which Türkiye is a state party⁴, and the relevant jurisprudence confirms that, in the absence to access to justice, there are no human rights, only privileges.

The ability of women and men to access justice is important on so many levels: it is essential in reducing gender inequality and discrimination; it is indispensable as it validates the individual as a subject of rights; it is a key component of the rule of law and good governance; it contributes to poverty reduction and development; and plays an important role in sustainable peace and security. Justice and the ability to seek and demand justice provides the means for women to actively claim their entire range of human rights. The importance of ensuring justice for all has been overwhelmingly supported by Member States, most recently in the 2030 Agenda for Sustainable Development, and its specific goal 16 "peace, justice and strong institutions".

4 Türkiye ratified ICCPR and ICESCR 23 September 2003 and CEDAW on 20 December 1985.

2.1.2 Women's access to justice (WA2J)

Unhindered access for women to justice is seen as a critical pathway for achieving gender equality as it ensures the protection of economic assets, bodily integrity, political voice and redress on an equal basis with men (UN Women, UNDP, UNODC and OHCHR, 2018). Access to justice bridges the gap between women's rights in law and their rights in real terms. In 2015, the CEDAW Committee in its General Recommendation No. 33 on women's access to justice describes in great detail the aspects, characteristics, scope and coverage of women's access to justice and speaks to the scope and coverage in terms of types of legal systems; legal traditions and legal domains, though the term itself is not specifically defined in the document.

UN Women developed a working definition for WA2J for its programmes as being "access by women, in particular from poor and disadvantaged groups, to fair, effective, affordable and accountable mechanisms, for the protection of rights, control of abuse of power, and resolution of conflicts. This includes the ability of women to seek and obtain a fair and just remedy through formal and informal justice systems and the ability to influence and participate in law-making processes and institutions" ((UN Women, UNDP, UNODC and OHCHR, 2018).

2.1.3 Treaty rights that support women's right to access justice

There are a number of relevant provisions that support the implicit right to access to justice for women.

- **The general prohibition of discrimination and ensuring a remedy when this is violated.** Article 2 of CEDAW stipulates that the laws prohibiting discrimination must embody some form of legal or other material consequence to those who violate them. This includes all types of remedies and penalties, whether penal, civil or administrative. An effective remedy requires that the remedy be practically available and accessible as soon as women wish to assert their rights before relevant courts, tribunals or other institutions. Other treaties also stress the states' obligation to ensure that effective remedies are provided when rights are violated, in particular, through "competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State" (ICCPR, Article 2(3)(b)) and the right to an effective remedy and prohibition of discrimination (ECHR Articles 13 and 14).
- **Equality before the law,** provided for in Article 15 of CEDAW, specifically states that this includes according women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals. Also, all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
- **Equal protection of the law,** Articles 2(c) and 15 of CEDAW require justice institutions to be able to provide this equal protection. This means they should be impartial, efficient, adequately resources and free from gender bias and negative stereotyping in the administration of justice. ICCPR emphasises that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law (Article 26).

The range of rights that need to be protected involve the political, social, economic and cultural fields (CEDAW Article 3, ICCPR, ICESCR, ECHR and the European Social Charter). There is an obligation to expose and remove the underlying social and cultural barriers, including gender stereotypes that

prevent women from exercising and claiming their rights and impede their access to effective remedies (CEDAW, Article 5(a)). The Convention on the Rights of Persons with Disability (CRPD) includes provisions on access to justice for persons with disabilities, including providing reasonable accommodation (Articles 13 and 14).

2.1.4 The six interrelated and essential components of WA2J

The CEDAW Committee did not specifically define the term “women’s access to justice” in its General Recommendation (GR) No. 33, but rather described broadly the necessary elements required to ensure for an extensive and comprehensive understanding of what is meant by access to justice for women. It recognises that while differences in prevailing legal, social, cultural, political and economic conditions will necessitate a differentiated application of these features in each state party, the basic elements of the approach are universal and can be applied immediately. CEDAW requires state parties to look at the following six interrelated and essential components of women’s access to justice:

- 1. *Justiciability*** requires women being able to claim their rights under CEDAW as legal entitlements. Aspects of this require that legal frameworks provide adequate legal protection in the law, duty bearers have the capacity to ensure unhindered access to justice by women (for example, justice professionals are able to handle cases in a gender sensitive manner) and that rights holders, the women, have the capacity to seek and demand justice which speaks to their ability and empowerment to claim their rights.
- 2. *Availability*** requires the establishment of justice institutions, such as courts and quasi-judicial bodies, across the whole territory of the State in urban, rural and remote areas, as well as their maintenance and funding. The GR recommends establishing mobile courts for remote areas, providing access to financial aid and social services, and providing oversight by independent inspectors.
- 3. *Accessibility*** requires that all justice systems, both formal and quasi-judicial systems, are secure, affordable and physically accessible to women, and are adapted and appropriate to the needs of women including those who face intersectional or compounded forms of discrimination. Here the GR recommends specifically the removal of economic barriers to justice by providing legal aid AND by ensuring that fees for issuing and filing documents as well as court costs are reduced for women with low income and waived for women living in poverty. It also recommends the establishment of justice access centres, such as ‘one stop centres’ which include a range of legal and social services, such as legal aid, in order to reduce the number of steps that a woman has to take to access justice.
- 4. *Good quality*** requires that all components of the justice system adhere to international standards of competence, efficiency, independence and impartiality and provide, in a timely fashion, appropriate and effective remedies that are enforced and that lead to sustainable gender-sensitive dispute resolution for all women. It also requires that justice systems are contextualised, dynamic, participatory, open to innovative practical measures, gender-sensitive, and take account of the increasing demands for justice by women.
- 5. *Provision of remedies*** requires the ability of women to receive from justice systems viable protection and meaningful redress for any harm that they may suffer. So, for example, to be meaningful for women, the GR recommends that this include taking

full account of unremunerated domestic and caring activities in assessing damages when determining compensation.

- 6. Accountability** requires ensuring the functioning of justice systems to guarantee that they are in accordance with the principles of justiciability, availability, accessibility, good quality and provision of remedies. The accountability of justice systems also refers to the monitoring of the actions of justice system professionals and of their legal responsibility in cases in which they violate the law.

In guaranteeing the rights to access to justice for women, the CEDAW Committee ensures that they cover the administration of justice in every country and encompasses all types of legal systems (formal, informal and plural justice systems); all legal traditions (common law; civil law; religious law; customary law; and mixed legal systems) and all legal domains: (criminal, civil, family, constitutional, and administrative law).

2.1.5 Intersectionality and women's access to justice

Justice policies and procedures must be inclusive and respectful of the rights and needs of all women regardless of their circumstances and backgrounds. Belonging to a particular group of women could mean structural disadvantages, such as poverty and being affected by particular legal issues due to factors such as age, location and disability. Personal characteristics may overlap as do situational circumstances and when they do, women tend to face multiple layers of disadvantage.

The CEDAW Committee GR No. 33 (paragraphs 8 and 9) specifically refers to:

Grounds for intersectional or compounded discrimination may include ethnicity/race, indigenous or minority status, colour, socio-economic status and/or caste, language, religion or belief, political opinion, national origin, marital and/or maternal status, age, urban/rural location, health status, disability, property ownership, and being lesbian, bisexual, transgender women or intersex persons. These intersecting factors make it more difficult for women from those groups to gain access to justice. Other factors also making it harder for women to access justice include: illiteracy, trafficking of women, armed conflict, seeking asylum, internal displacement, statelessness, migration, women heading households, widowhood, living with HIV/AIDS, deprivation of liberty, criminalization of prostitution, geographical remoteness, and stigmatisation of women fighting for their rights.

Physical, informational and financial barriers prevent women facing intersectionality factors from accessing justice system.

There are also international norms and standards that address groups of women who face particular challenges. For instance, the Convention on the Rights of Persons with Disabilities (Articles 6 and 13) recognises that women and girls with disabilities face multiple forms of discrimination and that all disabled persons face significant barriers in access to justice. This convention specifically calls on states parties to ensure effective access to justice for persons with disabilities on an equal basis with others, including procedural and age-appropriate accommodations and appropriate training for justice providers (Article 13). The Committee on the Rights of Persons with Disabilities in their 2016 General Comment No. 3 on women and girls with disabilities (paragraphs 52 and 62) include specific concerns they face in accessing justice and calls on states to address all barriers that prevent or restrict the participation of women and girls with disabilities. States need to address such barriers as: abuse due to harmful stereotypes, lack of reasonable accommodation, doubting their credibility, dismissing their accusations, enforcement attitudes that may intimidate or discourage them from pursuing justice; and complicated or degrading reporting procedures. Furthermore, the CEDAW Committee GR No. 33

(paragraph 17/g) highlights the physical barriers for women with disabilities and specifically calls for states to give special attention to access to justice systems for women and girls with disabilities.

The CEDAW Committee has also expounded on general barriers faced by specific groups of women in various General Recommendations. For example, the CEDAW Committee General Recommendation No. 27 on older women and protection of their human rights (paragraph 33) specifically recommends states to provide older women with information on their rights and how to access legal services; train the police, judiciary as well as legal aid and paralegal services on the rights of older women, and sensitize and train public authorities and institutions on age- and gender-related issues that affect older women; and ensure that information, legal services, effective remedies and reparation must be made equally available and accessible to older women with disabilities.

Another example is the specific provisions that cover the girl child and adolescent girls in CEDAW Committee GR No. 33 on women's access to justice. The CEDAW Committee recognises that special attention needs to be given to girls because they face specific barriers to access to justice because they lack the social and legal capacity to make significant decisions about their lives, and may be forced into marriages or subjected to other harmful practices and forms of violence (paragraph 24). Therefore, the CEDAW Committee calls on states to ensure that independent, safe, effective, accessible and child-sensitive complaint and reporting mechanisms are available to girls; staffed by appropriately trained officials, working in an effective and gender-sensitive manner; avoid marginalisation of girls due to conflicts and disempowerment within their families and the resulting lack of support for their rights; abolish rules and practices that require parental or spousal authorisation for access to legal and justice services; and protect them against interpretations of religious texts and traditional norms that create barriers to their access to justice (CEDAW Committee GR. No. 33, paragraph 25).

The CEDAW Committee GR No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women highlights a number of barriers to access for this group of women resulting from their lack of language skills in the resident country; cultural differences and social isolation as well as their lack of status as nationals or citizens. Discriminatory laws or practices may lead to women and their children being unable to gain access to documentation that proves their identity and nationality. States have a number of obligations including ensuring that they are not legally discriminated, even if their applications are rejected; and providing information on their rights and practical information on how to gain access to such services in a language that they understand (CEDAW Committee GR No. 32, paragraphs 24 and 33).

2.2 The right to legal aid under international law

Access to justice does not mean much to the poor and disadvantaged if the state does not provide adequate legal aid in disputes involving the determination of rights. Legal aid is an essential aspect of a fair, humane, and efficient justice system based on the rule of law. Ensuring access to legal aid is also critical for empowering poor and marginalised populations. Legal aid helps people to assert their rights and to contest cases of discrimination; it contributes to enhancing people's trust in the justice system, and it enhances the legitimacy of the state. Legal aid can also ensure that people have access to information about their rights, entitlements, and obligations (UNODC and UNDP, 2016). Put simply, access to legal aid is fundamental to safeguarding fair, equal, and meaningful access to justice.

2.2.1 Hard law instruments

The right to legal aid within the international legal framework developed in a piecemeal fashion over time. The right to legal aid, mostly in the context of the right to free legal assistance for criminal defendants who are unable to afford a lawyer, and in connection with the right to defence and the right to a fair trial, was embedded in various international and regional treaties. The explicit right to legal aid in criminal matters falls under the right to a fair trial in Article 14 of the ICCPR focusing on the right of

the accused person to be represented by a lawyer provided by the state in all cases where the interests of justice so requires and without payment if the person does not have the means to pay for it (Article 14 (3)(d)).⁵ The European Convention on Human Rights (ECHR), Article 6 recognises the right of anyone charged with a criminal offence “to defend himself [or herself] in person or through legal assistance of his own choosing or, if he [or she] has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require” [added by the authors].

While the right to legal aid in family and civil law matters is not explicitly stated in any of the treaties, the implicit right is based on the duty to provide legal aid as a critical part of the duty to ensure three fundamental rights guaranteed by all international instruments, namely, rights to: equality before the law; equal protection of the law, and an effective remedy by a competent tribunal for human rights violations. While not expressly addressing the right to legal assistance, the ICESCR asserts state parties’ obligation to uphold rights without discrimination, and to ensure the equal rights of men and women to the protections arising from the ICESCR. Legal aid is needed for members of the most disadvantaged groups to have the means to seek remedies for social rights violations. If members of the most socially and economically disadvantaged groups cannot effectively exercise their rights before human rights tribunals or bodies, because there is no legal representation available to them, the central obligation to give effect to the rights in the ICESCR is contravened. The Convention relating to the Status of Refugees, also known as the 1951 Refugee Convention or the Geneva Convention of 28 July 1951 provides that a refugee shall enjoy the same treatment as a national in matters pertaining to access to the courts, including legal assistance (Article 16). In the EU context, the EU Charter of Fundamental Rights, Article 47 guarantees the right to legal assistance in civil proceedings and Article 48(2) the right to legal assistance in criminal proceedings.

The European Court of Human Rights provides guidance on the provision of state-funded legal aid to the region’s populations. These standards emphasise the role of legal aid in ensuring fundamental fairness (particularly in criminal cases), stress the importance of delivering legal assistance to suspects due to “the particular vulnerability of an accused at the early stages of the proceedings,” as well as the principle of equality of arms, particularly in criminal cases, “where the very character of the proceedings involves a fundamental inequality of the parties”. Where civil legal aid is concerned, the European Court’s ruling in *Airey v. Ireland* is decisive for many countries, holding that counsel must be available in civil cases, as well as criminal, under an “interests of justice” rationale (Council of Europe, 2015).

2.2.2 Soft law instruments

Until the adoption of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems in 2012, there had been no standalone international normative instrument dedicated exclusively to the right to legal aid. Those Principles and Guidelines provide further details for states as to how to ensure the right to legal aid in criminal justice systems and sets out principles to be the foundation of a legal and policy framework for the provision of legal aid for states to follow. The Guidelines also define the term “legal aid” to include legal advice, assistance and representation that is provided at no cost for those without sufficient means or when the interest of justice so requires as well as to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes (paragraph 8).

A number of other soft law instruments, adopted by the UN General Assembly by consensus also make reference to legal aid. These include: full access to the civil and criminal justice systems, including access to free legal aid, where appropriate for all women subjected to violence (UNGA, 2011; legal aid for persons deprived of liberty (UNGA, 1988); adequate legal assistance at all stages of the proceedings

⁵ The Universal Declaration of Human Rights (1948) was the first international instrument to proclaim that all persons were entitled to “equal protection of the law”, as well as the right to a fair trial. By providing the right to be free from discrimination, the “right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him [or her] by the constitution or the law,” and the right “in full equality to a fair and public hearing by an independent and impartial tribunal...”, the Declaration called upon countries to strengthen their justice systems to make these promises a reality for every human being.

for anyone suspected of or charged with a crime for which capital punishment may be imposed (ECOSOC, 1984); access to effective legal aid for prisoners (UNGA, 2015); and providing access to legal aid upon admission for women prisoners (UNGA, 2011). Moreover, the Basic Principles on the Role of Lawyers provides guidance to states in “their task of promoting and ensuring the proper role of lawyers”, including their obligations to inform the public of “their right to be assisted by a lawyer of their choice upon arrest or detention or when charged with a criminal offence” and to provide prompt access to lawyers possessing “experience and competence commensurate with the nature of the offense”, whose services must be free of charge when the interests of justice so require (UNGA, 1990).

The Council of Europe, Committee of Ministers’ (CM) recommendations provide ample guidance for ensuring that persons in an economically weak position are able to obtain necessary legal assistance on criminal, civil, commercial, administrative, social or fiscal matters and be informed about availability of such services. CM Resolution 78(8) on Legal Aid and Advice in 1978 considered the right of access to justice as an essential feature of any democratic society and firmly stated that legal aid no longer could be considered a charity but as an obligation of the community as a whole. Moreover, CM Recommendation No. R (93) 1 on Effective Access to the Law and to Justice for the Very Poor in 1993 is particularly concerned about the situation of the very poor, which is understood to mean persons who are particularly deprived, marginalised or excluded from society both in economic and in social and cultural terms.

More recently in 2021, the Council of Europe published a set of Guidelines of the Committee of Ministers to help member states improve on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law. The aim of the guidelines is to provide to the member states generic solutions for increasing the efficiency and effectiveness of their national legal aid schemes. The guidelines pay particular attention to improving the quality of the legal aid provision, and for this purpose, they suggest putting in place mechanisms and measures to ensure the quality of legal aid schemes, both in terms of their general functioning and, more importantly, in terms of the legal services delivered by legal aid providers. The guidelines specifically note that legal aid should be available to every individual regardless of gender (Article 3).

2.3 Gender-responsive legal aid

The right to gender-responsive legal aid is implied by the general prohibition of discrimination and ensuring a remedy when equality before the law and equal protection of the law is violated. Moreover, the CEDAW Committee General Recommendation No. 33 on women’s access to justice expands on the importance of legal aid as a component for women’s access to justice and the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems incorporates some gender aspects to the provision of legal aid, as discussed below.

2.3.1 Guidance from the CEDAW Committee GR No. 33

The CEDAW Committee emphasised the importance of legal aid in ensuring women’s access to justice by including a specific section on legal aid and public defence in the General Recommendation on women’s access to justice. They see the provision of free or low-cost legal aid, advice and representation in all forms of justice, in all fields of law as a crucial element in guaranteeing that justice systems are economically accessible to women.

There are five specific recommendations. The first recommendation states that legal aid systems must be institutionalised in such a way that they are accessible, sustainable and responsive to the needs of women. Services are to be provided in a timely, continuous and effective manner at all stages of the various different justice proceedings, including alternative dispute mechanisms and restorative justice processes. In order to be effective in doing their jobs, legal aid providers must have unhindered access to all relevant documentation and other information including witness statements. The second

recommendation speaks to the capacity of legal aid providers. They need to be competent, gender-sensitive, respect confidentiality and have adequate time to defend their clients.

The third and fourth recommendations deal with ensuring women understand their legal rights and can make informed choices on ways to see them enforced and to help women navigate the justice chains smoothly and seek accountability. The CEDAW Committee calls on states to conduct information and awareness raising programmes for women about the existence of legal aid and the conditions for obtaining them. They also urge the development of partnerships with competent NGO providers of legal aid and/or train paralegals to provide women with information and assistance in navigating the various justice processes. The last recommendation relates to the means test for eligibility to legal aid, and follows the UN Principles and Guidelines on Access to Justice in Criminal Justice Systems, in calling for a “means test” based on the real income or disposable assets of the woman, especially in cases of family conflicts or when the woman lacks equal access to the family income.

2.3.2 Gender aspects of the features of legal aid set out in the UN Principles and Guidelines

Table: Gender aspects of the features of legal aid set out in the UN Principles and Guidelines

Features	International norms	Gender aspects
<p>1. The right to legal aid</p>	<p>UN Principle 1 — The right to legal aid. “States should guarantee the right to legal aid in their national legal systems at the highest possible level, including, where applicable, in the constitution”.</p> <p>UN Guideline 9 – Implementation of the right to women to access legal aid. “States should take applicable and appropriate measures to ensure the right of women to access legal aid, including: (a) Introducing an active policy of incorporating a gender perspective into all policies, laws, procedures, programmes and practices relating to legal aid[...]; (b) Taking active steps to ensure that, where possible, female lawyers are available to represent female defendants, accused and victims; (c) Providing legal aid, advice and court support services in all legal proceedings to female victims of violence[...].”</p> <p>UN Principle 8 — Right to be informed. “States should ensure that information on rights during the criminal justice process and on legal aid services is made freely available and is accessible to the public”.</p> <p>UN Principle 10 — Equity in access to legal aid. “States should also ensure that legal aid is provided to persons living in rural, remote and economically and socially disadvantaged areas and to persons who are members of economically and socially disadvantaged groups”.</p> <p>CEDAW GR No. 33 para. 17(a) “Remove economic barriers to justice by providing legal aid and ensure that fees for issuing and filing documents, as well as court costs, are reduced for women with low incomes and waived for women living in poverty”.</p> <p>CEDAW GR No. 33 para 37(c) “Conduct information and awareness raising programmes for women about the existence of legal aid and public defence and the conditions for obtaining them using ICT effectively to facilitate such programmes”.</p>	<p>States are to ensure the provision of legal aid to all persons regardless of gender.</p> <p>This includes taking special measures to ensure meaningful access to legal aid for women and specifically mentions various groups with special needs, including gender-sensitive and age-appropriate measures.</p> <p>States are to incorporate a gender perspective into all policies, laws, procedures, etc in order to ensure the right of women to access legal aid.</p> <p>The types of legal services available to women should, by incorporating a gender perspective and analysis, be sufficient to ensure women’s access to unhindered justice and effective domestic remedies.</p> <p>This could suggest conducting a gender impact assessment of the legal aid scheme to identify and eradicate gender bias in the legal aid laws, delivery models and providers and monitoring.</p> <p>Perhaps there is a need to move beyond trying to achieve gender equality in the current legal aid structure to reflecting and rethinking legal aid objectives in the context of broader substantive gender equality.</p>

Features	International norms	Gender aspects
<p>2. Legal aid providers</p>	<p>UN Guideline 9 – Implementation of the right to women to access legal aid. “States should take applicable and appropriate measures to ensure the right of women to access legal aid, including: ... (b) Taking active steps to ensure that, where possible, female lawyers are available to represent female defendants, accused and victims”.</p> <p>UN Principle 14 — Partnerships. “States should recognise and encourage the contribution of lawyers’ associations, universities, civil society and other groups and institutions in providing legal aid. Where appropriate, public-private and other forms of partnership should be established to extend the reach of legal aid”.</p> <p>UN Principle 13 — Competence and accountability of legal aid providers. “States should put in place mechanisms to ensure that all legal aid providers possess education, training, skills and experience that are commensurate with the nature of their work, including the gravity of the offences dealt with, and the rights and needs of women, children and groups with special needs”.</p> <p>Guideline 13. Human resources. “States should also encourage wide access to the legal profession, including affirmative action measures to ensure access for women, minorities and economically disadvantaged groups”.</p> <p>CEDAW GR No. 33 para 37 (d). “Develop partnerships with competent NGO providers of legal aid and/or train paralegals to provide women with information and assistance in navigating judicial and quasi-judicial processes and traditional justice systems”.</p>	<p>Legal aid providers need to possess education, training, skills and experiences on the rights and needs of women.</p> <p>States need to address concern of gender bias among legal aid providers.</p> <p>States need to ensure access for women to the legal professions and to become legal aid providers, including affirmative action measures.</p> <p>States need to provide gender-sensitive and age-appropriate training to legal aid providers.</p> <p>Ensure that female legal aid providers are not ‘pigeon-holed’ based on bias (assigned family law cases versus criminal law cases) and that tariffs are similar for similar work.</p>
<p>3. Specialised legal aid services</p>	<p>UN Principle 10 – Equity in access to legal aid. “Special measures should be taken to ensure meaningful access to legal aid for women, children and groups with special needs, including, but not limited to, the elderly, minorities, persons with disabilities, persons with mental illnesses, persons living with HIV and other serious contagious diseases, drug users, indigenous and aboriginal people, stateless persons, asylum seekers, foreign citizens, migrants and migrant workers, refugees and internally displaced persons. Such measures should address the special needs of those groups, including gender-sensitive and age-appropriate measures”.</p>	<p>States are to take special measures to ensure meaningful access to legal aid for women.</p> <p>Specific mention regarding various groups with special needs, including gender-sensitive and age-appropriate measures.</p>

Features	International norms	Gender aspects
<p>4</p> <p>Administration of legal aid</p>	<p>UN Principle 2 — Responsibilities of the State. “States should [...] ensure that a comprehensive legal aid system is in place that is accessible, effective, sustainable and credible”.</p> <p>UN Guideline 11 — Nationwide legal aid system. “To ensure the effective implementation of nationwide legal aid schemes, States should consider establishing a legal aid body or authority [which] should have the necessary powers to provide legal aid, including but not limited to the appointment of personnel [and] the designation of legal aid services to individuals”.</p> <p>UN Guideline 12 — Funding the nationwide legal aid system. “Recognising that the benefits of legal aid services include financial benefits and cost savings throughout the criminal justice process, States should, where appropriate, make adequate and specific budget provisions for legal aid services that are commensurate with their needs, including by providing dedicated and sustainable funding mechanisms for the national legal aid system”.</p> <p>CEDAW GR No. 33 para 37(a). “Institutionalise systems of legal aid and public defence that are accessible, sustainable and responsive to the needs of women, ensure that such services are provided in a timely, continuous and effective manner at all stages of judicial or quasi-judicial proceedings, including alternative dispute resolution mechanisms and restorative justice processes, and ensure the unhindered access of legal aid and public defence providers to all relevant documentation and other information, including witness statements”.</p>	<p>For legal aid systems (governance structure, service delivery models, etc) to be accessible and credible to all, they must respond to the difference in needs of poor and disadvantage women and men.</p> <p>A gender analysis of the administration of legal aid looks at whose values and norms are reflected in the current legal arrangement and how does it work to produce gender?</p> <p>A gender analysis looks at whether there are differences in the ways in which men and women use legal services for problem-solving generally, and the role of legal aid for men and women within the legal system overall. If legal aid systems are designed according to the pattern of legal services offered to paying clients, and if men and women participate in different ways in the use of law for problem-solving, the gendered nature of legal aid services may need to be understood as part of the larger problem of gendered law and legal services.</p>
<p>5. Scope and coverage of legal aid in civil cases</p>	<p>UN Guideline 1. “Whenever States apply a means test to determine eligibility for legal aid, they should ensure that: ... (f) If the means test is calculated on the basis of the household income of a family, but individual family members are in conflict with each other or do not have equal access to the family income, only the income of the person applying for legal aid is used for the purpose of the means test”.</p> <p>CEDAW No. 33 para 37(e). “In cases of family conflict or when the woman lacks equal access to the family income, the use of means testing to determine eligibility for legal aid and public defence should be based on the real income or disposable assets of the woman”.</p>	<p>There is recognition of potential gender bias in cases where the means test is calculated on the basis of the household income, so the UN explicitly noted that the income needs to be calculated on the basis of their individual assets, rather than on household income.</p> <p>States need to look at whether the scope of legal aid includes ways women solve civil issues, such as through mediation and pre-litigation services.</p>

Features	International norms	Gender aspects
<p>6. Scope and coverage of legal aid in criminal cases</p>	<p>UN Principle 3 — Legal aid for persons suspected of or charged with a criminal offence. “States should ensure that anyone who is detained, arrested, suspected of, or charged with a criminal offence punishable by a term of imprisonment or the death penalty is entitled to legal aid at all stages of the criminal justice process”.</p> <p>Principle 4: “Without prejudice to or inconsistency with the rights of the accused, States should, where appropriate, provide legal aid to victims of crime”.</p> <p>Guideline 7: “Without prejudice to or inconsistency with the rights of the accused and consistent with the relevant national legislation, States should take adequate measures, where appropriate, to ensure that: (a) Appropriate advice, assistance, care, facilities and support are provided to victims of crime, throughout the criminal justice process, in a manner that prevents repeat victimisation and secondary victimisation; (c) Victims receive legal advice on any aspect of their involvement in the criminal justice process, including the possibility of taking civil action or making a claim for compensation in separate legal proceedings, whichever is consistent with the relevant national legislation; (d) Victims are promptly informed by the police and other front-line responders (i.e., health, social and child welfare providers) of their right to information and their entitlement to legal aid, assistance and protection and of how to access such rights; (f) Victim services agencies and non-governmental organisations can provide legal aid to victims; (g) Mechanisms and procedures are established to ensure close cooperation and appropriate referral systems between legal aid providers and other professionals (i.e., health, social and child welfare providers) to obtain a comprehensive understanding of the victim, as well as an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation and needs”.</p> <p>UN Guideline 9 (c) “providing legal aid, advice and court support services in all legal proceedings to female victims of violence in order to ensure access to justice and avoid secondary victimisation and other such services, which may include the translation of legal documents where requested or required”.</p> <p>CEDAW GR No. 33, para 53(c) “Use administrative detention only exceptionally, as a last resort, for a limited time, when necessary and reasonable in the individual case, ...; ensure that all appropriate measures, including effective legal aid and procedures, are in place to enable women to challenge the legality of their detention”.</p>	<p>Legal aid in criminal matters should include victims as well as accused.</p> <p>Regarding the merit test, certain categories of beneficiaries should be eligible for legal aid irrespective of the financial means. This includes victims of violence against women and marginalised women.</p> <p>Holistic services should be available to support victims and avoid repeat victimisation and secondary victimisation.</p>

Features	International norms	Gender aspects
<p>7. Quality of legal aid services</p>	<p>UN Principle 7 — Prompt and effective provision of legal aid. “States should ensure that effective legal aid is provided promptly at all stages of the criminal justice process. Effective legal aid includes, but is not limited to, unhindered access to legal aid providers for detained persons, confidentiality of communications, access to case files and adequate time and facilities to prepare their defence”.</p> <p>CEDAW GR No. 33 para 37(b). “Ensure that legal aid and public defence providers are competent and gender-sensitive, respect confidentiality and are granted adequate time to defend their clients”.</p>	<p>Legal aid providers need to have appropriate guidelines for interviewing applicants / clients, legal aid counselling, participation in legal proceedings, and representation beyond legal proceeding be drafted, with gender sensitive provisions incorporated into them.</p> <p>This could include provision of same-sex legal aid providers when requested and available, especially in cases of gender-based violence.</p>
<p>8. Independence of legal aid providers</p>	<p>UN Principle 12 — Independence and protection of legal aid providers. “States should ensure that legal aid providers are able to carry out their work effectively, freely and independently. In particular, States should ensure that legal aid providers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.”</p>	<p>Women legal aid providers should be protected from intimidation and harassment during their work.</p> <p>States should consider developing professional codes of conduct for legal aid providers.</p>
<p>9. Accountability of legal aid providers</p>	<p>UN Principle 9 — Remedies and safeguards. “States should establish effective remedies and safeguards that apply if access to legal aid is undermined, delayed or denied or if persons have not been adequately informed of their right to legal aid”.</p> <p>UN Guideline 17 — Research and data. “States should ensure that mechanisms to track, monitor and evaluate legal aid are established and should continually strive to improve the provision of legal aid.” For this purpose, States could introduce measures: (a) To conduct regular research and collection of data disaggregated by the gender, age, socioeconomic status and geographical distribution of legal aid recipients and to publish the findings of such research;... (d) To provide cross-cultural, culturally appropriate, gender-sensitive and age-appropriate training to legal aid providers.</p> <p>CEDAW GR No. 33 para 20(d)(vi) “Data should include but need not be limited to: (vi) The nature and number of cases in which legal aid and/ or public defence were required, accepted and provided, disaggregated by sex of complainant”.</p>	<p>Research and data need to include data disaggregated by sex.</p> <p>States should ensure that a gender-responsive complaint mechanism is available.</p>

Features	International norms	Gender aspects
<p>10. Legal aid and informal justice systems</p>	<p>The UN Principles and Guidelines, which also cover criminal matters, extends legal aid to alternative dispute resolution mechanisms and restorative justice processes as well as mentions, especially for victims, legal advice on the possibility of civil action or administrative compensation claims.</p> <hr/> <p>CEDAW GR No. 33 para 64(e). “Ensure availability of legal aid services for women to enable them to claim their rights within the various plural justice systems by engaging qualified local support staff to provide that assistance”.</p>	<p>Access to all justice fora is important as studies show over 80% of disputes are determined by informal justice fora (UNDP, UNICEF, UN Women. 2012).</p> <p>It is recognised that informal justice processes can provide greater flexibility and reduce costs and delays for women seeking justice; however, it is also recognised that they can lead to further violation of their rights and impunity for perpetrators due to the fact they often operate with discriminatory social norms (patriarchal values), and therefore can have a negative impact on women’s access to judicial review and remedies.</p> <p>Important for women to have access to legal aid in formal and informal justice processes.</p>

2.3.3 Expounding on the state's obligation to provide legal aid using the six inter-related components for women's access to justice

Another way to expound on what gender-responsive legal aid entails is through the use of the six inter-related components articulated in the CEDAW Committee GR No. 33. The table below sets out some considerations for women's access to legal aid.

Table: WA2J elements and legal aid considerations

WA2J elements	Aspects of each element	Considerations for women's access to legal aid
1. Justiciability	Rights and legal protections recognised in legal aid laws / provisions	<ul style="list-style-type: none"> -Legal aid laws / provisions are often gender neutral and developed without any significant attention being paid to the legal needs of women. -Legal aid laws / provisions must address women and men's legal needs and how they seek justice. -Review how women and men use criminal, civil, family, administrative and informal justice.
	Unhindered access to legal aid services	<ul style="list-style-type: none"> -A broader understanding of 'legal aid services' is required such as self-help services, public legal education and information, advice from trained volunteers, paralegal services, summary advice, brief services and referrals, duty counsel, unbundled legal services, and full representation by a lawyer.
	Legal aid providers handle cases in a gender sensitive manner	<ul style="list-style-type: none"> -Legal aid providers are often more generalists than specialists. -Concern that often, younger inexperienced lawyers take on legal aid cases. -No specific training for legal aid providers in gender equality, violence against women or gender-responsive justice. -Diverse groups of women (such as refugees) require gender responsive and culturally appropriate justice services.
	Confront and remove barriers to women's access to legal aid	<ul style="list-style-type: none"> -Women face different time and money constraints than men. -Women must have the capacity to seek legal aid and be empowered to claim this right.
	Cooperate with civil society organisations (CSOs) in delivering legal aid	<ul style="list-style-type: none"> -Check whether CSOs have standing in court. -Consider whether CSOs can provide legal aid or do they need to be registered.

WA2J elements	Aspects of each element	Considerations for women's access to legal aid
2. Availability	Create and maintain of legal aid offices that are geographically available.	-Legal aid infrastructures often remain few and poorly resourced, making it difficult to provide timely and affordable services to all women.
	Access to financial aid	-Check as to whether and how the legal aid offices ensure the safety, privacy, comfort and preservation of dignity of women applicants. -Examine what does legal aid services cover. -Look at whether primary or secondary legal aid services and exemption from court fees are all covered.
	Availability of knowledge and information products on how to access legal aid in local languages	-Consider and respect the linguistic, literacy, and cultural needs, as well as comfort levels of women when developing oral, written and electronic information on legal aid. -Examine the linguistic and literacy barriers faced by different groups of women and explore approaches to reduce these barriers.
	Linking legal aid with social services.	-In violence against women cases, ensure access to victim support services - Victims of violence against women and domestic violence are generally more reluctant to disclose without appropriate support services in place, in addition to legal aid. -Check whether there is an appreciation of how to ensure holistic understanding of legal aid.
	Rules on standing allow groups and CSOs with an interest to lodge petitions and participate in proceedings	-Consider the value and benefits of allowing legal aid to fund test cases, strategic litigation or class actions.

WA2J elements	Aspects of each element	Considerations for women's access to legal aid
3. Accessibility	<p>Remove economic barriers for women with low income and waived for women living in poverty</p> <p>Ensure culturally appropriate legal aid services</p> <p>Remove linguistic barriers – interpreters , assistance for illiterate women</p> <p>Develop targeted outreach activities and information appropriate for all groups of women</p> <p>Access to internet to improve access to legal aid</p> <p>Physical environment and locations of legal aid offices are welcoming, secure and accessible</p> <p>Establish justice access centres, e.g. One Stop Centres in all areas</p>	<p>-Direct costs of legal services can be daunting for women due to lower income levels, higher poverty rates and lack of access to family income.</p> <p>-Indirect costs to access justice services are greater for women due to time poverty (e.g. child care, etc.).</p> <p>-Consider ensuring fees for issuing and filing documents and court costs are reduced for women with low income and waived for women living in poverty and expand legal aid for these women.</p> <p>-Consider the needs of women who face intersectional or compounded forms of discrimination.</p> <p>-There are concerns that due to the lack of independent interpreters when women access legal aid, reliance on family and friends may have negative consequences for women in terms of privacy and adequacy of translation.</p> <p>-Consider how awareness raising programmes can be gender-sensitive and respond to the needs of women.</p> <p>-Consider the diverse groups of women, when developing culturally sensitive outreach activities.</p> <p>-Women may have lower comfort and skill levels in using technology.</p> <p>-Any IT justice programme needs to consider how to ensure that women are also able to use these initiatives.</p> <p>-Consider giving special attention to ensure safety, privacy, comfort and a woman friendly environment.</p> <p>-Consider giving special attention to ensure access to women with disabilities.</p> <p>-Consider how to increase access to legal aid services by integrating it into “One Stop Centre”, health clinics and shelters which can include a range of legal and social services in order to reduce the number of steps that a woman has to access justice.</p>

WA2J elements	Aspects of each element	Considerations for women's access to legal aid
4. Good quality	Legal aid services adhere to international standards of competence, efficiency, independence and impartiality	-Legal aid offices often have limited human resource capacity; inadequate culturally and gender sensitive trained justice service providers; and limited access to specialists.
	Adopt indicators to measure access to legal aid for women	-Consider using indicators that allow measurement of access to legal aid for women.
	Implement mechanisms to ensure that administrative provisions for granting legal aid are impartial and not influenced by gender stereotypes or prejudices	-Social and cultural norms and values such as community support for the patriarchal status quo can extend to legal aid providers and can lead to the discriminatory application of legal aid regulations.
	Protect women's privacy and safety	-Consider the unique privacy considerations for women, especially, women victims of violence.
	Legal aid systems should be contextualised, dynamic, participatory, open to innovation, gender-sensitive	-It must be remembered that women are not a homogenous group and considerations should be had for intersecting identities (e.g. Indigenous women, ethnic minorities and migrant women, women with disabilities, young women, and LGBTIQ).
5. Provision of remedies	Access to compliant system	-Explore good and promising practices of legal aid services which are culturally appropriate and relevant. -Requires the ability of women to receive remedies when they suffer harm or negligence from legal aid offices.
	Adequate, effective promptly attributed, holistic and proportional remedies	-It is challenging to provide appropriate and effective remedies in a timely fashion in rural and remote areas where there are no local courts or infrequent court sittings.
	Specific entity to receive complaints, petitions and suggestions	-Consider establishing a specific entity with procedures for accessing the complaint mechanism that are easily accessible for women.

WA2J elements	Aspects of each element	Considerations for women's access to legal aid
6. Accountability	<p>Independent mechanism to observe and monitor legal aid delivery</p> <p>Legal aid providers are held accountable</p> <p>Data should include the sex disaggregated numbers of legal aid providers, etc.</p> <p>Conduct studies to highlight practices that promote or limit women's access to legal aid</p>	<p>-The oversight body should be different than the one delivering the legal aid services.</p> <p>-Legal aid institutions have human resource capacity issues that include inadequate supervisory, disciplinary and oversight mechanisms to ensure that legal aid providers are independent of political and economic pressures.</p> <p>-Consider conducting studies on marginalised women.</p> <p>-Consider how to systematically apply the findings to enhance legal aid for women.</p>

This articulation of the standards and norms appreciates that if (1) gender responsive and inclusive legal aid laws, policies and budgets are in place; (2) legal aid institutions are accountable to women through enhanced capacities to implement and enforce their rights to legal aid; (3) women are legally empowered and participate in legal aid delivery; then, because legal aid systems and capacities will be in place to address gender discrimination and other barriers to women's access to legal aid, women in Türkiye will have access to fair legal aid mechanisms based on relevant gender equality standards which will enhance women's access to justice.

In other words, the enabling environment (laws, policies and budget); the supply side (the legal aid institutions and providers); the demand side (knowledge and capacity of women to obtain legal aid); and quality of delivery must be designed in such a way as to not reinforce existing gender inequalities but also to address structural inequalities that exist between men and women to improve their access to a legal aid system that is gender-responsive.

3. Women's access to legal aid in Türkiye: Situational Analysis of laws, policies and budgets

In order for a legal aid system to be able to meet the needs of women, the legal aid laws, policies and budgets that are in place must be gender responsive and inclusive. This chapter provides a situational analysis of the strengths and weaknesses of the current legal aid delivery in Türkiye to ensure substantive gender equality by examining the enabling environment. This requires consideration of the legal aid laws, policies and budgets through a gender lens as well as looking at the broader legal and policy framework in place to address access to justice for women.

3.1 The laws relevant to legal aid in Türkiye

According to the Turkish legal system, people who are unable to pay the financial costs of filing a legal case are entitled to legal aid. In Türkiye, there is no standalone legislation on legal aid nor is there a central governmental body that is responsible for the administration of legal aid (UNODC, 2016). Rather, Türkiye's legal aid system consists of a number of elements that cover legal aid services in criminal, civil and administrative cases, with different originating statutes, governance structures, funding sources and procedures. Overall, the provision for legal aid is regulated under three different codes, to establish three different dimensions of legal aid: the Criminal Procedure Code, the Civil Procedure Code and the Code of Lawyers and is administered by the Criminal Procedure Units/Centres of local bar associations. Generally, the legal provisions in Türkiye cover 'secondary' legal aid, which includes preparation of procedural documents, legal advice, assistance and representation in courts as opposed to 'primary' legal aid, which covers legal education and access to legal information. This chapter describes the main rules and governance about legal aid in Türkiye.

3.1.1 Constitutional law

The foundation for legal aid is found in the Constitution of Türkiye. The Constitution guarantees the right to access to a court and a fair trial under Article 36 as well as the right to non-discrimination and equality before the law under Article 10. Moreover, in Article 2 the state is to be governed by the rule of law respecting human rights.

More specifically, Article 10 includes the principle of equality before of law which prohibits discrimination based on sex. This article also states that "Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice". Therefore, this means that the Turkish Constitution not only provides for *de jure* equality (formal equality), but also *de facto* equality (substantive equality or equality in practice). Article 36 states that: "Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through legitimate means and procedures. No court shall refuse to hear a case within its jurisdiction". Taken together, Articles 36 and 10 ensures that men and women equally have the right to legal aid. Moreover, since Article 10 requires substantive equality, it is possible to say that women's right to access to justice and that of legal aid should be effective and gender responsive.

Furthermore, Article 90 of the Constitution provides that: "In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail". According to this article, CEDAW and other human rights conventions should be regarded as taken priority over domestic law and should influence the interpretation of domestic legal provisions to ensure compliance with Türkiye's international obligations. Therefore, the requirements of legal aid in Türkiye should be interpreted according to the standards and norms set out in CEDAW and other relevant instruments.

3.1.2 Civil and administrative law

The rules of legal aid in civil and administrative law matters are predominately regulated by the Code of Civil Procedure (*Hukuk Muhakemeleri Kanunu* - HMK). The aim of legal aid in civil and administrative matters is to guarantee access to justice to persons, who have no ability to partially or totally afford necessary litigation or enforcement costs without putting theirs or their family's livelihood in a significantly difficult position (Article 334 of the Code of Civil Procedure). The Code of Lawyers, as well as the Law on Foreigners and International Protection, also provides for the requirements for legal aid provision.

The Code of Civil Procedure covers the scope of legal aid in civil matters (Article 335); the requirements for the request of legal aid (Article 336); the conditions for the cancellation of legal aid (Article 338); how the postponement of litigation costs are to be collected (Article 339); and the conditions for the payment of the fee for the lawyers hired by legal aid decisions (Article 340).

3.1.2.1 Eligibility criteria

The criteria of eligibility for getting legal aid in civil matters include a “means test” – to be financially disadvantaged - and a “merit test” – to justify the request by presenting evidence. A report prepared under the European Union Twinning Project “Strengthening the Legal Aid Service in Turkey” noted that the criteria to grant legal aid in civil cases is based on the subjective evaluation by the different competent authorities (bar associations and the courts) and that each institution requires different documents to be submitted when requesting legal aid (EU Twinning Project, 2016). This can cause confusion, resulting in a bar association accepting the legal aid application but the court later rejecting the same request for coverage of litigation expenses.

The means and merit tests applied by the bar associations are covered by the UTBA Bylaw on Legal Aid and the Code of Lawyers. The Bylaw notes that documents will be requested to prove the applicant’s financial situation (Article 5); however, there is no detailed list of appropriate financial documentation set out in the Bylaw and this is left up to the legal aid offices of bar association. The Code of Lawyers provides that the applicant must prove the rightfulness of the request by presenting evidence (Article 178); while the Bylaw provides that the legal aid commission can conduct an assessment regarding the legitimacy of the request (Article 5). However, the law does not define what is meant by either the rightfulness or legitimacy of a request. A decision denying legal aid can be appealed, both to the president of the bar association as well as to the court. The legal framework also provides for certain groups that are eligible for legal aid, irrespective of their financial situation, such as soldiers and their heirs, or victims of natural disasters.

The means and merit tests applied by the courts are covered by the Code of Civil Procedures (Article 334). The means test is articulated as when the applicant has no ability to partially or totally afford the necessary litigation or enforcement costs without putting the livelihood of him or herself or family in a significantly difficult position. However, these conditions are not further defined by the law. The merit test is set out in negative terms: no legal aid if the claim explicitly has no legal grounds. There is a right to appeal to the court’s decision denying legal aid (Article 337, Code of Civil Procedure).

3.1.2.2 Exemption from court fees

Under the Law to Protect Family and Prevent Violence against Women, Law No. 6284, victims of violence against women are exempt from court fees and litigation expenses related to the issuance and enforcement of protective measures under Law No. 6284. Article 20 of this Law states that “ no court expenses, fees, mailing expenses and etc. are required for applications and for other processes during the execution and implementation of the decisions within the scope of this Law”.

According to Article 334, Code of Civil Procedure, parties who do not have sufficient income are exempt from court fees and expenses and in this case, the bar association assigns a lawyer free of charge.

3.1.2.3 Scope of legal aid

Once someone is determined eligible for legal aid by the bar association, the scope of legal aid covers the remuneration of the appointed lawyer and the mandatory travel expense of the lawyer but not the expenses of issuance of the power of attorney (Article 176, Code of Lawyers and the Regulation on the Procedures and Basis of Payments to Lawyers on Their Assignments in Accordance with the Code of

Criminal Procedure and Law on Travel Expense). Moreover, those granted legal aid will be exempted from the financial guarantee deposit, required by Article 27 of the Procedure of Administrative Justice Act.

For other types of litigation and enforcement expenses to be covered by legal aid, such as court fees, notification expenses, filing expenses, costs of collecting evidence, etc, it is up to the court to decide (Article 335, Code of Civil Procedure). In other words, the legal aid commissions of the bar associations make decisions only on the exemption from the lawyer's fee. Pre-litigation advice and services are not covered by legal aid. Nor are the costs that are incurred before the issuance of a decision on legal aid. Exemptions from all costs in civil legal aid decisions given by the judge are temporary as they can be claimed from the legal aid beneficiary if they lose the case.

People who do not have the means to pay for lawyer's fees are given attorneyship services which are set forth in The Code of Lawyers, Law No. 1136. Attorneyship services are provided by legal aid offices of bar associations. As provided for in Article 176 of the code: "The provision of the attorneyship services as described in the present Code for the benefit of those who do not have the wherewithal to pay attorneyship fees and other adjudicatory expenses".

3.1.3 Criminal law

The Turkish legal system guarantees free legal aid in criminal cases. The rules of legal aid in criminal cases set out under the Code of Criminal Procedure (*Ceza Muhakemesi Kanunu*- CMK). In criminal cases, the scope of legal aid consists of the appointment of a defence counsel for the suspect or the accused, the appointment of an attorney for the victim, as well as the coverage of costs of proceedings. In Türkiye, there is a mandatory defence system as part of mandatory defence counselling and mandatory attorneyship. Mandatory defence counselling is a kind of counselling depending on the type of cases irrespective of any request from the victim or individual who suffered from the crime (Yenisey-Alici-Ziyalar, 2017). This means that criminal legal aid is to be available to certain categories of suspects, accused and victims if they meet certain criteria without the application of a means or merit test. If suspects, accused and victims do not meet this criterion, then they may be eligible for criminal legal aid if they meet the means and merit test.

3.1.3.1 Legal aid for suspects or accused persons

With respect to legal aid for suspects or accused persons, the law explicitly sets out circumstances for mandatory legal aid. Such cases include: a suspect or accused who does not have defence counsel and is a child, or an individual who is disabled to the extent that he cannot make his own defence, or if deaf or mute (Article 150/2, Code of Criminal Procedure); and a suspect or accused person who is accused or charged with crimes that carry an imprisonment term of more than five years. Another obligatory case that requires mandatory counsel is at the decision of arrest. According to the article 101/3 CMK that regulates the decision of arrest; in cases where a motion for an arrest has been submitted, the suspect or accused must have the legal help of a defence counsel chosen by him or her or appointed by the bar association. This means criminal legal aid will be provided at the time of arrest to anyone irrespective of whether the offence charged carries less than 5 years imprisonment. If a mandatory counsel is appointed to a suspect or accused, they have to pay the cost of court and counselling fees in the case where the court finds him/her guilty at the end of prosecution (Yenisey-Alici-Ziyalar, 2017).

The defence counsel can be appointed by the bar association in the investigation phase upon the request of the authority that conducts the interview or by the judge who conducts the interrogation or upon the request of the court during the prosecution phase (Article 156, Code of Criminal Procedure).

3.1.3.2 Legal aid for victims of crime

With respect to legal aid for victims of crime, the law sets out circumstances where legal aid is to be applied. According to Article 239 of the Code of Criminal Procedure, “the victim has right to request a lawyer if s/he has not got one”. These cases which require a request from the victim are sexual assault and in crimes that carry imprisonment of five years and less. The other cases which do not require the request of the victim are the cases which the victim is under 18 years old or speechless or deaf or unable to defend him or herself in person due to his or her ability. In these cases, a lawyer is assigned without his or her request.

As a result of a new amendment to the Code of Criminal Procedure, the right to request for the appointment of a free lawyer from the bar association, previously only for sexual assault crimes, has been extended to other offenses such as sexual abuse of children, stalking, intentional injury committed against a woman, torture and torment⁶. This effectively extends the right of victims to legal aid upon their request to other gender-based violence crimes beyond sexual violence offences (Women for Women’s Human Rights, 2022).

3.1.4 The Code of Lawyers

The Code of Lawyers also defines the role and work conditions of the representatives of the legal aid commissions in the local bar association (Articles 47 and 50). The code also regulates the content and the process of how to request and obtain legal aid services rendered by the legal aid commissions (Articles 176-181); request for legal aid (Article 178); administration of legal aid (Article 179); legal aid offices’ incomes and expenses (Article 183); and the requirements for annual report and regulations (Article 181).

3.2 Gender-responsiveness of the legal aid laws

With respect to women’s access to legal aid, the existing legal aid provisions fall short of ensuring an effective response to gender inequality. Gender neutral language dominates the legal provisions that set out the legal aid rules. It is encouraging that the recent amendments to the Code of Criminal Law Procedure have extended the right of victims to legal aid upon their request to include victims of other forms of gender-based violence crimes beyond sexual violence offences, such as stalking and intentional injury committed against a woman. These amendments are framed in gender-specific language identifying women as victims and reflect the reality that more women are victims of gender-based violence than men, and therefore this amendment may have a positive impact of expanding legal aid to women. However, it should be noted that the use of the term “women” in the law instead of “gender-based” results in all enlisted offences committed against women to fall in the scope of the law, irrespective of whether they are gender-based violence or not and yet not all types of gender-based violence are covered by this amendment, only a selected few offences. Another encouraging provision is the Law on Protection of Family and Prevention of Violence against Women, Law No. 6284 which provides victims of violence against women an exemption from court fees and litigation expenses related to the issuance and enforcement of protective measures under that Law without the need to prove financial eligibility for legal aid.

3.2.1 Gender-neutral language concerns

There continues to be a tendency to view gender neutral language as being unbiased, as seen in some of the responses in the focal group discussions. However, others noted that without adequate data it

⁶ The Turkish National Assembly passed laws amending Article 234 titled “rights of victims and complainants” and Article 239 titled “rights of the intervening party” of the Code of Criminal Procedure on 12 May 2022.

can be challenging to demonstrate that the status quo of the current laws might indicate the hidden nature of such bias. While a number of participants from the focal group discussions noted that the majority of civil legal aid beneficiaries were women, it was unclear to them how this related to the gender of suspects, accused or victims. For example, it is important to know the differences in the legal needs and experiences of poor and disadvantaged women in contrast with poor and disadvantaged men.

There needs to be sex-disaggregated data of legal aid beneficiaries in order to conduct this analysis. Such data can illustrate if gender-neutral laws negatively impact women. For instance, in research from other countries, men are more often the beneficiaries of criminal legal aid as suspects and accused whereas women are more often legal aid beneficiaries for family law issues and it generally is easier to receive criminal legal aid than civil legal aid (Mossman-Schucher- Schmeing, 2010).

3.2.2 Private-public dichotomy

In Türkiye, there is a difference between the criminal legal aid for suspects, accused and arrestees and legal aid for victims and those needing legal aid in matters considered in the private domain – such as family law issues and property and inheritance issues. In Türkiye, criminal legal aid is provided to categories of people irrespective of means and merit tests: suspects and detainees; certain victims of crime upon their request; and victims who are minors and people with disabilities without seeking their request. On the surface this appears to be gender neutral in terms of legislative choices about categories of entitlement. However, legal categories which define rights and obligations may frequently conceal hidden and gendered bias. There is a need to identify the differences in the patterns of use of legal services generally on the part of men and women and the types of services provided to suspects and detainees as compared to the types of services provided to victims. For example, if those legal aid beneficiaries accused of a crime are provided with a lawyer for legal representation whereas legal aid beneficiaries who are victims of crime are generally provided with one-off legal counselling, it would be useful to know whether men are the majority of those being provided legal representation versus women only being provided with short term legal advice.

3.2.3 Legal aid criteria and gender implications

In Türkiye, financial eligibility is one category of entitlement to civil legal aid. The Code of Civil Procedure uses the phrase “not be able to partially or fully pay the proceeding and trial costs and expenses without the obligation to carry a significant financial burden”. The EU Twinning Project notes some concerns regarding the criteria for granting legal aid: the means test for the civil legal aid is performed on a case-by-case basis; there is no uniform criterion; and legal aid offices do not have access to online information about the economic status of the applicant. In practice, the means test’s current formulation in gender-neutral language needs to be explored in terms of how it impacts women and men differently. On the surface this appears to be gender-neutral in terms of legislative choices about eligibility of applicants. However, it is unclear if this means test is based on household or individual access to financial resources. If based on household income, the seemingly gender-neutral language needs to be examined to determine differential impacts on women and men. Who has access to household income? Are there situations where women in the family do not have equal access to household income, e.g. domestic violence or discriminatory situations? When women do not have equal access to family income and legal aid eligibility is based on household income, this will in effect hinder her access to legal aid to pursue justice.

The mechanisms by which eligibility is to be determined should be set out a clear, transparent and consistent way. GREVIO (2017, paragraph 319) noted the reality of a limited scope for legal aid, both economically and substantively, resulting in non-eligibility for legal aid for women with scarce financial means, and the cumbersome procedures to prove eligibility. The CEDAW Committee in its concluding observations (2016, paragraph 22 (d)) noted: “The limited scope of legal aid, both economically and

substantively, resulting in non-eligibility for legal aid for women who earn the minimum wage, as well as the non-availability of legal aid in criminal proceedings, and the cumbersome procedure to prove eligibility when it exists". UNDP (2017) found the following systemic barriers: the application of the legal aid eligibility test often means that women who have no actual money are denied legal aid on the basis that they are partial owners of property that is also in their husband's name; women may also be denied legal aid if they receive a monthly income from their husbands or fathers, regardless of whether this may be taken away at the moment of complaint; and women who come to Türkiye as second wives find that they have no legal rights with respect to children or property in the marriage.

Often, in addition to a means test, there is also a merit test, whether this is phrased as "in the interest of justice" or not manifestly ill-founded. The Code of Civil Procedure, Article 334(1) (amended in 2013) provides that the courts shall decide in favour of the applicants' request for legal aid where the merits of the claim could not be regarded as manifestly ill-founded *prima facie* and where the applicants would not be able to partially or fully pay the proceeding and trial costs and expenses without the obligation to carry a significant financial burden.⁷ On the surface this appears to be gender-neutral in terms of legislative choices about eligibility of applicants. However, there needs to be an exploration of whether any differences in the patterns of use of legal services generally on the part of men and women. Are more men qualifying as legal aid beneficiaries under certain categories? How does the law address the most excluded and marginalised groups (based on personal characteristics and situational characteristics)? The Code of Civil Procedure does not specifically include individuals from certain groups that are eligible irrespective of being poor, such as domestic violence victims. There is no preferred or priority area of attention for women in the civil legal aid system, irrespective of the means test.

3.3. Policies related to legal aid

There is not a specific comprehensive policy in Türkiye that addresses legal aid. However, there are a number of policy documents that have provisions relating to legal aid. For instance, the Eleventh Development Plan (2019-2023) states that "the legal aid system will be rearranged ensuring that priority is given to vulnerable groups". It also requires that "social awareness raising activities will be accelerated in order to prevent violence against women, early and forced marriages and all kinds of abuse, and the effectiveness and capacity of protective and preventive services will be enhanced". Moreover, the Ministry of Justice's strategic plan for the period 2019-2023 and Action Plan includes provisions on restructuring the legal aid system. The Action Plan specifically notes activities for simplifying procedures related to an appeal for legal aid. Also, the Ministry of Family and Social Services' IV National Action Plan on Combatting Violence against Women in Türkiye (2021-2025) has as one of its purposes that of promoting women's access to justice. This Plan requires the development of an efficient legal aid system for victims for violence against women by the Directorates of Judicial Support and Victim Services and that the General Directorate on the Status of Women should carry out awareness raising programs about legal aid for women. According to the Plan the other responsible institution for legal aid is the Union of Turkish Bar Associations which should organise education programs about women's human rights and violence against women for lawyers who will participate in civil and criminal legal aid.

3.4 Gender-responsiveness of legal aid policies

Improving women's access to legal aid requires policies which aim to remove structural and other barriers to legal aid and the justice system. Going even further, it was discussed in one of the focal group discussions that the ultimate goal should be not simply to consider women's equal access to the current legal aid services which reflects a male dominance of the legal professional, but rather to have as an ultimate goal to change the nature of the justice system and legal aid deliver service to ensure substantive equality. This would involve policies that reconceptualising legal aid services within a transformed legal system, a system that offers substantive gender equality to women and men. Such

⁷ The phrase of "having a standing claim" was replaced by "not being manifestly ill-founded".

policies should focus on legal aid, but as well as on broader justice policies to ensure that women have access to gender-responsive justice. It is positive to note that in Türkiye, some of the broader justice policies are focused on reducing the complexity and contentiousness of justice processes. However, broader justice policies require mainstreaming gender in order to ensure that changes to laws, policies and practices achieve gender equality goals. The Ankara Bar Association's Policy Document Against Gender-Based Discrimination, Violence, Sexual Harassment and Assault is a good example of a broader focused policy.

Policies regarding appropriate legal aid services need to start with the question of women's experiences rather than extending existing legal services to legal aid clients, both male and female (Mossman Schucher- Schmeing, 2010). Women's needs for legal aid services may be different from men's needs for legal aid services, as well as different from the needs of paying clients. Women may experience poverty for different reasons and in different circumstances by contrast to men. While many women are poor for some of the same reasons that men are poor, such as living in a job-poor area or lacking the necessary skills or education, much of women's poverty is due to two causes that are basically unique to women. The first has to do with children, particularly the economic burdens associated with having the primary responsibility for children, with or without child support. The second has to do with the labour market, where women experience discrimination, harassment, and confinement to low-paying and dead-end jobs often because they are women. Policies need to be based on research on women's needs for legal aid services as compared to men's. The starting point for defining appropriate legal aid coverage should be women's lived experiences of poverty, abuse, family responsibility and inequality for which legal representation is necessary to remedy. The EU Twinning project report "Being a Legal Aid Lawyer" notes that there are no specific rules countrywide to provide easier and faster legal aid services for vulnerable groups nor to homogenise practices by UTBA.

3.5 Governance of legal aid delivery in Türkiye

3.5.1 State funded legal aid delivery

The governance and administration of state funded legal aid in Türkiye is carried out jointly by the Ministry of Justice, the Union of Turkish Bar Associations and the local bar associations. The Ministry of Justice is responsible of providing the necessary funds to the Union of Turkish Bar Association which is then distributed to local bar associations following certain criteria (Cengiz, 2019).

With respect to the delivery of state funded legal aid, bar associations have two sections: one section dealing with civil legal aid - Legal Aid Units - and the other section which provides legal aid in criminal matters - Code of Criminal Procedure Practice Units (CMK Practice Units). While the CMK Practice Units covers criminal law, the Legal Aid Units cover personal and family law (such as marriage, divorce, domestic violence, custody, and guardianship), other civil and employment law, legal actions against administrative acts and actions, and insolvency and bankruptcy law.

In 2004, an arrangement related to legal aid covering all bar associations in Türkiye was given effect by the Union of Turkish Bar Associations with its Regulation on Legal Aid in accordance with the Code of Lawyers. Article 1 in this Regulation says: "The objective of legal aid is to make sure that those who cannot afford attorney fees and court expenses can benefit from attorney services in overcoming obstacles to individuals' freedom to claim their rights and bring equality in exercise of the freedom to claim rights". This Regulation lays down the principles and procedures of legal aid. It also states the allocation and use of public funds which is transferred to the Union of Turkish Bar Associations' account from the Ministry of Finance annually, among bar associations, the establishment, duties and authorities of legal aid offices and the assignment of lawyers as well as the identification of fees for those assigned lawyers, and finally it identifies the supervision of legal aid. Apart from this regulation, each bar association has its specific instructions regarding legal aid.

3.5.1 Legal aid institutions that provide primary legal aid

As previously mentioned, legal aid is mainly concerned with legal representation in court (secondary legal aid) which is provided by bar associations and the courts. However, primary legal aid which covers the concepts of “legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes” (UN, 2013) is provided by other institutions such as law faculties which have legal clinics.

The provision of legal information, legal support and advice is specifically included in the IV National Action Plan on Combatting Violence against Women in Türkiye (2021-2025). This Action Plan requires that the provision of legal aid should include awareness-raising programs and legal assistance. In this line, the Ministry of Justice is also required to primary provide legal aid that includes legal support and making a legal aid plan.

The Ministry of Justice plays an important role in the provision of legal aid as it has a responsibility to abolish obstacles to obtain legal aid. The Department of Judicial Support and Victim Services under the Ministry of Justice is tasked with contributing to an accessible support system for victims and particularly vulnerable groups in the judicial process. The Ministry includes the Directorates of Judicial Support and Victim Services in courthouses, established in April 2021. The Regulation of Judicial Support and Victim Services requires the provision of efficient legal aid and the establishment of legal aid services at the Directorates. These are units that inform victims, especially those coming from vulnerable groups, about their rights. Their duties include: undertaking activities to provide information about judicial processes to vulnerable groups in particular; giving support to vulnerable groups, individual assessment, legal aid plans, case management and follow-up plans as their inner organisation and activities. The Directorates will also provide legal aid services. Therefore, they play an important role in providing legal information, including information about legal aid.

In the context of awareness-raising about laws, a protocol between the Ministry of Justice and the Ministry of National Education introduced the course “Law and Justice” in secondary education (i.e. grades 6, 7 and 8) under the Project “Development of Protective Law Practices to Ensure Better Access to Justice in Türkiye”. This course has been started in the schools since 2013. This course seeks to build awareness among students related to their rights under the law. The protocol notes that this initiative is in line with CEDAW and Law No. 6284 on the Prevention of Violence against Women and Domestic Violence. Specifically, Law No. 6248 calls for a course on the human rights for women and the equality of women and men to be integrated into primary and secondary education curriculum, as well as using media for raising awareness on “the integration of women into the work life, the mechanisms and policies to fight against the violence especially related with children and women”⁸

3.6. Gender analysis of legal aid institutions

Assessing how legal aid contributes to gender equality and women’s empowerment requires an examination of the legal aid provisions which regulates all aspects of legal aid delivery in Türkiye. Gender has not been considered a major factor in the current arrangements for legal aid institutions.

⁸ Law No. 6284, Article 4. Along with Turkish Radio and Television Corporation, the private radios and television channels broadcasting national, regional and locally have to broadcast informative materials, at least 90 minutes each month, on the integration of women into the work life, the mechanisms and policies to fight against the violence especially related with children and women which are all prepared by the Ministry of Justice or prepared by other agencies with the consent of the Ministry. These materials are broadcasted between 8:00 and 22:00 including at least 30 minutes broadcasting between 17:00 and 22:00 and the copies of these broadcasts are submitted monthly to the Supreme Board of Radio and Television. Any broadcast before or after these hours are not considered within the monthly 90 minute timeframe. These hours are inspected by the Supreme Board of Radio and Television. Informative materials to be broadcast on TVs and radios are prepared by the units of the Ministry with the opinions of universities, related vocational organisations and NGOs. (4) During the practice of the duties stated in this Law, the staff of public institutions and organisations assists the Ministry personnel. [...] (6) The Educational courses on the human rights for women and the equality of women and men are integrated into primary and secondary education curriculum.

3.6.1 State funded legal aid institutions for women

There are no bar associations' legal aid units that have been specifically set up to handle women beneficiaries in Türkiye, except for the Gelincik Centre for violence against women cases and some of the women's rights centres (see annex 2 on promising practices). This means that women apply to generalised legal aid units in Türkiye just like the rest of the population. Furthermore, the legal aid lawyers generally appointed by the legal aid units do not have specific training on gender equality or considered to be gender-sensitive.

It is encouraging that a number of bar associations have established various commissions and centres within the bar association to work on human rights issues in general as well as more discrete thematic issues such as women's rights. Women's rights centres are mainly geared to preventing violence against women but can also participate as intervenors or observers to cases and take an active position in advocacy of rights. They can also inform and support women legal aid beneficiaries at the bar associations.

3.6.2 Reliance on non-state funded organisations

In Türkiye, it is important to be aware of legal assistance being provided outside the state funded system. This includes university legal clinics as well as a number of NGOs. These entities do not receive state funding for the provision of legal aid, but rather rely on other funding sources, such as international donors. NGOs provide gender-sensitive legal assistance, including support and information as well as legal representation, provided outside the state funded legal aid schemes. NGOs may have in-house lawyers or work with a network of lawyers, mostly women lawyers who are gender trained. For more information about university clinics and NGOs, see Annex 2 for a summary of promising practices...

3.6.1 Other institutions that provide legal information to women

In addition to state funded legal aid providers and non-state funded legal assistance providers, there are also other institutions that provide legal information. For instance, the Violence Prevention and Monitoring Centres (Şiddet Önleme ve İzleme Merkezi - ŞÖNİM) function as referral centres for women victims of violence seeking support. They provide legal information and legal support as well as psycho-social counselling. According to a report from the Foundation for Women's Solidarity, in many cities there is no other mechanism for women to apply for legal support other than ŞÖNİM.

Table: Summary of the main public and non-public institutions which provide legal aid, legal assistance and legal information in Türkiye

1.	Bar Associations' Legal Aid Units and CMK Practice Units
2.	Bar Associations' Women's Rights Centres
3.	The Bar of Ankara Gelincik Centre
4.	Directorates of Judicial Support and Victim Services
5.	ŞÖNİM (Violence Prevention and Monitoring Services)
6.	NGO's which work on women's access to justice
7.	Police Officers
8.	Officers connected with judicial process
9.	Law Faculties-Legal Clinics
10.	Equality Unit (or women centre) of Municipalities
11.	Women Shelters

3.7 Legal aid budget in Türkiye

The financing of legal aid services is realised from the budget of Ministry of Justice. As an addition to this, two percent of the fees received in accordance with the provisions of tariffs subjected to the Law No. 492, Law on Fees and two percent of the fees charged for legal aid services in civil procedures, excluding administrative fines and the amount to be calculated according to two percent of the monetary penalties are transferred to the UTBA account by the Ministry of Finance every year by the end of March. In civil procedures, the Minimum Fee Tariff of Lawyers are prepared annually by the Union of Turkish Bar Associations following taking the opinion of Ministry of Justice. UTBA determines the amount of the minimum fee of a lawyer.

3.8 Gender-responsiveness of the legal aid budget

In many countries, legal aid needs are greater than the allocated budget. Particularly with respect to civil legal aid, the demand is largely unmet in most countries (UNODC and UNDP, 2016). Many women need legal aid but are not categorised as beneficiaries. While FGD participants noted that a number of applicants are rejected due to budgetary restrictions, the researchers were not provided with statistics as to be able to analyse how many applications are rejected and if limited legal services are provided in certain cases due to financial constraints. Moreover, there is a need to determine whether the legal aid budget addresses limitations in geographical, financial and linguistic access among marginalised and excluded women.

To ensure sustainability of legal aid services, it is essential that states allocate adequate budget to meet the demand for legal aid (UNODC and UNDP, 2016). The extent of demand and priorities can be identified through legal needs assessments, which can inform evidence-based policy making. The criticisms related to the financial structure of the system accumulate especially over the insufficiency of solely covering lawyer fees in criminal cases, not foreseeing different fees for long and complex judicial procedures, occasional delays in the payments of lawyer fees, and insufficient budget allocation to the Union of Turkish Bar Associations for legal aid services in civil procedures (EU Twinning Project, 2016).

In Türkiye, the Regulation on the Procedures and Basis of Payments to Lawyers on Their Assignments in Accordance with the Code of Criminal Procedure Law and the Law on Travel Expenses covers the remuneration of appointed lawyers; and of the lawyer's mandatory travel expenses. However, the expenses for the issuance of power of attorney are not covered. Also, according to the Code of Civil Procedure, pre-litigation advice is not covered by the legal aid budget nor or any costs incurred before the decision on legal aid. In addition, the bar association may terminate the appointment of the lawyer when it appears that the legal aid beneficiary cannot afford payment for the power of Attorney or cover litigation costs in case the court refuses to provide legal aid for litigation expenses (EU Twinning Project, 2016).

3.9 Analysing legal aid in the broader WA2J framework in Türkiye

3.9.1 Overview of the broader legal framework relating to WA2J

Most laws in Türkiye use gender-neutral language. Since 2000, there have been some basic improvements regarding the legal rules that relate to women's access to justice. The amendments in 2004 and 2010 to Article 10 of the Constitution paved the way to ensure the equality of women and men in accessing justice in the form of positive discrimination. Moreover, with Article 90 of the Constitution, CEDAW prevails over national legislation in the event of a conflict, thus setting out an important legal framework to support a gender-sensitive approach in the legal system. However, there continues to be a number

of legal rules that still reproduce gender inequalities in Türkiye. Firstly, the absence of the terms of sexual orientation and gender identity in legal texts results in the inadequate guarantees for the principle of non-discrimination.⁹ Secondly, there continues to be some provisions, for example in the Civil Code, that still provide for male supremacy, such as the requirement to change surnames after marriage.

On a positive note, the legislation addressing violence against women is well developed in Türkiye. The Law on Protection of Family and Prevention of Violence against Women, Law No. 6284 aims to protect women, children, family members and victims of stalking, who have been subjected to violence or at risk of violence. This law lays down the procedures and principles for the adoption of protective and preventive measures for victims and against perpetrators and persons who have the potential to inflict violence against women and domestic violence. In addition to providing a number of social services, it also covers legal services as well as access to urgent and temporary protection measures. Such measures include: putting an annotation to the title deed as a family house; removal from home; prevention of approaching the protected person; seizing any weapons; ordering the perpetrator to treatment for alcohol, drug or stimulant substance dependency; and judicial decision on custody, alimony and personal contact. If the perpetrator is the provider of the family, a judge may decide on alimony even if not requested, considering the conditions of the situation (Ministry of Family, Labour and Social Services, 2021). Breaches of these measures can result in coercive imprisonment from three to 10 days.

Moreover, the Presidential Decree on the Protection of Victims of Crime of 10 June 2020 also contributes to a broader gender-responsive legal framework. It envisages the enforcement of judicial decisions and protection of persons suffering damage as a result of an offence. The Decree specifically covers victims of violence against women and domestic violence (Article 6); services to specific vulnerable groups (Article 7); and the establishment of centres of sexual violence (Article 9).

3.9.2 Policies related to WA2J

The Ministry of Justice's Strategic Plan for the period 2019-2023 and its Action Plan include provisions on restructuring the justice system, including: improving the quality of the criminal justice system, developing pre-prosecution means of settlement and strengthening investigation processes; ensuring the completion of legal proceedings in a reasonable period of time; protecting fundamental rights and freedoms of children drifted into crime; ensuring the effective use of the right of defence; and better protecting the rights of victims. More concretely these policies should target: : developing legislation related to victim rights; dissemination of judicial interview rooms; simplifying procedures related to appeals for legal aid; development of a human rights action plan; giving priority to cases involving child delinquents; and home-based execution of penalties through electronic surveillance when offences are not committed by violence and perpetrators are elderly persons, women and children.

There are a number of objectives in the Ministry of Justice's Strategic Plan for the period 2019-2023 and Action Plan that are geared to ensuring women's access to justice and legal aid. This includes: maintaining the observance of the principle of equality of women and men in the recruitment of judges, prosecutors and judicial personnel; in policies related to the execution of penalties, ensuring home-based execution through electronic surveillance centres of the elderly, women and children who are convicted for offences that involve no violence; and promoting practices in court houses that facilitate physical access for elderly people and persons with disabilities. Based on this Plan, the Ministry of Justice published a regulation on combatting violence against women and for applying Law No. 6248 more efficiently. The regulation requires the establishment of units for domestic violence and violence against women at courts; the assignment of specialist prosecutors to these units; and standards to guide legal officers. The Ministry of Justice also established the Directorates of Judicial Support and Victim Services which are aimed to reduce secondary victimisation, especially for vulnerable groups. The Ministry of

⁹ The EU Progress Report for Turkey 2020 and the 2020 report of the European Commission note that the principle of non-discrimination is not at desired European standard while hate crimes do not cover LGBTI+ individuals (European Commission, 2020).

Justice also established a woman unit under the Presidency of Victim's Rights Unit. Also, the number of women judges and prosecutors have been increased for last years. For example, while in 2021 the total number of female judges was 7090, in 2022 this number is 7104 (HSK, 2022).

While these are important developments, there continues to be a lack of gender mainstreaming in the strategy of the Ministry of Justice and the incorporation of a gender-sensitive approach which are required to ensure effective access for women to gender-responsive justice.

4. Women's access to legal aid in Türkiye: Situational analysis of the challenges faced by women as rights bearers and from duty bearers

According to the UN Global Study on Legal Aid, some of the main challenges regarding legal aid delivery is about the quality of legal aid services provided (UNODC, 2016). This is often due to low pay for legal aid work, lack of prioritising legal infrastructure, limited number of legal aid lawyers and the lack of publicity around legal services resulting in people not knowing where to find legal aid. In addition, people lack of awareness includes not knowing that legal aid is available at little or no cost, but also includes not understanding how legal aid services can help them. When analysing women's access to legal aid, these challenges need also to be examined through a gendered lens in order to take into account the additional gender inequalities.

In this chapter, the report analyses whether women are legally empowered to and actually participate in legal aid delivery in Türkiye and whether women have access to fair legal aid mechanisms based on relevant gender equality standards that enhance women's access to gender-responsive justice. Taken mainly from the perspective and experience of legal aid providers, as well as NGOs that provide legal support to women, this chapter explores barriers to women's access to legal aid by reviewing the legal aid system and capacities in place and how they address gender discrimination and other barriers to women's access to legal aid and to justice at all levels and stages of the justice chain.

4.1. Overview of the challenges for women's access to legal aid

Numerous Council of Europe reports on women's access to justice find it useful to consider two categories of barriers: one is the legal and institutional barriers and the second is the socio-economic and cultural barriers (Council of Europe, 2016). Legal and institutional barriers include the persistence of *de jure* discrimination of women; gaps in legislation on women's rights; gender-neutral or gender-blind legislation which may lead to systemic inequalities, often unintended; emphasis placed on using out-of-court settlement procedures to ensure a swift end to a legal dispute, often leaving women at a disadvantage; lengthy justice proceedings; discriminatory practices; and negative gender stereotypes in courts and among law-enforcement officials. Whereas socio-economic and cultural barriers concern women's fear and shame; a lack of knowledge about official procedures and available assistance; restrictions on the availability of legal aid; economic dependence and concern for children; and gender stereotyping.

This study found these kinds of challenges in accessing legal aid also exist for women in Türkiye. Moreover, the findings from the FGDs and online survey make it possible to describe these obstacles through a gender perspective. This perspective appreciates that there are barriers to legal aid for all justice users,

women and men; that there are barriers to legal aid that impact women disproportionately; and that there are barriers to legal aid that only women face.

This study found a number of concerns and criticisms regarding the Turkish legal aid system. One of the main concerns is that the legal aid system is part of a male dominated system (in society, in the justice system and in the legal aid system) which reproduces inequality. Many studies on women's access to justice reflect on the structural inequalities faced by women using the justice system (UN Women, UNDP, UNODC and OHCHR, 2018). For this reason, given that the legal aid system is part of this structural inequality, it is not surprising to see obstacles for women's access to legal aid in Türkiye. A gender lens is needed to understand these obstacles fully.

While the previous chapter conducted a situational analysis using a gendered lens of the legal aid environment (laws, policies and budget), this chapter discusses the findings from this research using the six inter-related elements of a gender-responsive access to justice for women from the CEDAW Committee GR No. 33. These are: justiciability; availability; accessibility; good quality; the provision of viable and meaningful remedies and accountability. These requirements are necessary to make women's concerns an integral dimension in the provision of legal aid so that women and men benefit equally from justice.

4.2 Challenges relating to justiciability

Justiciability requires the unhindered access by women to legal aid as well as their ability and empowerment to claim their legal aid rights. Aspects of this element also includes that the right to legal aid in the law improves the gender responsiveness of the justice system; that legal aid providers can handle cases in a gender-sensitive manner; that there are no barriers to women as legal aid professionals; and that states cooperate with civil society organisations in delivering legal aid. This section analyses the obstacles connected with the justiciability in the context of legal aid in Türkiye.

4.2.1 Lack of Awareness

One of the requirements of justiciability is for women to have the ability and be empowered to claim their rights. If women do not have information about their rights, it is not possible for them to demand justice. In Türkiye, there are a number of concerns about women's lack of awareness about their rights and the judicial processes, including their rights to legal aid services.. A 2017 study by the Ministry of Justice Department for Rights of Victims on Women Victims in Judicial Process concluded that women lack information about these processes and procedures (Ministry of Justice, 2019). The EU Progress Report on Türkiye, 2020 and reports by civil society organisations support this conclusion. These reports found shortfalls when it comes to awareness-raising of the legal rights of women and girls, LGBTI+ individuals, refugees, and persons with disabilities. For instance, one report commenting on persons with disabilities noted:

Opportunities and means for persons with disabilities to learn their legal rights in access to justice are limited. Even when persons with disabilities reach this information, it is too difficult for them to understand that legal parlance. There is presently no legal basis for starting legal counselling services for persons with disabilities (Engellilerin Adalet Erişimi, 2018).

One of the participants for this research observed that:

A lot of applicants don't really know that they can have access to legal aid via bar associations. Of course, sometimes the courthouse provides that kind of information, but the majority of people do not really know about this.

There appears to be a lack of available knowledge and information on how to access legal aid. This includes little oral, written and electronic information on legal aid that considers and respects the linguistic, literacy and cultural needs of all women, including addressing linguistic and literacy barriers faced by different groups of women.

A Human Rights Watch report (2022) describes the story of a woman named Başak that illustrates the importance of such legal information.

“Başak,” a 28-year-old housewife, lives in Istanbul and has been married for six years to “Ferit”. They have a son, 4, and a daughter, 5 ... Başak told Human Rights Watch that her relationship with her husband deteriorated because of his unfaithfulness and tensions between her and his family in recent years. On August 4, 2021, during an argument with her husband over his unfaithfulness, he slapped her and threatened her with a knife. Başak said her sister took her to the nearest police station where police officers told her there was nothing they could do. They advised her to go to the Istanbul Çağlayan courthouse. Başak said the police officers did not inform her of her rights under Law No. 6284, nor her right to legal aid. She said she went to the courthouse and waited in line to submit a petition to the prosecutor detailing her complaint.

As this story continues below, it is possible to see how significant the information about her right to legal aid transformed Başak’s life:

While in line, another woman also waiting to file a complaint informed her of her right to legal aid from the Istanbul Bar Association, which has a room at the courthouse. The Istanbul Bar Association’s Woman’s Rights Centre assigned Başak a lawyer who applied for a preventive order against her husband. An Istanbul family court issued the order in line with article 5/1/a, b, c, d, f for a period of two months. Başak said the police station called her to the station to notify her about the order. When she went in, the officers reportedly informed her about the order and advised her to download the KADES app on her phone, an application allowing women to press a button to call the police when faced with risk of violence.

However, the situation regarding the lack of awareness may differ depending on the different areas of Türkiye. One participant from the FDGs noted that:

Of course, I’m representing the Muğla Bar Association and women in this region have a higher awareness in general.

As previously stated in Chapter 4, there are some institutions that do provide information on legal aid for women. For instance, a number of participants from bar association’s women’s rights centres and NGOs said that they have information programs about legal aid which have yielded positive results. One participant from the research noted:

Our bar association is conducting all kinds of awareness raising projects and we’re conducting conferences and seminars. We also participate in TV programs and so we’re trying to raise awareness about these issues and the women’s rights centre is doing their best.

Another participant from the Nevşehir Bar Association noted that in their area:

I think we have managed to raise awareness for legal aid in recent times. People know more about it nowadays.

In addition to the participants from bar associations, those from NGOs highlighted how they enhance women's access to legal aid by providing information about it to them.

For women who live in rural, remote or isolated areas, even where there were awareness raising programs like Muğla, getting information out to women in rural and remote areas is challenging. The participant from the Muğla Bar Association noted:

But we also have certain provinces, villages, districts where women lack awareness about the resources they have access to.

The difficulties in reaching this group of women were noted by a number of participants. As one stated:

Well, actually, many people can apply to us. But some of them, because they can't afford to apply to us because when they live in the countryside, when they live in the villages, they can't find their way and access us in the centre of the city.

On a positive note, some of the participants noted increased efforts made to try to reach this group:

We have now started to make people aware in the districts as well so we can help all the applicants as much as we can.

Police units are key to provide information about legal aid, and women often seek help from them. For this reason, when police officers fail to provide information about legal aid to women, this is a significant barrier. Participants raised this concern:

This happened to me once when I was accompanying a woman who was subject to violence, so they don't have any means in place. The police officers try to convince women to go back home, even in our presence. They do it even in our presence. And women are interviewed in the police station with many other police officers and male police officers present. They call out her name and they ask her why she's there, testified to a male police for nothing, and they also accompany the women to go to them. And they try to convince the women to go back home, even by shaming the women to go back to her home.

Another institution that provides information about legal aid, particularly to vulnerable groups, are the Directorates of Judicial Support and Victim Services. However, as participants noted, the existence of these directorates are not generally known even by the justice agencies, even by judges, since they are newly established. On a positive note, participants who attended the multi-stakeholder meetings said that they have good experiences with these directorates regarding legal aid and they collaborate with them.

4.2.2 Handling cases in a gender insensitive manner

Participants from the FDGs raised a number of concerns about the capacity of legal aid providers to handle cases in a gender sensitive manner and in a culturally appropriate manner for the diverse groups of women living in Türkiye. Legal aid providers are often more generalists than specialists; there are concerns that often younger inexperienced lawyers take on legal aid cases; and there is no specific training for legal aid providers in gender equality. These concerns were also echoed in other reports, such as the lack of specialist lists according to the working experience of the lawyers (EU Twinning Project, 2016).

Another report (UNDP, 2018) noted:

The current legal aid system does not easily support the assignment of experienced and trained lawyers to complex cases involving abuse of women and children. Rather, the

criminal legal aid automated system randomly assigns from a list of mainly young and inexperienced lawyers....[One bar association] is working to improve the assignment of experienced lawyers to women victims of violence. They indicated that they would be willing to work with the bar association to continue to provide training for lawyers or to support individual cases. Their greatest concern was the lack of understanding of gender equality displayed by many legal aid lawyers.

The male dominant justice system was also raised as a concern. One participant in the FGD noted:

This is a male dominance system that we live in. They have no concerns of changing the system or overcoming it.

This concern of male dominance also extends to the legal aid deliver system. However, the existence of centres, such as the women's rights centres and the LGBTI+Q+ centres at the bar associations are positively changing this picture as they are promoting a gender sensitive approach within the bar associations. They have lawyers who are gender sensitive and have generally taken courses on gender equality. Participants from this research observed that a positive result of these women's rights centres that support the legal aid units is the enhancement of women's access to legal aid.. Without such services, given the general gender insensitivity of legal aid units, women face significant challenges in accessing legal aid. This illustrates the need for specialised legal aid units as well as the adoption of gender-sensitivity training for all legal aid providers.

4.2.3 Women legal aid lawyers

Given the male dominance of the justice system, one aspect of justiciability is to confront and remove barriers for women's participation as professionals within the justice system, including as legal aid lawyers. Research participants observed no gap between the number of men and women lawyers who participate in legal aid provision.

4.3 Challenges relating to availability

Legal aid should be available across the whole territory of the state in urban, rural and remote areas.. Aspects of this element of availability include legal aid infrastructure that is geographically available and sustainably funded in order to guarantee women's access to legal aid. This means infrastructure, whether mobile or fixed, that can provide women applicants' privacy, safety and preserve their dignity. It also implies a holistic understanding of legal aid, being able to link legal aid applicants with the other available services women need, especially in cases of violence against women.

4.3.1 Geographically available

There are legal aid units that deal with civil legal aid and CMK Practice Units that cover criminal legal aid throughout Türkiye. There are also various centres at the bar associations, such as women's rights centres, refugee centres, LBTIQ centres, disabled persons centre, and child rights centres. These centres play an important role in meeting the different needs of women regarding legal aid. In that context, legal aid units and CMK Practice Units should collaborate with these centres according to the specific case and situation. One participant from the Diyarbakır Bar Association noted that their women's right centre collaborates with the child rights centre regarding girls' access to legal aid. However, as previously noted, there are problems in rural and remote areas in terms of accessing legal aid..

4.3.2 Women-friendly legal aid infrastructure

Participants noted that when legal aid lawyers see women victims of violence at police stations, there can be a lack of privacy and the legal aid lawyers might not demand a private space to interview their client. A report also notes that legal aid lawyers do not always respect the confidentiality of clients, in some cases inadvertently creating safety risks (UNDP, 2018).

4.3.3 Holistic understanding of legal aid

Concerns have been raised regarding criminal legal aid for victims of violence where the legal aid lawyers perceive their role narrowly, being present only during the victim's statement and not being involved in assisting women to navigate or link to social services, such as shelters:

The legal aid lawyer assigned to women victims of violence appears to view their role as only to be present during the taking of a statement. The lawyer does not act as if they have a duty to the woman client that includes providing information on the process, legal advice, referrals, assisting with social needs such as housing or protection, or continuity of advice or information after the statement is taken (UNDP, 2018).

4.4. Challenges relating to accessibility

Legal aid needs to be accessible. This requires legal aid units which are secure, affordable and physically accessible to women, and are adapted and appropriate to the needs of women including those who face intersectional or compounded forms of discrimination. Aspects of accessibility includes: the removal of economic barriers to justice by providing legal aid and ensuring that fees for issuing and filing documents as well as court costs are reduced for women with low income and waived for women living in poverty; the removal of linguistic barriers to legal aid services; the development of targeted outreach activities and information appropriate for all groups of women; and the access to internet to enhance access to legal aid. Moreover, certain aspects of accessibility also relate to availability such as ensuring that the physical environment and locations of legal aid offices are welcoming, secure and accessible; and consider holistic approaches, such as justice access centres that provide for a range of legal and social services. Special attention should be given to access to legal aid for women with disabilities.

4.4.1 Economic barriers

There are a range of economic barriers for women who require legal assistance. Civil legal aid requires women to meet a means test. This excludes women who have high enough income levels but still cannot afford the direct high costs of legal services or who lack access to family income. In addition, for women who meet the criteria to be eligible for legal aid, participants noted a number of economic barriers they face in reaching legal aid. For example, some women do not go to the bar associations because they do not have enough money to use public transportation. Another concern raised was that some women think that they have to pay money to the legal aid lawyer. One participant from this research noted:

But still women's concerns, especially financial concerns about how to pay for a lawyer, is really an obstacle that we need to address.

The research found that even in cases where women are granted legal aid, women still have to incur some expenses related to court processes. This is a serious problem especially for women staying in shelters. This is exacerbated by the fact that courts award low amounts of alimony; or courts impose a

fine on the husband which has a negative effect on the woman and her children. Some participants from FGDs mentioned that in some cases men force women to pay their fines.

One major difficulty that women encounter in accessing legal aid is that women often lack the financial and practical means to leave the house and travel to seek legal assistance, especially when living in rural areas, where the number of lawyers is typically low. One participant from the FGDs noted:

Even the practical side of things, like if they have any children, they don't know where to bring their children during these difficult legal proceedings. They don't know where they can stay. They don't know how they can pay for it. They don't even know how long these procedures will take. So all these kinds of uncertainties prove to be barriers in terms of women's access to legal aid.

4.4.2 Physical barriers

As previously mentioned, there are barriers to physically accessing legal aid for women who live outside of cities. As noted by one participant:

We always say that they have to go to the centre of the province to make the application, but even people who live in districts can't afford or can't make their way into the centre let alone the villages.

Participants from this research also noted that the working hours of legal aid units are very limited:

So if you're subjected to justice, then you can apply to legal services only within these working hours. But if you are subject to violence outside of working hours, then you have no legal aid unit.

4.4.3 Limited legal aid

Women suspects and accused have access to free legal aid irrespective of their financial eligibility. However, legal aid in civil matters remains limited due to the financial eligibility criteria. The guide "Trial Standards in Combating Gender Based Violence" (Kadın Dayanışma Vakfı, 2018) notes:

Legal aid is limited in civil proceedings, costs involved may be a burden to victims, language of legislation cannot be understood by many and there may be loss of rights as a result of lack of information about time prescriptions in bringing lawsuit.

One reason for the limited legal aid service is due to the budget. Lawyers complain that the budget for legal aid is not sufficient. For this reason, legal aid units only consider a limited number of applicants for certain types of civil cases, such as divorce or child custody. One participant from the FGDs stressed:

Yes, up until recently we were to appoint a lawyer directly, but unfortunately the number of requests that we have received in recent years is on the increase and unfortunately, we're not able to keep up to the demand. And unfortunately, we have to refer these women to the courthouses where they can see other solutions. And that is not something that we're happy about. But unfortunately, we're not able to meet the demand and our current budget can only be mobilized for divorce cases and other compensations.

Only participants from the Ordu Bar Association noted that in Ordu, women have been approved for legal aid in cases involving inheritance and property cases, as well as divorce and custody cases. As stated by another participant:

We hope, we wish, that it was possible to accept all kind of requests and applications, but because of the financial and procedural challenges that we face, we are not able to do so.

Another limitation is caused by courts. A number of participants from this research mentioned that the bars' legal aid units had approved of the legal aid appointments, but they were then subsequently rejected by the courts. However, one participant noted:

I can say that if a bar association has already appointed a lawyer within the scope of the legal aid mechanism, it's really rare that our decision is rejected by the court.

4.4.4 Women's needs

Legal aid units and CMK Practice Units do not specifically focus on women needs nor do they ensure gender mainstreaming of their services. However, the bar associations' women's right centres as well as NGOs do exist to respond to women needs. Participants from the FGDs noted that there are communication or psychological problems which impede the understanding of legal aid lawyers regarding the needs of women. One participant suggested that legal aid units should provide psychological support to the women and lawyers:

I can tell you that women, when they apply for legal aid or when they come to the bar association, their psychological condition is not really well, and I think that also needs to be taken into consideration. And we are women lawyers, and we are in this profession which is really tough and sometimes we get affected by their psychological condition and by their life stories in general and sometimes psychologically. These aspects really hinder us from doing our job. And sometimes we find ourselves acting like family members to these women because we feel so attached to them. I think in the legal aid mechanisms, when it's some kind of support that involves psychological support as well, whether it be, I don't know whether it be counsellors.

4.4.5 Linguistic barriers

Concerns were raised regarding lack of interpreters when women access legal aid, especially independent interpreters, and that sometimes women have to rely on family or friends, and this might have negative consequences in terms of privacy and adequate interpretation. Some of the lawyers said that they need personnel who know other languages, particularly for refugees and disabled persons.

The European Commission (2022) noted challenges for refugee women in accessing legal aid due to the language barrier:

In 2021 more than 160 000 migrants were apprehended, most of whom were subject to return procedures in removal centres. In the same period, only 849 migrants benefited from free legal aid, compared to 945 in 2020. In addition to the free legal aid scheme, 16,003 migrants were able to access and meet their lawyers in removal centres. The lack of effective provision of information in removal centres, in languages that migrants understand, continues to serve as a key barrier to accessing rights in detention. Compliance with CPT standards should be enhanced, particularly with regard to the presumption against detention of families with children as far as possible.

4.4.6 Women with disabilities

Women with disabilities experience significant problems in accessing legal aid. In order to be in compliance with Turkish law, particularly the Law on Persons with Disabilities, Article 3 (f) sets out the definition of accessibility:

Having buildings, open spaces and services of transportation and information as well as related information and communication technology safe for and usable by persons with disabilities.

These arrangements must also be reasonable as stated by paragraph (j) of the same article:

Adoption of changes and measures that are needed in certain cases which avoids bringing disproportionate or excessive burden in order to ensure that persons with disabilities enjoy and exercise their fundamental rights and freedoms fully and equally with others.

The provision of legal aid in practice is not in compliance with these provisions. Furthermore, participants from this research noted that legal aid lawyers generally do not consider women with disabilities' position and needs. They have problems communicating with them and treat them as persons with limited capacity and agency. Participants suggested the need for legal aid lawyers to undergo special training regarding the rights and needs of women with disabilities. It was also observed by participants that disabled women are in a more disadvantage position than disabled men. In addition, specific mention was made of the intersecting factors of elderly women who experience physical disabilities and who face challenges in physically accessing legal aid units.

4.4.7 Girls

There are also challenges with respect to the accessibility of legal aid for girls. There are no specific legal aid guidelines or regulations regarding providing legal aid for girls nor are there any specific legal aid units for children. One participant from the FGD noted:

Physical and sexual abuse against children is not considered within the framework of the legal aid centres. The applications from children are not dealt with by the legal aid centres, rather they are dealt with by voluntary lawyers working at the children's right centres. And they're the ones to interview the children because the children who come in are traumatised. So the lawyer who is going to interview the child has to have some kind of training regarding interviewing children.

Participants from this research also observed that girls are in a more disadvantage position than boys. One participant stressed:

They require more protection than boys, and they're also seen more as a sexual object, so girls are subjected to more sexual abuse.

One approach to address this issue was noted by a participant from the Diyarbakır Bar Association Women's Rights Centre:

We work together with Children's Rights Centre as well as the LGBTI Rights Centre.

4.5 Challenges relating to the quality of legal aid

Good quality of legal aid system requires that all components of legal aid adhere to international standards of competence, efficiency, independence and impartiality and should be provided in a timely fashion, and lead to sustainable gender-sensitive dispute resolution for all women. Legal aid systems should also be contextualised, dynamic, participatory, open to innovative practical measures, gender-sensitive, and take account of the increasing demands for justice by women. Aspects of good quality also include adopting of indicators to measure women's access; ensuring innovative and transformative legal aid and when necessary investing in broader institutional reforms; and having the administrative

provisions for granting legal aid that are gender-sensitive and not influenced by gender stereotypes or prejudices.

Structural injustices exist throughout the justice system which further feeds inequalities towards women. In Türkiye, given that legal aid is part of the structural unequal and male dominant perspective, women face many institutional barriers when accessing legal aid.. As detailed below, many of the institutional components of the state legal aid system in Türkiye impede the delivery of gender responsive legal aid. However, on a positive note, women's rights centres at the bar associations and NGOs are trying to change this situation.

4.5.1 Budget problems

As stated earlier, the legal aid system in Türkiye has a number of challenges relating to the budget allocations to legal aid attorneys. Participants in the FGDs noted some of these problems. One of them is limited legal aid budget. Since the state funded legal aid system validates in Turkey, participants complied that the state does not separate enough budget for the legal aid. Every year, the legal aid budget from the Ministry of Justice is announced by the Turkish Bar Association who then allocates the funds amongst the bar associations of each province. For instance, in 2021, this amount was 137,408,450,81 TL (Duyuru No: 2021/15); in 2020 it was 100,412,233.04 TL (Adli Yardım Ödeneği 2020) in 2019, it was 84,923,711.81 TL (Adli Yardım Ödeneği 2019); in 2018 it was 90,020,557.33 TL (Duyuru No: 2018/13) and in 2017 it was 69,245,811.36 TL (Adli Yardım Ödeneği 2017). From 2017 to 2021, although the legal aid fund has gradually increased, it still does not meet the needs of the legal aid system. Since there is no explicit requirement for gender-sensitive budgeting, there is a concern that this might negatively impact women.. In addition, participants from the FGDs stressed that there is no budget for vulnerable groups. One participant noted that "There's no budget for children. This is all voluntary work". This is also true for women who do not qualify under the current means and merit test.

4.5.2 Application procedures – Concerns with the financial criteria

The application procedures in Türkiye are generally set out using gender-neutral language. This is a common legal barrier for women in their access to legal aid. For instance, the Code of Civil Procedure includes the financial criteria for legal aid: "Not be able to partially or fully pay the proceeding and trial costs and expenses without the obligation to carry a significant financial burden". This is a rather vague wording which can be subjectively applied by the authorities, whether the courts or bar associations. This means that decision-makers who do not have use a gender equality approach or gender lens can make decisions which do not take into account the specific economic barriers that hinder women's access to legal aid. Unfortunately, this appears to be borne out by the FGDs. One participant stated this problem clearly:

First of all, the first step of access to legal aid requires that if an initial request is accepted and then a lawyer is appointed. Unfortunately, we have a high number of women who struggle to get over this first step and that is due to certain restrictions in the regulation. Unfortunately, we lack certain resources. That includes if the women, if the applicant doesn't have a bank account, etc. These are all kinds of barriers that we have in the first step. So imagine there is a woman she inherited land from her father and doesn't have any financial income. And this woman, although it looks like officially, she owns property, she doesn't have any access to cash, she doesn't have any access to financial resources. So the fact that this kind of property shows up in the official documents proves to be a certain barrier for this specific women's access to legal aid.

This same problem was raised by other participants:

Having a small piece of land proves to be a barrier for these women when they try to access legal aid.

Similarly, another participant stated:

The fact that a woman has property doesn't mean that they have access to cash. Of course, it can indicate that a woman is abusing their potential access to legal aid. But that can also indicate that although a woman has property, they don't have any access to financial resources, and that's why I think we need quite, individualised approach. ...bar associations are able or forced to interpret the regulation on a case-to-case basis.

Many of the participants called for the need to review women applicants' financial situations according to a contextual approach and their lived gendered experiences. Interestingly, some participants from this research discussed how when legal aid units do take a contextual approach and accept such applicants, often courts reject their decision. As one participant noted:

We also see that courts often reject these requests, saying that these women can afford for these legal proceedings.

Another participant noted:

But courts are problematic... sometimes when we [women's right centre] make a legal aid application, judges unfortunately refuse about 60-70% applications. The judge argues that if the woman has any money, even if just inherited land that her brothers control, the judge will refuse legal aid even though the women right centre has accepted her application.

Even for those legal aid units that appreciate the contextual approach and are gender sensitive, they are limited by the means test set out in the law and the budget. As one participant from the FGDs noted, because of the limited legal aid available, they can only accept women applicants who do not have any income.

Another participant commented:

Sometimes we see that a woman is a registered worker, but their income is only enough to cover their children's education. And of course we wish that it were possible to accept the request of these women. But because we have very limited resources, we have to prioritise women with no resources whatsoever. And of course I agree with my colleagues the paperwork, the amount of paperwork is really making things difficult and the fact that we have to do research to see whether a woman has any bank accounts or any other, any properties, et cetera. It makes things go really slow.

Participants agree that the restrictive legal aid financial criteria forces them to accept only applicants who do not have any income. It is not uncommon that they have to reject applicants if they have some income but really cannot afford a lawyer.

A concern therefore is that many women who have low income or property but no income and cannot afford legal assistance do not have access to justice. Participants from this research called for the existing criteria to be examined using a gender lens and to be interpreted according to a contextual and gender-sensitive approach. Moreover, they suggested that decisions-makers need to be given training on these gender issues, as well as gender budgeting practices need to be introduced.

4.5.3 Bureaucratic application procedures

There are also problems with the bureaucratic procedure, specifically the amount of documentation required when submitting an application for legal aid. One participant from the FGDs noted:

You guide them towards legal aid, and they're asked for many documents. They have to go from one place to another to gather all those documents.

Participants generally complained that the application procedures required too many documents making it a heavy burden for women. A number of participants observed that there is no standard form for legal aid applications; rather each bar association has different applications forms. One participant from the multi-stakeholder meetings stated that one bar association demanded records of twelve bank accounts from one applicant. It is positive to note that the Ministry of Justice has recently introduced changes. Now, women who want to apply legal aid can do so on-line using a standardised application form. However, a concern raised by some of the research participants was that a number of women do not use or have access to internet making it difficult for them to apply to legal aid; and some legal aid lawyers are not aware of the online application form. One participant noted that this form requires responses to detailed and complex questions and that this can be a problem for women applicants who often are not aware of their rights or appreciate how best to answers these questions.

4.5.4 Lack of trust in the legal aid system

Another concern raised by participants was that women do not trust the legal system in Türkiye and that this affects their trust in the legal aid system. This concern was pointed out as an obstacle in the survey conducted by the Ministry of Justice Department for Rights of Victims particularly relating to women victims of violence.

4.5.5 Professional bias and gender stereotyping by legal aid providers

The term "legal aid provider" includes lawyers who are assigned legal aid cases as well as decision-makers, those who take the applications and other persons who have a duty regarding the provision of legal aid. All providers should be able to meet women's needs in terms of accessing legal aid. This research found that there is a difference depending on whether they are legal aid lawyers who are members of a women rights centre or legal aid lawyers who belong to legal aid units and CMK Practice Units.

One report (UNDP, 2018) noted that legal aid lawyers can often apply their own cultural biases to their clients, often presuming that a woman victim of violence has been the cause of her own misfortune; use sexist or degrading language about women with their clients; accuse women victims of violence of lying; encourage women to return to their homes despite a claim of violence; or are not respectful to women victims or accused, including not providing options and seeking instructions from their clients.

4.5.6 Lack of gender-sensitivity training

Legal aid offices often have limited human resources in terms of adequately culturally and gender-sensitive trained legal aid providers. In Türkiye, there is no training programme connected with legal aid units and CMK Practice Units about women's access to legal aid. Without this training, it is not surprising to hear from participants in the FGDs the concerns that many legal aid lawyers of these units do not have gender sensitivity. Participants suggested that legal aid units and CMK Practice Units be provided gender equality training programme.

One of the participants from a women's rights centre said that she tries especially to find lawyers who have gender sensitivity to handle criminal cases. One participant noted:

Fortunately, we try to seek out those lawyers who have received specialised training for violence against women and we seek the support of these volunteering lawyers the go along that so in criminal, just as cases you can actually seek the support of the legal aid mechanism. Well actually within the scope of the Code of Criminal procedure.

Women's right centres of the bar associations play a primary role in finding legal aid lawyers who demonstrate gender sensitivity for women applicants. Another participant also stated a similar strategy:

Most of women come back to the bar association and then we try to forward them to lawyers who have the experience and expertise in these specialised cases and then we try to work with them.

As opposed to state funded legal aid units, legal aid providers who work with women's rights centres of the bar associations are more likely to use a gender equality approach. Research participants said that these legal aid providers have received gender equality training. One participant noted: "People working at the women's rights centre has a high awareness of the women's movements". However, there were also some concerns about the level of gender awareness of some of the participants from women's rights centres. For example, one participant shared her experience:

This woman benefited from legal aid several times. It was once it was in stable, the second time was ..., and then it was her third application. Of course we try to understand what was going on, and then during the hearings, I heard from her husband that they changed their mind and they're not getting a divorce. So that was of course, disappointing. And normally we have the right to convey feedback about what's going on, usually what we do.

This statement reflected the lack of understanding of the dynamics of domestic violence which resulted in criticism of an applicant who returned to the abuser. Another participant also stated:

In Ordu, we accept the request of women who have benefited from legal aid before. Of course, we consider different criteria, like the psychological condition of the women and of the children if they have any children. Of course we consider all these aspects. Of course I'm not going to go into detail, but sometimes women face oppression and women face certain restrictions because of all these sociological problems, and they unfortunately find it difficult to overcome these challenges, and they apply for legally several times despite changing their mind beforehand. Of course, our opinion is often positive when we receive applications, but like the example that they gave, and in the beginning, some women really abuse these regulate mechanisms, and if we detect any case like that, we just reconsider our decision and we make sure that this woman doesn't apply for legal aid in the future.

In that case, one participant stated that some of the women use these mechanisms in the wrong way:

But I can also share with you a recent example and an applicant was forward that referred to me and we set on a date. And then she texted me to say that, okay, we made up with my husband. We're not going to proceed with the divorce. And then another woman was referred to me and the same thing happened. She changed her mind and she didn't want to proceed. So that is kind of a pattern. I'm not sure, but I'm sensing a pattern here. They're not really stubborn about their decisions. They're not really standing their foot and they're not really proceeding with these decisions. I'm not sure what the reason for divorce was, but they made up. They applied for legal aid, the collected all that paperwork, and then they're just testing me literally to say that they changed their mind.

These statements show the need to train all lawyers providing legal aid to women applicants and should cover the nature of close relationship depending on women's needs.

4.5.7 Lack of coverage for holistic legal aid services

Research participants generally complained that legal aid providers are not granted adequate time to defend their clients or assist their clients in a holistic manner. As a matter of fact, the report prepared by the Ministry of Justice Department for Rights of Victims mentions that the delays in the appointment of legal aid lawyers and their lack of interest in their assigned cases lead many women to finding other lawyers with has cost implications (Adalet Bakanlığı, 2017).

4.5.8 Challenges in terms of assigning legal aid providers

Another problem regarding legal aid providers is that legal aid is seen as a source of work for less experienced lawyers. Participants from the FGDs said that non-experienced or less experienced lawyers lack the capacity to meet women's needs.

4.5.9 Preference for women legal aid providers

Participants noted that there are differences between women legal aid providers and men legal aid providers. Women legal aid applicants wanted to work with women lawyers. Connected with their women's right centre, one participant stated:

They're all female lawyers. We don't want a woman to come to the centre and explain herself to a male lawyer. We don't want any factors that would remind them of ... men.

Another reason is that there is a concern that male lawyers exhibit prejudices about women and may not have any idea about women's psychology. One participant said:

Male lawyers do not know enough about women's psychology ... because of the fact that we live in a patriarchal society, we face prejudices. To be honest, a female lawyer, it would take a female lawyer three days to file the divorce case. In the case of a male lawyer, I mean you're given six months. The threshold is six months so the then delayed at times male lawyers delay it for up to a month, up to two months. This happens. This is not true for all male colleagues to be honest.

The research participants stressed that women lawyers are more sensitive about women's legal cases. As one participant noted: "First of all women applicants prefer to be in touch with women legal aid providers and that is an incredible advantage. And it is a positive thing".

Participants said that victims of violence against women generally meet women lawyers but later when they want to open divorce case, the legal aid unit may appoint a male lawyer, depending on the list of legal aid providers. The woman applicant has no ability to choose her legal aid provider. Moreover, the assignment of a lawyer is done according to the list of legal aid providers that has no consideration for the request of the applicant. As one participant noted:

And I don't really think there is any division pertaining to the gender of the lawyer when it comes to the distribution of those cases. There is just a line, a waiting line, and then lawyers are pointed one by one, ... you don't really see a difference in terms of the figures regarding the gender division.

However, participants observed that the numbers of women who apply to civil legal aid are many more than men applicants. One participant noted:

We receive 15 to 20 applications, so that goes for the lawyer on call who receives the applications. As I said, the working hours are from 9 to 5 pm and I would say that out of that 15 to 20 we would have three men, max.

Research participants agree that most of the applications for civil legal aid are from women. One noted:

They don't really seek support to access that, she called again. ... If men are really in need of legal aid, they do come to our offices obviously. But oftentimes the majority of men who need a lawyer, who need any type of legal aid resources they choose not to go through the legal aid mechanism. They try to find lawyers or any other resources on their own. ... most of the legal proceedings they are involved in are often about debt or employment issues, so that that I think is another factor that impacts the number of applications from sex.

4.5.10 Lack of codes of conduct

Another concern is for female legal aid lawyers themselves who face discriminatory practices, decisions and behaviours while working in the justice system. A number of participants from the FGDs said that they face discrimination. One participant noted:

... sometimes we face discrimination directly from our counterparts in their day-to-day discourse. The way they're talking about the female counterpart is really, really, really negative. And sometimes they don't. They're not aware of what they're doing within their daily discourse. So that is also a type of gender discrimination that we face on a day-to-day basis.

Another participant stated:

Of course, you can face the discrimination from court. Some there is no physical threat, but even the tone of voice can be really belittling. And sometimes the male lawyers present in the court can also use discourse that is really violent and discriminatory. And sometimes we ask these things to be recorded in the court records. But our requests are sometimes rejected and they are not considered, as legal issues to be taken into consideration. So that is, of course, on a day-to-day basis we face as lawyers gender discrimination.

This has made some participants feel unsafe when doing their jobs as women legal aid lawyers. One participant said:

... and it is really making our job much more challenging again when it comes to the investigation. When it comes to the legal proceedings, sometimes we really, we're really scared about going the courthouse alone. As a female lawyer, I know that most colleagues share that fear as well. Sometimes we need to be accompanied by fellow colleagues and we have these support mechanisms, *ad hoc* support mechanisms among us. Sometimes we even feel the need to go in groups of five to ten so that we can feel safe and secure.

4.6 Challenges relating to the provision of remedies

Women who apply for legal aid and are unhappy with the decision regarding granting legal aid or for the quality of the legal aid services provided should have the ability to request meaningful redress for any harm they have suffered as a result. Aspects of this element include access to an effective complaint

mechanism; and consideration of establishing a specific entity to receive complaints, petitions or suggestions when their right to legal aid has been violated.

In Türkiye, the governance structure of legal aid delivery does not have a separate entity or department or complaint mechanism where women can complain about the quality of legal aid provided. Nor is there a clear description of when women can complain against the quality of the legal aid service or the capacity of the legal aid lawyer (i.e. whether this requires gross negligence or intentional discriminatory conduct).

4.7 Challenges relating to the accountability of the legal aid system

Accountability of legal aid systems is to be ensured through the monitoring of the functioning of the legal aid system to guarantee gender-responsive legal aid to women, as well as monitoring the actions of legal aid lawyers to ensure they do not violate the law. Aspects of this element include: independent mechanism to observe and monitor legal aid delivery; that legal aid providers are held accountable; and that data should include the sex-disaggregated numbers of legal aid users and providers.

4.7.1 Complaint system

Regarding the accountability of the legal aid system in Türkiye, there exist complaint mechanisms for the broader justice system and institutions. However, they are not easy to use, especially in small cities. One participant noted:

Of course we are able to take complaints through official means. However, based on my personal experience, I am, you know, representing a bar association, especially in small places. When you make a complaint about the prosecutor or a judge, of course you have certain hesitation and reservations because we are in the, this is a patriarchy and sometimes questioning the authority of a male figure is challenging on its own and sometimes it's not taken seriously.

4.7.2 Monitoring

There is no independent entity in Türkiye to observe and monitor legal aid delivery, let alone women's access to legal aid in order to ensure that justice systems are in accordance with the principles of justiciability, availability, accessibility, good quality and effectiveness of remedies.

4.7.3 Data

The data regarding the delivery of legal aid in Türkiye is very limited and not all bar associations collect this limited data. Furthermore, some of the bar associations' data covers only the number of the women and man who apply to legal aid. By the way a few Bar Associations collect data in a detailed way. For example, the Ankara Bar Association Gelincik Centres' Data collection which covers information about violence against women is very important to understand the gender responsiveness of the legal aid system. But this approach is not easily accepted by the bar associations. According to the Report of the Foundation of Women's Solidarity, the participant who reported on Muğla Bar Association noted that:

Our request was rejected on the grounds that the bar association did not have a duty to collect data and that data collection was useless. As lawyers working voluntarily in the bar association, this attitude hinders us. When this follow-up is not done by the bar association, we cannot understand "what we have achieved". We are left alone with the files. Our motivation to volunteer work is affected.

4.8 Special case: Challenges for victims of gender-based violence against women

Women experiencing gender-based violence - violence which is directed against a woman because she is a woman or that affects women disproportionately¹⁰ - require access to a wide range of justice options - from civil protection regimes, criminal justice remedies, family law issues (e.g. divorce, child custody and property division), and civil remedies and compensation. Numerous international standards have emphasised the importance of legal aid for victims of violence against women. The CEDAW Committee GR No. 35 on gender-based violence against women calls on states to ensure access to financial aid and free or low-cost high quality legal aid. The UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice urges states to ensure that women subjected to violence have full access to the civil and criminal justice systems, including access to free legal aid, where appropriate. Furthermore, the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems calls on states to provide legal aid to victims of crime and sets out detailed guidance as to what this should include. In addition, the UN Guideline 9(c) specifically addresses the needs of female victims of crime and states:

Providing legal aid, advice and court support services in all legal proceedings to female victims of violence in order to ensure access to justice and avoid secondary victimisation and other such services, which may include the translation of legal documents where requested or required.

In Türkiye, the discussion of women's access to legal aid has developed mainly from the context of gender-based violence against women. When participants discussed the issue of women's access to legal aid, it was generally from their experiences with victims for violence against women. It is suggested by the participants that most women who apply for legal aid in Türkiye are women victims of violence.

Given this situation, this report explores the challenges to legal aid specifically faced by victims of violence against women in more depth in this section.

4.8.1 Present situation of gender-based violence against women in Türkiye

A number of reports and surveys illustrate high prevalence rates of various forms of violence against women in Türkiye and highlights the most common forms: femicide and domestic violence. They also indicate low disclosure and reporting rates by women which provides a worrying picture when considering women's access to justice.

- According to the Ministry of Interior, 158 women have been killed in femicide across the country in the first seven months of 2022 (Ministry of Interior, 2022).
- A 2014 survey from the Hacettepe University Institute of Population showed similar findings and highlighted the fact that women from all groups are under the threat of violence and they often stand against this act alone (Hacettepe University Institute of Population Studies 2014). Only 11% of women resorted to an institutional mechanism and only when the violence reached an unbearable point. It found that the most widely known institutions by women are the police/police stations and guesthouses/shelters. However, cited institutional problems included not taking the testimony of women

¹⁰ Violence against women has been defined in the UN Declaration on the Elimination of Violence against Women as "any gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. CEDAW General Recommendation No. 35 (2017) on gender-based violence against women further emphasises that such violence is directed against a woman because she is a woman or that affects women disproportionately.

and women being alone while making their statements to authorities. ŞÖNİMs are mentioned as the least known institutions, as well as legal aid units.

Türkiye has established a legal and institutional framework to respond to violence against women. While the legislation addressing violence against women is said to be well developed, Türkiye's withdrawal from the Istanbul Convention is considered a major hindrance in the development of further legislation and policies for combatting gender-based violence and already has had negative effects. For example, participants have observed that it is less easy for victims to get court ordered protection orders. Moreover, the European Commission Report on Türkiye 2021 reiterated these concerns, and is particularly worried about the indictment filed by the Intellectual and Industrial Crimes Bureau of the Istanbul Chief Public Prosecutor's Office, which is seeking the closure of the We Will Stop Femicides Platform (KCDP), one of the largest and most prominent women's rights groups in Türkiye fighting gender violence, accusing it of contravening public morality.

In addition to Law No. 6284 and its enforcement regulation, there are also ŞÖNİM regulations and circulars by ministries; and the Presidential Decree of 10 June 2020 on the Protection of Victims of Crime which envisages the enforcement of judicial decisions and protection of persons suffering damage as a result of an offence. As the Decree is fairly recent its implementation has not been studied. It is positive that Article 7 of the Decree provides for services to be delivered to vulnerable groups.. The Ministry of Justice and Ministry of Interior have also published regulations and circulars about combatting against women. . The number of shelters has been increased and first-step centres introduced. 81 ŞÖNİM's and 347 Social Centres have created Women's Services Contact Points. Moreover, the coordination role assumed by the General Directorate on the Status of Women through provincial governorates has been important as the directorate is also engaged in risk assessment concerning the life safety of victims of violence.

While the legal framework to address violence against women and domestic violence is in place and the above services, there are problems in the enforcement of this law. A report prepared by the Police Academy in 2018 pointed to the need of making local branches of central government more active in adopting measures, the need to ensure consistency in measures adopted by judges and the need of standard processes and training and information campaigns. GREVIO also noted the following problems: inadequate information given to victims at the police stations, not referring victims to authorised bodies, experience of secondary victimisation as a result of accusations by police based on gender stereotyping , and shortage of data on victims of violence. These difficulties were aggravated during the Covid 19 pandemic.

4.8.2 Victims of violence against women and their access to legal aid

Women victims of violence face some specific barriers in accessing legal aid, in addition to the broader challenges faced by any women. The Charter of Fundamental Principles on Access to Justice for Women Victims of Violence published by the International Association of Lawyers (2022) establishes that::

Women victims of violence have the right to an unhindered and easy access to justice as well as to an effective remedy for the harm they have suffered. They are entitled to competent and highly qualified legal services and representation during judicial proceedings and to legal aid if they lack sufficient means. They must always be treated with respect of their dignity and their privacy and protected from repeated violence.

The Charter requires the bar associations and lawyers to play a fundamental role:

... in accompanying and supporting women victims of violence who seek protection and legal assistance as well as in providing them an effective access to *pro bono* legal services and to legal aid.¹¹

At the time of drafting this report, only the Istanbul Bar Association had signed this Charter in Türkiye.

4.8.2.1 Weak response to all of the victim's legal needs

Participants from the FGDs noted that generally bar associations give priority to victims of violence against women and try to meet their legal aid needs. However, in examining how their legal needs are addressed it is necessary to make a distinction between applicants who are applying for protection measures under Law No. 6284 and other civil and criminal legal needs. At bar associations, generally it is the women's rights centres who process applications for protection measures under Law No. 6284. One participant observed: "Once they make an application, they are immediately appointed a lawyer". However, if victims are involved in a criminal case or a divorce case, the women's right centres typically send the victims to the CMK Practice Units or the civil legal aid unit to assign them two additional lawyers.

The practice of bar associations differs depending on the region, where in one bar association, the woman victim of violence might be assigned three different lawyers to deal with different legal matters, in another bar association, they try to assign the same lawyer to handle all the women's legal issues. This piecemeal and fractured response to the legal needs of women victims is a concern for a number of reasons. Firstly, the victim must retell her story to different lawyers. Secondly, as previously noted, while the lawyers from the women's rights centres are generally women, specifically trained in gender equality and are more gender sensitive, the lawyers from the CMK Practice Units or legal aid units are not. As one participant noted:

The women's rights centre at the bar association is a well rooted centre, actually, it's quite a machine, etc. and we're well equipped because people working at the women's rights centre has a high awareness on women's movements, etc.

This means that women victims typically receive a more gender sensitive experience with legal aid when applying for protection measures under Law No. 6284 but not for addressing her other legal needs.

4.8.2.2 High demand for women's rights centres

Bar associations' women's rights centres play an active role for supporting victims of violence against women. Generally, they inform women about their rights and accept applications for protection measures under Law no. 6284. These centres also focus on women's needs. One of the participants said:

We ask women about their economic difficulties, how many children they have, and why they can't eliminate all factors of violence, types of violence, maybe physical, economic, sexual etcetera. There's a checklist, there's a form that we ask women to fill in and we improve this form each and every year.

Another participant spoke about racial discrimination regarding Kurdish women and noted that these women face multiple forms of discrimination in the judicial process.

¹¹ For the Charter see: <https://www.uianet.org/en/news/charter-fundamental-principles-access-justice-women-victims-violence> (Accessed Date: 21.01.2022).

Participants also noted some challenges with women's rights centres, especially since these centres deal with many applications. Some participants suggested that there should be separate unit for violence against women at the bar association and cited the example of the Gelincik Centre as a good practice for specialised services for women victims of violence (discussed in more detail in annex 2).

4.8.2.3 Specific Training on the dynamics of gender-based violence

Specific challenges noted by participants from the women's rights centres relate to communication problems. One participant said:

When women make applications, when women come to us we do our best to provide them with the necessary support. But the problem is getting the women to communicate with us because sometimes they are so desperate, they don't even see that they are falling victim to violence. They don't even recognise the abuse. They don't even recognise the violence. And that is what's keeping these women from getting in touch with us. Of course, once they communicate with the bar association, they get all kinds of support that we can provide.

Another challenge noted by participants was the high expectation from women who want guarantees for protection if they start a legal action. . As one participant noted:

First of all, there are a very high number of women who have been subject to violence. They want to know how much they're going to be protected against violence. To what extent they're going to, protected. We of course explain them about what can be done from a legal point of few, but we can't give them a full guaranty that we will save their lives. So they're very much worried and fearful.

These comments from participants suggest that women's rights centres also need specialists who have experience in trauma-informed interviewing techniques and appreciation of the dynamics of violence so that they can more fully assist victims for violence against women.

4.8.2.4 Views based on gender stereotyping

Despite the bars associations' relatively positive approach to victims of violence against women, there are some concerns. First of all, many still regard the problem of violence against women as a women's problem, not a gender inequality problem. For this reason, there continues to be the opinion that women lawyers are responsible to defend victims for violence against women. Secondly, since there is no gender-sensitive approach, except for women's rights centres, legal aid providers assigned by the legal aid units for civil legal aid and CMK Practice Units for criminal legal aid, generally are unfamiliar with the dynamics of gender-based violence and the impact of trauma on the behaviour of victims. This can cause victims who deal with such legal aid providers to suffer secondary victimisation or feel re-victimised by the legal aid system itself. As noted by one participant:

If a user of legal aid, and we're speaking of women here, is unsatisfied with the experience. She's experienced gender bias or stereotypes by using legal aid and accessing legal aid.

4.8.2.5 Treatment of women legal aid lawyers

Women legal aid lawyers also face discrimination and can be subject to gender-based violence. Participants from the FGDs have noted that it can be difficult for them to do their jobs as legal aid lawyers given the male dominant justice system. Moreover, male lawyers consider that cases involving

violence against women should be dealt with by female lawyers. Not only that, there is a belief that women lawyers should do these cases voluntarily. This approach creates a serious disadvantage for women lawyers.

Generally, participants noted their passion and commitment in providing legal aid for victims of violence against women cases as a way to combat this violence in society. They care about the victims and try to do their best for them. This kind of lawyering is a typical example of feminist/active lawyering aiming to change the male-dominated legal profession and challenge the dichotomy between the abstract and neutral legal rules and the lived experience of lawyering.

4.8.2.6 Reliance on NGOs rather than on state funded legal aid

There are NGOs in Türkiye which provide legal support to women and girls and many of them are sensitive to issues of marginalised women, such as women with disabilities and LGBTBI+ individuals.¹² In the FGDs with NGOs who provide legal support to women, participants stated that they do not prefer to send women to legal aid units. Rather, the NGO tries to support victims through the use of their own lawyers. The reasons cited for this include: procedural obstacles of state funded legal aid and lack of trust in legal aid providers. One participant said:

They don't provide with active and effective support.

Another participant noted:

We had three refuge centres for women and we also had 10 women's centres. They were making sure that women got certain protection when they were victims of violence. And these centres were also making sure that women had access to legal aid processes to access to justice in general. All these centres were closed down and one or two of the rest that were not closed down are not really functioning properly. That's why we started up this association and the number of applications that we get, it's incredible. We are talking about murders. We are talking about women who are losing their lives. And these people are really desperate and hopeless and helpless.

For these reasons, NGOs have felt it was necessary to focus on women needs for legal aid.

5. Conclusion: Findings and proposals

This chapter sets out the findings from this research and subsequent proposals on how to enhance women's access to gender-responsive legal aid in Türkiye.

5.1 Findings

There are problems relating to accessing legal aid in Türkiye. Reports repeatedly criticise the complex and problematic nature of the legal aid system in Türkiye and the quality of services delivered. These problems are deeper and complex when it comes to women's access to legal aid. This report has analysed the challenges women face in accessing gender-responsive legal aid using the six interrelated elements from the CEDAW Committee GR No. 33 on women's access to justice. The information collected from FGDs, the multi stakeholder meetings and an on-line survey have added depth to the review of existing reports and studies that have discussed persisting barriers women face in accessing justice in Türkiye.

¹² NGOs have prepared a number of reports on women victims of violence, covering different perspective such as women with disabilities and LGBTBI+ individuals: Discrimination Monitoring Platform, Association of Women with Disabilities, Mor Çatı Women's Shelter Foundation, Pembe Hayat, Women's Solidarity Foundation.

One of particular note is the recent 2022 CEDAW Committee Report on Türkiye which highlighted important shortcomings:

- legal illiteracy among many women and girls;
- limited scope of legal aid, both economically and substantively, resulting in non-eligibility for legal aid of women earning the minimum wage;
- cumbersome procedure to prove eligibility
- language barriers faced by women seeking justice, particularly Kurdish women, women belonging to other minorities and refugee women;
- limited knowledge of women's rights on the part of law enforcement officials and legal practitioners.

5.1.1 Five Key Findings

It is recognised that there are a number of shortfalls in the requirements for ensuring women's access to gender-responsive legal aid. In spite of the equality principle confirmed in the Constitution and the Turkish legal framework, which requires formal and substantive equality, the reality is that this equality principle is not reflected in the legal aid system in Türkiye nor in the outcomes for women. The five key findings of this research, discussed below, provide insights into the factors that contribute to the challenges for women in accessing legal aid.

First finding

The national legal framework that sets out the legal aid system in Türkiye is complex and piecemeal, with secondary civil and criminal legal aid being covered in different laws, and no specific law setting out provisions regarding primary legal aid. In addition to this fragmented approach, the provisions are framed using gender-neutral language. There are no specific arrangements related to gender in the main laws relating to the provision of legal aid (the Civil Code and the Criminal Procedural Code) nor are there explicit gender-sensitive rules regarding legal aid delivery. Moreover, there is no acknowledgment or understanding of how the gender-neutral provisions can negatively impact women.

It is encouraging that there are special legal aid rules as well as specific policies regarding legal aid for women victims of violence. This includes Türkiye's four national action plans, especially the one covering 2021-2025 which explicitly sets out measures for women's access to justice.. However, the scope is narrow in covering the victim's protection needs and not all her other legal needs. Moreover, Türkiye's withdrawal from the Istanbul Convention is negatively impacting women's access to justice.

The lack of gender-specific provisions in the legal framework has implications for the institutions that deliver legal aid and their obligations towards informing and supporting women and girl's access to legal aid in a gender-responsive way. Moreover, the lack of gender-sensitive legal provisions also has meant that there is no obligation to create a gender-responsive budgetary process for legal aid delivery. This has allowed the male dominated legal system to continue and feed structural injustices and obstacles for women.

Second finding

The challenges women and girls face applying for legal aid and during the legal aid process can be considered into two stages: the application stage and after the application stage.

The Application Stage relates to when the woman decides to apply or not to legal aid and to the actual application procedure for legal aid.

The research found that there are numerous obstacles faced by women even to make the decision to apply for legal aid. As noted by participants, it is not easy for women to approach legal aid providers. Most women do not have information about legal aid, their rights to legal aid, where to go or how to apply. Moreover, state institutions that have a responsibility to inform women of their rights do not always do so. For instance, women victims of violence generally seek help from police stations; however, participants noted that police officers do not always inform them about their right of legal aid. Even when they do know about legal aid, many do not apply. This can be due to a number of obstacles, such as geographic, economic and social, linguistic, as well as lack of trust in the justice system.

As one participant sums up:

I want to reiterate again that it is. It requires a revolution for a woman to go seek legal aid because imagine this woman was stuck in the system in this patriarchal system full of violence and oppression. And it took them 15 or 20 years and it takes them to revolutionise their point of view and to be able to come seek legal aid. We need to recognise that revolution and we need to recognise how much power and how much how much violence it takes for a woman to decide to seek legal aid.

There are differences regarding these obstacles depending on the region and the size of the region and how far the cities are from the rural areas. In addition, these obstacles can be exacerbated for women who face multiple factors of discrimination, such as refugee women who have immense language barriers and other disadvantaged groups who are not specifically targeted in public awareness material or have low literacy rates.

If a woman decides to apply for legal aid, she meets barriers within the judicial system. The application procedures themselves present difficulties for women. These include the heavy burden related to the required documents for the application, limited legal aid and challenges with meeting the financial criteria.

After the Application Stage: Most barriers here are due to the treatment, behaviours and attitudes of the legal aid lawyers. On a positive note, for those who are applicants for protective measures under Law No. 6284, legal aid providers who are members of bar association's women's rights centres are more gender-sensitive, have specific training on gender, and provide more timely legal aid. As noted by one participant:

And once they reach us, they are able to accelerate the rest of the proceedings procedures and then they come back for the appointment of lawyers.

However, a worrying trend was noted that even when the bar association's legal aid units accept the woman's legal aid application, the courts may not accept it. As one participant noted: "legal aid request is accepted by the bar association, but the court rejects or declines that request".

Third finding

Women and men have different legal aid needs. Generally, in civil legal aid applications, there majority of applicants are women, whereas in criminal legal aid cases the majority of applicants are men. As noted by one participant who works at the civil legal aid unit:

More than 70 percent of the applications come from women. And I would like to highlight the fact that most of the applications coming from men who are refugees only. ... Also, in divorce cases, most of the applications for legal aid come from women. They are very

specific types of cases where men also seek help in divorce cases in terms of legal aid. But I would say that the majority is obviously women.

Another participant observed:

Of course in criminal cases the number of cases of the number of applications coming from men is higher. Of course we also see a lot of applications coming from victims or survivors of these criminal cases, especially pertaining to children. But still the majority of applications come from men.

While civil and criminal legal aid are formally available to both women and men who apply and meet the required tests, the reality is that in practice due to the different needs and situations of women and men, most men who receive legal aid receive criminal legal aid and do not have to meet a means test, whereas most women are beneficiaries of civil legal aid and therefore do have to undergo a means test and the bureaucratic procedures to prove they are financially eligible for legal aid. This approach appears to prioritise legal aid in criminal matters (the “public realm”), making it available irrespective of financial circumstances over family law matters (the private realm). It is important to reflect on whether such a choice reflects traditional value choices, viewing the possibility of deprivation of liberty more important than possible deprivation of child custody.

Fourth finding

Women lawyers who participated in this research were generally gender trained and highlighted the key role played by women lawyers, women’s rights centres and NGOs in transforming the justice and legal aid systems to become more gender-responsive. They noted how difficult it was to be a woman lawyer in a male dominant legal profession. Male lawyers tend to view women’s legal needs and their right to legal aid as a women problem and may believe that women lawyers should provide this service voluntarily. In addition, a number of participants also stated that they themselves can face discriminatory practices in the judicial process. This is a further barrier for female lawyers in providing legal aid to women in need.

Fifth finding

There is a lack of uniformity in delivering gender-responsive legal aid and a lack of capacity to evaluate and monitor the legal aid system to effectively address the needs of women in Türkiye. In fact, there is no standardised procedure for legal aid delivery in Türkiye or the requirement to ensure comprehensive data collection that is sex disaggregated. While it is encouraging that some bar associations try to expand the limited aspects covered by legal aid and some bar associations use flexible and broad interpretation of the financial criteria based on the realities of women, others do not nor is there any requirement or guidance provided to all bar associations.

5.1.2 SWOT Analysis

A SWOT analysis is a situational analysis that identifies strengths, weaknesses, opportunities and threats related to project planning. It is included here to provide an additional summary of the main points arising from this research.

Strengths

- To have women’s rights centres in bar associations who can support legal aid and increase gender sensitivity.
- To have comprehensive criminal legal aid for women suspects, detainees and victims in the criminal investigation and prosecution phase.

- To have institutions who have the duty to inform women about legal aid services.
- To have specific entities for the elimination of violence against women (e.g. Gelincik Centre).
- To give priority to women victims of violence in the legal aid system.
- To have Directorates of Judicial Support Victims' Services
- No financial eligibility criteria for the remuneration of defence counsel and lawyers in criminal cases.
- To have specific centres for different groups of women and girls to support their access to legal aid (such as children right centres, refugee centres).
- The supremacy of CEDAW, and other legal instruments related to gender-responsive legal aid declared in the Constitution.

Weaknesses

- Lack of gender sensitivity in the laws policies and training of lawyers.
- No special code or policy relating to women's access to legal aid.
- No gender policy relating to justice sector or legal aid.
- No requirement for gender equality education for legal aid lawyers.
- No gender perspective requirement to become a legal aid lawyer
- Lack of monitoring mechanisms and sufficient legal aid statistics.
- Weak or limited criteria for financial situation analysis of legal aid applicants in civil cases from a gender perspective.
- No legal aid budget based on gender equality consideration.
- No institutional mechanisms for different women applicants (such as disabled, refugees, older women, girls, etc).
- No gender education that includes girls' rights to legal aid.

Threats

- Pervasive use of gender stereotypes.
- To regard women's legal aid only in the context of violence against women.
- No distinction between women and girls when accessing legal aid..
- To view all women as homogenous groups and not consider intersecting factors of discrimination.
- Limited budgetary resources.
- Unforeseen increase in the number of refugee women.

Opportunities

- Increasing number of lawyers who have gender sensitivity.
- Developing possibilities of legal information by Women Rights Centers and NGO's
- University legal clinics which support women's access to legal aid.
- Projects which aim to develop women's and girls' access to justice.

5.2 Proposals to improve legal aid to respond women's needs and rights.

This report's proposals support those made by other reports, including the 2022 CEDAW Committee report on Türkiye which called for enhancing rights awareness for women and girls including legal literacy programmes, and ensuring that free legal aid and interpretation in Kurdish and Arabic is made available to women without sufficient means, including through the establishment of legal aid clinics in rural and remote areas.

5.2.1 Law reform

Legislation concerning legal aid must be revised so as to mainstream gender considerations, taking into experiences of women, men and LGBTQ persons and their differential legal needs. This includes reforming gender-neutral legal provisions that negatively impact women, such as the financial criteria and the bureaucratic application process for accessing legal aid. It also means recognising that women are not a homogenous group but that certain women face multiple factors of discrimination, including women with disabilities, refugee women, women living in rural areas and girls. Effective legal aid systems that promote substantive gender equality can improve the overall performance of the justice system.

Specifically, legal aid law reform could streamline the application process, such as providing for legal aid providers to accept cases provisionally, pending verification of the documents for eligibility; consider expanding the categories of groups under the merit test to include groups of marginalised and vulnerable women; and requiring the incorporation of gender budgeting principles in the national legal aid budget.

In addition, law reform should also look beyond the classic view of legal aid and look at law reform that leads to results that promote a substantive gender equality outcome for women from the entire justice system. The whole justice system needs to be transformed, including the legal aid mechanisms. Participants called for an update to legal aid mechanisms. One participant noted:

We might need specialised courts and specialised prosecution mechanisms. I think that is the key need that would I think accelerate the legal proceedings pertaining to these cases, these types of cases. And I think it would also be an incredible prevention mechanism. So in addition to legal aid offices, I think we need to have specialised courts and specialised prosecution departments focusing on violence against women specifically.

5.2.2 Develop gender-responsive policies and general principles

The state and the relevant stakeholders should consider developing an integrated national policy for the provision of legal aid to adopt a service standard for all legal aid which mainstreams gender, addresses discrimination faced by women and the different categories of women; and ensures early

and effective legal assistance to women in the justice chain and extending to all stages of the justice system. In addition, the Union of Turkish Bar Associations should consider developing and publishing a gender equality policy and gender mainstreaming plan for the Union. The legal aid provided by bar associations should be reorganised from a gender perspective according to such a plan.

As one participant noted:

We need to come up with a legal aid mechanism that prioritises poverty and financial resources and secondly, gender equality.

Most importantly, the participants insisted on a diversity principle that should dominate in the legal aid system. One participant said:

We were able to do the best for all kinds of people who are part of the sensitive groups, of course, children, women, LGBTI+ community. Of course, we are not obliged to prioritise one group over the other. If we're working towards this goal, I think we need to be inclusive and we should not prioritise any group or another.

Any policy on legal aid needs to be based on international standards and norms regarded women's access to legal aid. These are principles are, *inter alia*, equality, women-centred/victim-centred approach, due diligence, non-secondary victimisation, intersectionality and effective legal aid.

5.2.3 Raise awareness of women's and girls' rights - Right to legal aid

It is necessary to enhance women and girls' awareness of their rights and their means of enforcing them, placing particular emphasis on the integration of women's rights and gender equality into curricula at all levels of education, including legal literacy programmes, and emphasising the crucial importance of women's access to justice and to legal aid. While it is encouraging that there are some awareness programmes in Türkiye, there is not a sustained effort or national approach nor one that includes the public as well as those working in the justice system. Some participants raised the concerns that some women might not be aware that the violence they experience is a violation of their rights or the law.

5.2.4 Invest in specialisation

Promoting specialisation in legal aid institutions can ensure that gender-sensitive and trained legal aid providers are available for women seeking legal aid. Moreover, specialisation can also involve enhancing the understanding of promoting gender equality for all gender diverse persons. Specialisation can be done through the creation of specialised and multidisciplinary units within the legal aid delivery institutions, as well as designated legal aid providers for specific cases, especially if specialised units are not seen as feasible for all regions across Türkiye. Specialisation can also involve the development of linkages and relationships, jointly developed protocols between legal aid lawyers and other social service providers that women might need to access.

Many participants suggested the need to invest in specialised legal aid units for women. Such offices should be organised according to women's needs. One participant noted:

Perhaps it would be a good idea to have legal aid offices dealing specifically with women.

Another stated:

For instance, let's say if a woman has property but has no monthly income, an updated system would automatically detect that a woman is eligible for a legal aid. I think that

would be an amazing step in the right direction and we can achieve that if we make that structural change because as it stands. So let's have a legal aid office specific for women, and let's work on the regulation itself.

Others called for a more inclusive approach. One of them noted:

But we need to have an approach that is much more intersectional, and we need to have a much more inclusive approach that favours gender instead of focusing merely on women. The current situation is not really in line with that inclusive approach, and I think each bar association has their own approach as well.

Another participant also stated:

Yes, we can consider having a separate legal aid office regulate mechanism specifically for women. What about the LGBTI+ Plus community? We need to be focusing on gender as an umbrella term, which is much more inclusive. Rather than focusing simply on women, we need to focus on gender equality instead of focusing simply on women's rights.

However, while many participants agreed with the need for inclusiveness, they stressed that:

We need to prioritise women because they are the first sufferers and victims and survivors of the systemic violence.

5.2.5 Empower women lawyers

While all legal aid providers, both women and men lawyers, have a role to play in addressing gender discrimination in the legal aid system and the justice system, due to the male dominance of legal systems, it is important to remove barriers for women lawyers and actively promote their empowerment as lawyers and legal aid providers.

Women lawyers face discrimination and have a disadvantaged position in the legal aid system in Türkiye. Empowering women lawyers in the legal aid system can directly benefit women's access to legal aid. As noted by one participant:

People are working really hard to make sure that these women have the support that they need. Of course we do have some negative examples, but lawyers are sometimes paying from their own pocket and same goals for women's right centres and children's right centre. We see it on a day to day basis. We pay so that we can volunteer and we stand in a very disadvantaged position. And sometimes these are really poor lawyers themselves, and they are victims of the system as well, and they are trying to provide resources to these women.

They do their job voluntarily:

I have to say that almost 90 percent of the work that we do is voluntary.

This illustrates the primary role female lawyers play to ensuring women have access to legal aid. Especially violence against women cases are typical examples of this kind of lawyering. Such work needs to be seen as valuable by the rest of the legal aid system and remunerated accordingly.

Women lawyers experience discrimination by other justice providers, as the legal system in Türkiye remains male dominant. One participant said:

But if you are a rights advocate, if you are a volunteer and if you are an activist, that means you stand in a disadvantaged position and things are not really working well for you.

For gender responsive legal aid, the treatment of female legal aid lawyers needs to be addressed. Firstly it is necessary to change women's position according to gender equality. One participant noted:

It is important to provide support to female lawyers who take part in the legal aid system. We have to empower the female lawyers in the legal aid system as well.

Women lawyers who work on violence against women can experience secondary or vicarious trauma themselves and require psychological support to do their job. One participant said:

We provide support to women, but we always work with women who are subjected to violence and we end up being traumatised as well. There's no support mechanism in place for us. We no longer act as regular human beings. We're not being mended. We end up being traumatised and we end up being less sensitive to these matters. We have to get some form of rehabilitation so that we can continue fighting in the field.

5.2.6 Promote training

Training and capacity development can change practice. Building the capacity of all legal aid providers in how to apply the law in an appropriate and gender-sensitive manner is an important step towards ensuring a gender-responsive legal aid system. In fact, Article 16 of Law No. 6284 also states and requires this kind of training:

For an effective application of this Law, the public institutions and organisations and professional organisations with public institution status ensure their personnel and members to attend educational courses prepared and coordinated by the Ministry on the human rights for women and the equality of women and men.

Such trainings should be specific and regular; integrated institutionally, supported by protocols and guidelines; done in close cooperation with experienced NGOs; and evaluated to ensure that the training is effective.

At the stakeholder meeting, the Vice President of the Union of Turkish Bar Associations Atty. Sibel Suiçmez noted:

One of the aims of this project is to improve women's access to justice by increasing gender sensitivity and eliminating barriers, while at the same time providing quality legal aid services. For this purpose, "Women's Access to Justice" training was provided to 270 lawyers in our four pilot provinces – Ordu, Muğla, Diyarbakır and Nevşehir – through the Council of Europe HELP (Human Rights Training Program for Lawyers) programme. The trained lawyers will use their knowledge and awareness on these issues whilst providing legal aid services for women.¹³

NGO participants noted that they may organise seminars and training programs for legal aid providers connected women's access to legal aid. They suggested that all legal aid providers need to learn the meaning of legal aid from a gender perspective.

¹³ See for the details <https://www.coe.int/en/web/ankara/-/key-stakeholders-discuss-how-to-improve-women-s-access-to-legal-aid-and-assistance> (Accessed Date 15.19.2022)

5.2.7 Collaboration with NGOs, bar associations and public authorities

The state funded legal aid system should collaborate with NGOs and women's rights centres in the bar association as they provide most of women's legal aid in Türkiye and are experts in the field of gender equality. Moreover, it is also important for bar associations to collaborate with NGOs that provide support services to women in order to ensure needs are addressed. One participant from Diyarbakır Bar Association noticed:

There is a network called the Network for the Fight against Violence against, and we cooperate with many institutions within the framework of that network.

Participants of NGOs noted that since many women apply to their centres, they need to collaborate with other institutions. One participant from Diyarbakır NGO said:

And we are even getting applications from neighbouring provinces like Mardin. And that's why we decided to work in partnership with other associations, institutions that work in the same field.

Furthermore, collaboration between the public authorities and bar associations is even more important in relation to violence against women cases. One participant said:

The women's right centre I work with is among them because when a woman falls victim to domestic violence, of course, hospitals play an important part in that as well. We need to be able to cooperate with the staff, police as well as the doctors who are working in the hospitals when there is a case of domestic violence. That's why we need to make sure that there is a multi-agency and multi-institution partnership platform. And that's why we signed protocols with institutions and we're conducting projects to publish reports on what we have observed".

5.2.8 Enhance accountability and standards of conduct

Ensuring accountability of legal aid providers contributes to the integrity of the legal aid system as well as the justice system as a whole. Moreover, it promotes women's trust in the legal aid and justice systems. Consider enhancing or developing a complaints mechanism within legal aid units and a sanctioning system for legal aid providers who fail in their duty to ensure women's right to legal aid in a gender sensitive manner. Another way to enhance accountability would be to consider developing a code of ethics for legal aid providers, including addressing the issue of gender bias and sexual harassment.

5.2.9 Ensure the ability to monitor and evaluate whether legal aid is gender-responsive

Data is critical not only in identifying where in the system the problems lie, but also so that policy-makers and advocates can develop a streamlined and targeted solution to address those problems. Data should be age and sex-disaggregated and should allow for tracking cases in a case management system. Consider including: number of cases for which state-funded legal aid is provided, preferably broken down by type of service (e.g., legal advice or representation) and case (administrative, civil, criminal); number of lawyers providing legal aid services on a full-time basis; data on the quality of legal aid services provided (including public perception); and data on the demand for legal aid services, including types of legal matters. There is need for further research on assessing legal needs. This could be useful in determining: (a) the demand for legal aid services; (b) gaps in delivery of the services; (c) specific priorities for different marginalised groups; and (d) identifying areas of improvement on legal aid service delivery.

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ANNEX 1: Information from the E-Survey

E-Survey on perceptions and attitudes regarding women's access to justice with a focus on legal aid in Türkiye

Purpose and use of the questionnaire

The purpose of this survey is to obtain information from legal aid providers in Türkiye about their attitudes and perceptions on women's access to justice, particularly legal aid. This survey is part of a study by the Council of Europe to assess existing barriers for women's access to justice in Türkiye.

Anonymous and voluntary

You are not required to identify yourself in this questionnaire. All data is therefore anonymous and may not be used in any way that is against your interests. The information you provide is voluntary therefore you are not compelled to answer any of the questions.

A note about terminology used in this survey

Women's access to justice Access by women, in particular, from poor and disadvantaged groups, to fair, effective, affordable and accountable mechanisms, for the protection of rights, control of abuse of power, and resolution of conflicts. This includes the ability of women to seek and obtain a fair and just remedy through formal and informal justice systems and the ability to influence and participate in law-making processes and institutions. (UN Women, UNODC and UNDP "A practitioner's toolkit on women's access to justice programming")

Legal aid "includes legal advice, assistance and representation [...]that is provided at no cost for those without sufficient means or when the interests of justice so require", as well as legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes [United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems].

This survey should take 10-15 minutes to complete.

Please complete the survey by xx July 2022

Please answer the following questions:

1. Gender: Female___ Male___ Prefer not to answer___ Other_____

2. Profession:
___ Legal aid officer ___ Private lawyer that does contract legal aid work ___ NGO lawyer
that provides legal aid
___ Paralegal ___ Law clinic student ___ Other (please add) _____

3. Years of experience in your profession: _____

4. In this section, please let us know how much you agree or disagree with the following statements.

Note: This section focuses on the perceptions by lawyers/legal aid providers about women and men's experiences in different areas of the law (different legal needs (criminal, civil, family, administrative law; and as claimants, victims, witnesses or offenders).

	Strongly agree	Agree	Disagree	Strongly disagree
1. "Discrimination against women is no longer a legal problem in Türkiye".				
2. "Disadvantaged women have the same legal aid needs as disadvantaged men".				
3. "Where legal aid budgets are limited, the priority is to ensure that defendants have access to legal aid in criminal matters as deprivation of liberty is a serious possible consequence for the accused".				
4. "Criminal legal aid should be separately delivered from civil legal aid."				
5. "Men and women use legal services for problem-solving in the same way".				

8. In this section, please let us know how much you agree or disagree with the following statements.

Note: This section focuses on common misconceptions that lawyers/legal aid providers may have regarding particular legal domains, such as marriage, family and property rights; ending violence against women; women in conflict with the law.

	Strongly agree	Agree	Disagree	Strongly disagree
1. "Men are breadwinners and it is their job to support the family financially".				
2. "The wife had an affair and therefore cannot be a fit mother".				
3. "Women naturally take better care of children and other family members than men".				
4. "Women often make up stories about being raped or sexually assaulted when they want to get revenge against a man".				
5. "If a girl is drunk and showing a lot of cleavage, this could be the cause of the offence".				
6. "If the violence and abuse had actually been as bad as she says, she would have left her husband a long time ago".				
7. "Abusers are men who are aggressive and have "snapped" (lost control). The defendant is calm and rational when testifying in court, so he cannot really be abusive."				
8. "She must have done something to make her husband hit her".				

9. In this section, please let us know how much you agree or disagree with the following statements.

Note: This section focuses on lawyers/legal aid providers' views about barriers for women as compared to men in accessing legal aid.

	Strongly agree	Agree	Disagree	Strongly disagree
1. "The legal aid law and schemes are gender neutral ensuring that legal aid is equally accessible to all, irrespective of gender".				
2. "Women and men have equal opportunities to access legal aid".				
3. Like the image of the blindfolded woman holding the scales of justice, the provision of legal aid is unbiased and neutral".				
4. "A husband and wife who live in a village 450 miles from the nearest courthouse experience the same barriers to accessing justice".				
5. "Legal aid services should be based on social deprivation, including unemployment, geographic isolation, ethnicity, and dependency on the social security system for income support".				
6. "The financial criteria for legal aid (the means test) based on gross family income lower than the average family income is gender neutral and applies equally to men and women".				
7. "The legal criteria (the merit test) where legal aid is provided to cases that are assessed based on the real value of the request, the strength of the evidences presented by the applicant and the probability for success is gender neutral and applies equally to men and women".				
8. "If a victim of domestic violence has chosen not to report to the police, it will be difficult for her to obtain legal aid as there will be considered a lack of documentation to prove she is a domestic violence victim".				
9. "Women's greater likelihood of poverty, relative to men, means that women utilize legal aid services more often than men".				
10. "The legal aid system still has not adequately addressed the discriminatory treatment of women".				

10. In this section, please let us know how much you agree or disagree with the following statements.

Note: This section focuses on lawyer/legal aid providers' opinions regarding how gender sensitive the delivery of legal aid is currently in Türkiye.

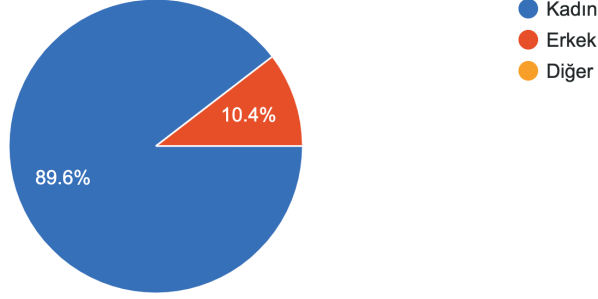
	Strongly agree	Agree	Disagree	Strongly disagree
1. "The delivery of legal aid in Türkiye does not exhibit any gender bias".				
2. "Irrespective of the actual rates of usage of legal aid services by men and women, the legal schemes in Türkiye are gender neutral in terms of legislative choices about the eligibility of applicants for legal aid and categories of entitlement".				
3. "Legal aid systems should be designed according to the pattern of legal services offered to paying clients".				
4. "Women lawyers prefer to work in the area of family law over criminal law".				
5. "There is no need for legal aid clients to be able to have a choice in their lawyer given the fact that all lawyers are trained to apply the law".				
6. "Lawyers do not need specific training or specialisation for treating different legal aid clients".				
7. "It is the choice of women themselves not to become managers in legal aid programmes rather than specific discriminatory policies or practices that result in few females in senior positions".				
8. "Over the past few years, the legal aid system has been showing more concern about the treatment of women that is warranted by women's actual experience".				
9. "The legal aid budget is unequally distributed and favours men's legal problems, primarily criminal, over women's legal problems, primarily matrimonial."				
10. "The incentives (tariff fees) for lawyers to provide legal aid services in criminal law cases is the same as in matters other than criminal law cases."				

THANK YOU FOR TAKING THE TIME AND THOUGHT TO COMPLETE THIS SURVEY.

THE RESULTS OF THE SURVEY

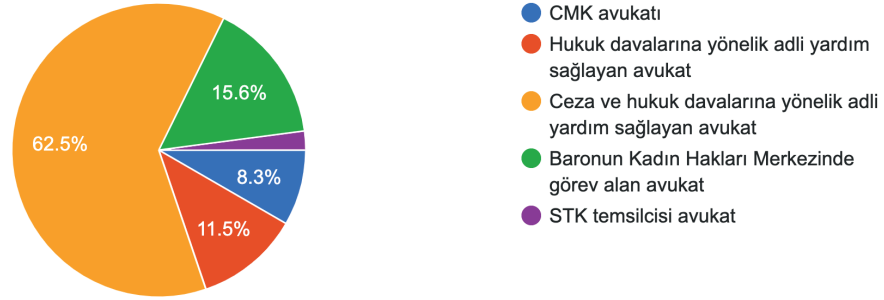
Cinsiyet

96 responses



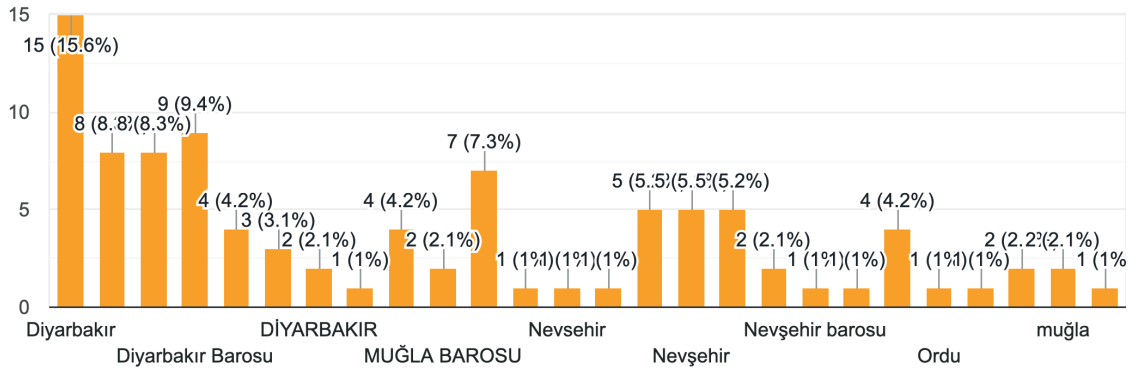
Avukatlık mesleğinize dair aşağıda belirtilenlerde hangisi sizi tanımlamakta?

96 responses



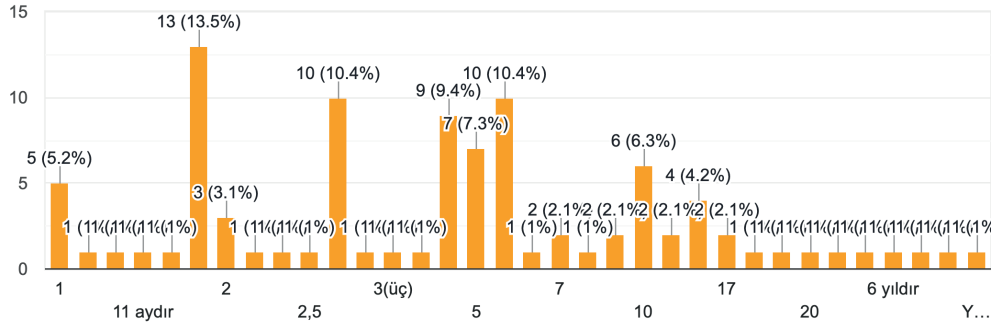
Bağlı olunan Baro

96 responses

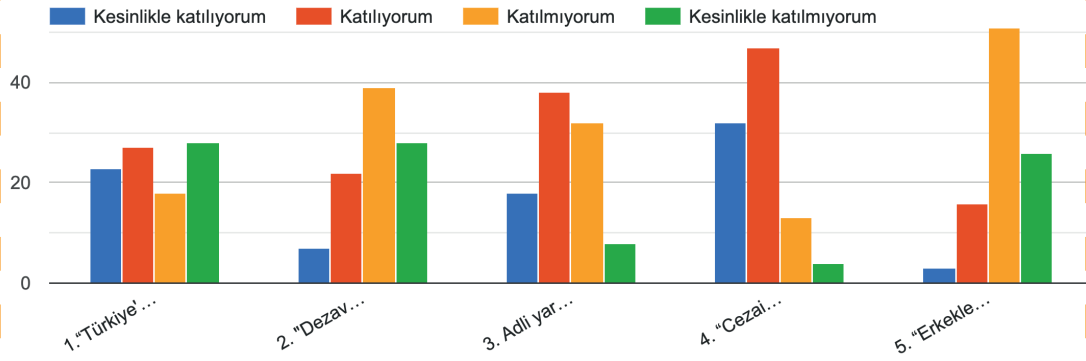


Mesleğinizi kaç yıldır yapıyorsunuz?

96 responses



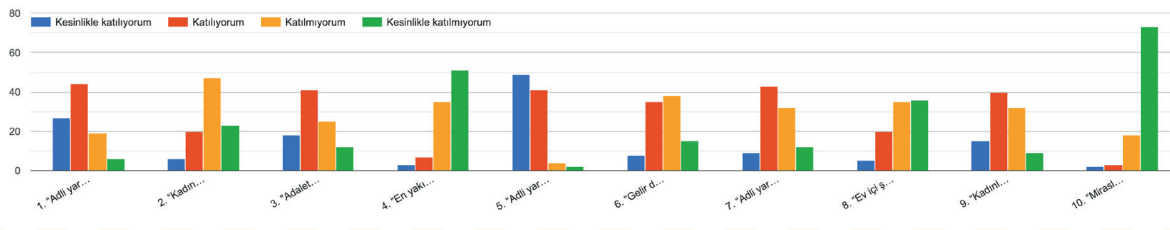
Aşağıdaki ifadelerle katılıp-katılmama ile ilgili görüşünüzü işaretleyiniz.



Aşağıdaki ifadelerle katılıp-katılmama ile ilgili görüşünüzü işaretleyiniz.



Aşağıdaki ifadelerle katılıp-katılmama ile ilgili görüşünüzü işaretleyiniz.



ANNEX 2 Promising Practices in Türkiye

In this report, a promising practice refers to an activity, procedure, approach, policy or programme that leads to, or is likely to lead to, improved outcomes for women to their access to justice and legal aid. The practices listed below are included as promising as it should be noted that many have not been subjected to thorough analysis or assessment.

1. Gelincik Centre

Ankara Bar Association's Gelincik Centre is seen as a promising example of a specialised entity providing legal aid and other services for women who are victims of violence and also provides for a call-line for victims. The [Gelincik Centre](#) is a non-profit set up by the Ankara Bar Association to offer free legal advice and counselling services to abused women. It is part of the Gelincik Project started in 2011 by the Ankara Bar Association to serve women, children and LGBTI+ persons who have been subjected to physical, sexual, psychological and economic abuse. The Centre has 45 counsellors and 221 volunteer lawyers who are experts in their fields and have received special training on violence against women, children and LGBTI++. In addition to legal aid, other services are available such as counselling and assistance from psychologists and social workers.

The Centre has been involved in a monitoring project which was completed 2022:

The project is implemented as a rights-based monitoring approach, and it is also aimed to evaluate the applications made by women victims of violence to Ankara Bar Association Gelincik Centre according to indicators, to monitor the effectiveness of legal mechanisms in the combat against violence and to formulate an evidence-based policy within this project. The direct target group of the project is the staff and volunteer lawyers of Gelincik Centre of Ankara Bar Association.¹⁴

The project focused on how to collect indicator-based data and developed a sustainable "Data Collection Form" to allow for the collection of data to be statistically evaluated. This data is derived from information contained in the files and obtained from applicants. The data includes very detailed information about applicants such as information about age, place of residence, education level, occupation, marital status, social security status, disability status, number of children, real estate possession, bank accounts and jewellery belonging to women.

The Gelincik Centre, as part of a cooperation protocol with the Federation of Women's Associations of Türkiye (TKDF) and the Ankara Bar Association, provides women with training on various issues such as their legal rights, legal processes, obstacles and solutions. The Ankara Bar Association will provide legal consultancy services to women and children who are directed by TKDF. If women and children who apply to TKDF need a lawyer to take legal action and they meet the necessary conditions determined by the Ankara Bar Association, a lawyer will be appointed from the Gelincik Centre.

2. Project for Strengthening Legal Aid in Türkiye

The Project for Improving Legal Aid Practices for Ensuring Access to Justice is an important initiative in eliminating problems related to legal aid. Phase I of this project has contributed to the development of the legal aid services in Türkiye through such activities: identification of gaps and needs associated with the effective functioning of the system; development of programmes for lawyers' capacity, the coordination between lawyers and the appointment of lawyers; and strengthening the automation system for monitoring and measuring performances.¹⁵ This project has given special attention to disadvantaged groups, such as Syrians under temporary protection living in the southern provinces in Türkiye.

14 For the details of this report see: Data Evaluation Report on Enforcement of the Law No. 6284 in Preventing Violence, <https://dSPACE.ceid.org.tr/xmlui/handle/1/2075> (Access Date: 12 September 2022).

15 For these projects see: <https://ilaprojesi.org/en/project-summary/> (Accessed Date: 10.09.2022).

Phase II of the project will concentrate on addressing violence against women. It envisages developing mechanisms to improve coordination between the Union of Bar Associations, individual bar associations, lawyers, women's organisations and civil society and creating networks and enhancing the capacity of lawyers through online trainings. Pilot-scale initiatives on special legal aid services for victims of gender-based violence will also be targeted. Project activities will include the establishment of Violence Prevention Centres (VPC) in selected bar associations on the basis of the example of Ankara Bar Association's Gelincik Centre. So far, Victims of Violence Support Centres were opened in six provinces of Türkiye (Antalya, Balıkesir, Denizli, Mardin, Rize and Samsun) with the aim of improving access to justice and strengthening legal aid services for vulnerable groups, particularly women subjected to domestic violence and other gender-based violence. The centres were supported by UNDP working in partnership with the UTBA and the Turkish Ministry of Justice.

Lawyers who received special training on national and international legislation, psychology, gender equality and social services will work at the centres. The aim is to provide services and guidance tailored specifically to the needs of victims of violence. The effort will be supported by outreach designed to inform those who are unaware of their right to legal aid of the available services.¹⁶

3. Council of Europe- HELP-ONLINE Women's Access to Justice / Violence Against Women and Domestic Violence Education

The Help Online Education a range of human rights-related issues and reflects the various fields of work of the Council of Europe. More specifically, the Help Online course translated and adapted under the Joint Project on Strengthening Capacity of Lawyers in European Human Rights Standards covers "Women's Access to Justice" and "Violence Against Women and Domestic Violence". The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) course addresses the basic concepts related to the prevention of violence against women and girls, the means of intervention, related case law, and other issues covered by international and European legal documents. Anyone with an account to HELP Online can benefit from this education.¹⁷

This platform was developed for lawyers, whether they are judges, prosecutors, attorneys/agents, lawyers, and senior court personnel. Moreover, also law enforcement officers, forensic medicine professionals, NGO representative and media and other professionals working in fields related to education content can benefit from the course. The training methodology of HELP courses is interactive, visual and practical.

4. Legal Aid Vehicle for Justice- İzmir Metropolitan Municipality & İzmir Bar Association

Within the scope of the "İzmir the Capital of Human Rights Project", the Urban Justice and Equality Branch Office of the İzmir Metropolitan Municipality Social Projects Department and the İzmir Bar Association, the "Legal Aid Vehicle for Justice" application was launched in January 2021. The plan is for this Legal Aid Vehicle to serve the districts far from the city centre. Legal aid will be provided by the lawyers of the İzmir Bar Association and the attorney fees will be provided by İzmir Metropolitan Municipality.¹⁸

5. Legal Clinics

Legal Clinics are an applied education method developed for law school students. Through clinical practices, it is aimed that students gain the knowledge, skills, and values they will need in their legal professional lives. Through clinical studies, students are able to transfer the theoretical knowledge they

¹⁶ See for the details: <https://www.undp.org/turkiye/press-releases/victims-violence-support-centres-will-provide-improved-legal-aid-those-need> (Accessed Date: 10.09.2022).

¹⁷ For these trainings, <http://help.elearning.ext.coe.int/login/index.php>; <http://help.elearning.ext.coe.int/course/view.php?id=3380>, (Accessed Date: 03.10.2022).

¹⁸ See for the details: <https://www.izmir.bel.tr/Haberler/baskan-soyer-izmir-de-adalet-araci-uygulamasini-baslatti/45086/156> (Accessed Date: 10.09.2022).

learned in legal education to real life and provide *pro bono* legal information to people who have legal problems. In this context, law schools of various universities provide legal aid services in cooperation with local institutions.

5.1 Ankara University Legal Clinic

University-based legal clinics play an important role for women in their access to legal aid. The legal clinics at the Ankara University Law Faculty have been providing legal information for disadvantaged groups since 2006. One of the clinics is specifically a 'Violence against Women' legal clinic which aims to give legal information to female victims of violence. Another legal clinic is for women prisoners that aims to assist prisoners in accessing legal aid. In cooperation with the Ankara Bar Association, KSGM and Ministry of Justice, law students at these clinics provide information at the courts and shelters.

Desks are set up in the Ankara Courthouse, with the cooperation of the Ministry of Justice, where students from the Ankara University Law School give information about Law No. 6284 on domestic violence and prevention of violence against women. Students will direct people who need legal aid to the Ankara Bar Association's Gelincik Centre, ŞÖNİM or any other relevant institutions and provide information about the services offered. At the same time, students give legal information about the rights of victims staying in the First Admission Centres. Every year, for one-month, legal information services are carried out for the detained and convicted women in Ankara Sincan Women's Prison. This service cooperates with the Ankara Bar Association's Gelincik Centre in providing legal aid. In addition, Mobile Vehicle Applications are also provided in cooperation with the Ankara University Legal Clinic and the Ankara Metropolitan University. This provides legal consultancies in far districts of Ankara with a mobile vehicle. With the support of local authorities in districts, on-site counselling and legal aid services are provided to people with limited access to information and legal aid.

5.2 Istanbul Bilgi University Legal Clinic

At the Istanbul Bilgi University Law School, the Legal Clinic is a two-semester course (Fall and Spring). Students who take this course go through a preparation period in the classroom for the first semester where they gain skills on interviewing, negotiating and communicating, defining and solving legal problems, communicating with disadvantaged groups, poverty, social exclusion and the purpose of law empowerment. In the second semester, they start their "field" studies. Students who take this course are offered two different areas of legal activity. The first field, "Applied Law Clinic", student provide legal information to persons whose opportunities to benefit from legal services and access legal information are limited due to their social and economic conditions. The second field, "Legal Clinic in Everyday Life", convicts and detainees in some prisons in Istanbul (Bakırköy, Maltepe, Ümraniye) are provided with the legal information they need both in and out of prison by the legal clinic students.

5.3 Legal Clinic Project-Istanbul Bar Association and MEF University

The Legal Clinic Project, signed between the Istanbul Bar Association and MEF University in 2019, started with the opening lecture held at the Istanbul Bar Association in 2021. The aim of this project is for law students to gain experience in providing accessing justice and implementing the rights of women, children and refugees.

6. Legal Clinics-Turkish Bar Association & United Nations High Commissioner for Refugees (UNHCR)

Within the scope of the "Project for Supporting Refugees, Asylum Seekers and Persons under Temporary Protection Access to Justice in Türkiye", by the Union of Bar Associations and UNHCR, legal clinics opened in Şanlıurfa, Gaziantep, Hatay and Kilis, Legal assistance is provided via telephone and video chat to persons under temporary protection and international protection. The clinics usually assist in matters related to temporary protection and international protection procedures (registration, certification,

refusal of application and withdrawal of application), civil law (marriage, divorce, custody), exit and re-entry procedures, family reunification and citizenship procedures.

7. Legal Information for Women - Şişli Municipality and Istanbul Bar Association's Women Rights Centre

Şişli Municipality aims to raise public awareness of violence against women and to disseminate violence-struggle mechanisms. For this purpose, a cooperation protocol was signed with the Istanbul Bar Association's Women's Rights Centre on March 9, 2021. Within the scope of the protocol, women who apply to the Şişli Municipality Women's Counselling Centre will be informed about their legal rights once a week by a lawyer from the Istanbul Bar Association.

8. Women's Human Rights Training Program - Women's Human Rights New Solutions Association

The Women's Human Rights Education Program (KIHEP) is a human rights education program that deals with various legally recognised rights at national and international levels within the framework of women's human rights and focuses on women's local organisation and mobilisation for social transformation. The program also aims to raise awareness of legal literacy and support women's self-empowerment. The Women's Human Rights New Solutions Association has a protocol with 18 institutions to provide trainings, mostly with municipalities.¹⁹

9 "Domestic Violence Hotline" protocols- Federation of Women's Associations of Türkiye & Municipalities

The Federation of Women's Associations of Türkiye (TKDF) has protocols with 14 municipalities, including major cities such as Ankara, İzmir and Antalya. TKDF launched a smart phone application called "Domestic Violence Hotline" in 2021 so that women who are exposed to violence can get help faster. With this application, women who are exposed to violence can call the emergency helpline.

10. Emergency Helpline Cooperation Protocol-Federation of Women's Associations of Türkiye & Antalya Bar Association

An "Emergency Helpline Cooperation Protocol" was signed between the Federation of Women's Associations of Türkiye (TKDF) and the Antalya Bar Association in order to prevent violence against women and child abuse cases. With this protocol, cases of violence and sexual abuse against women and children in Antalya and its districts will be reported directly to the bar association.

11. Women's Empowerment Centre - Ankara Metropolitan Municipality and Embassy of Kingdom of Netherlands

The Women's Empowerment Centre Project, hosted by the Ankara Metropolitan Municipality and supported by the Embassy of Kingdom of Netherlands, was opened on 25 November 2021. The "Women Empowerment Centre Project" working under the coordination of the "Women Counselling Centre and Projects Branch Directorate" of the Ankara Metropolitan Municipality Women and Family Services Department, will be carried out for 24 months (until September 2023). The project aims to carry out the existing work of the Women's Counselling Centre within the framework of the Women's Empowerment Centre, to switch to an NGO-based service model, and to enable universities to carry out women's studies with local governments. The Centre, which will develop a new mechanism for women living in Ankara, will create a digital infrastructure and include Women's Studies Departments of 7 NGOs and 4 universities. The desks provided by the Metropolitan Municipality on certain days of the week, will allow NGOs to provide consultancy services, including legal support, to women.

19 For more details see <http://www.keig.org/kadinin-insan-haklari-yeni-cozumler-dernegi-istanbul/?lang=en>.

12. My Purple Map Application - Ankara Metropolitan Municipality and UN Women

The Purple Map Application was designed within the scope of the “Gender Equality in Political Participation Project in Türkiye” funded by the Swedish International Development Cooperation Agency (SIDA) and carried out by UN Women. The project was launched on January 4, 2021. Within the scope of the “Local Equality Action Plan” carried out by Ankara Metropolitan Municipality, which has as its aim to make the city safe for women, women can provide feedback through the Purple Map identifying insecure and risky areas in Ankara. In the context of this map, women are also included in the planning and budgeting processes of services. Women have access to all the data in their neighbourhoods, such as the addresses and phone numbers of such services like kindergartens, violence prevention centres, vocational courses and counselling centres. The project has also been added to the Başkent Mobile application. This map application is the first in Türkiye in terms of determining the needs of all women in the city and planning in order to respond to those needs.

13. Nilüfer Municipality

Nilüfer Municipality provides space for women and LGBTI++ associations to carry out their work in “associations campus”.

14. Atakum Municipality (Samsun)-CEID

Black Sea New Horizons Association (Samsun-Atakum) carries out the “More Equality, More Monitoring for Safe Cities Project” with the support of the CEID grant program. The project, which started in August 2021, is carried out for 15 months and with municipalities in 7 different provinces (Samsun, Çanakkale, Rize, Hatay, Manisa, Eskişehir and Antalya). Within the scope of this project, the Purple Map Application will be started in Samsun Atakum Municipality with reference to Ankara Metropolitan Municipality.

15. Diyarbakır Women’s Rights Centre

The participants who attended from the Diyarbakır Bar Association noted that their women’s rights centre provides continuous training to legal aid lawyers and that the lawyers who received the first application for legal aid were selected from among the lawyers who completed this training process. This ensures that the demands of women who apply for legal aid are evaluated by lawyers who are aware of gender equality and violence against women. Furthermore, legal aid providers for women who apply for protection measures under Law No. 6284 must completed training about this law.

16. The Grant between Council of Europe and Union of Turkish Bar Associations (UTBA)

The grant agreement between the Council of Europe and UTBA refers to the European Union/Council of Europe’s joint project “Women’s Access to Justice in Türkiye”. This grant aims to improve women’s access to legal aid and remove barriers regarding it. Namely, the grant aims to provide legal assistance and legal aid services to women, particularly women victims of violence and those from vulnerable groups, such as refugees and migrants and develop the Bar Associations’ capacity regarding legal aid and legal assistance. Connected with this aim, the grant clearly includes features of gender responsive legal aid. For example, lawyers are trained to be gender sensitivity; applicants should be regarded according to intersectionality principle; applicants with different legal aid needs should be provided the same legal aid provider; and legal aid should reflect women’s needs.

The grant aims to remove barriers, intersectional disadvantages and geographical obstacles. Furthermore, legal aid lawyers are to be selected by the local bar associations upon the request of the Grantee, mainly from the women’s rights centres, and based on their motivation, previous experience, knowledge of supporting women’s access to justice in Türkiye in line with European standards. Selected lawyers, then take part in capacity building activities, such as the HELP Online programmes; undertake to respect and follow guidelines/checklists developed and provided by the Council of Europe regarding providing

quality legal advice and adequate information for women on their rights, how to claim them, potential legal risks and requirements of legal proceedings concerned; undertake to defend women's human rights and to apply gender sensitive and victim-centred approaches and request other professionals in the justice chain to do so throughout the proceedings concerned; undertake to resort to appropriate legal remedies, including urgent protection orders and interim measures, available in domestic legal order and to represent their clients before judicial authorities and courts; undertake to refer their clients to specialised support services for women, when necessary; and to contribute, to the extent possible, to research/study commissioned by the Council of Europe, such as this research.

This report is prepared as part of the action entitled "Fostering women's access to justice in Turkey", implemented under the European Union and Council of Europe's joint programme "Horizontal Facility for the Western Balkans and Turkey 2019-2022". The views expressed herein can in no way be taken to reflect the official opinion of either party.

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