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# Gender Analysis in Earthquake Areas: Women's Access to Justice and Legal Aid

**Prepared by**  
Prof. Gülriz Uygur

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# **GENDER ANALYSIS IN EARTHQUAKE AREAS: WOMEN'S ACCESS TO JUSTICE AND LEGAL AID**

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# List of Abbreviations

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<b>AFAD</b>	▶ Ministry of Interior, Disaster and Emergency Management Presidency
<b>CCA</b>	▶ Climate Change Adaptation
<b>CEDAW</b>	▶ Convention on the Elimination of All Forms of Discrimination Against Women
<b>CEFM</b>	▶ Child, early and forced marriages
<b>CoE</b>	▶ Council of Europe
<b>DRR</b>	▶ Disaster Risk Reduction
<b>EŞİK</b>	▶ Women's Platform for Equality
<b>FGD</b>	▶ Focus Group Discussions
<b>GBV</b>	▶ Gender-based violence
<b>GBVAW</b>	▶ Gender-based violence against women
<b>GFDRR</b>	▶ Global Facility for Disaster Reduction and Recovery
<b>HFA</b>	▶ Hyogo Framework for Action
<b>HRBA</b>	▶ Human Rights-Based Approach
<b>IPCC</b>	▶ Intergovernmental Panel on Climate Change
<b>NGO/CSO</b>	▶ Non-governmental organisation/civil society organisation
<b>GR / Recommendation</b>	▶ CEDAW General Recommendation No. 37 on Gender-related dimensions of disaster risk reduction in the context of climate change (CEDAW/C/GC/37)
<b>OHCHR</b>	▶ United Nations Office of the High Commissioner for Human Rights
<b>PWDs</b>	▶ People with disabilities
<b>SRH</b>	▶ Sexual and reproductive health
<b>ŞÖNİM</b>	▶ Violence Prevention and Monitoring Center
<b>TERRA</b>	▶ Türkiye Earthquakes Recovery and Reconstruction Assessment
<b>TUBAKKOM</b>	▶ Union of Turkish Bar Associations Women's Law Commission
<b>UNDP</b>	▶ United Nations Development Programme
<b>UNDRR</b>	▶ United Nations Office for Disaster Risk Reduction
<b>UNFPA</b>	▶ United Nations Population Fund
<b>UNODC</b>	▶ United Nations Office on Drugs and Crime
<b>UN Women</b>	▶ United Nations Entity for Gender Equality and the Empowerment of Women
<b>UTBA</b>	▶ Union of Turkish Bar Associations
<b>VAW</b>	▶ Violence against women





# Glossary of Key Terms

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**Access to justice** implies the right to an effective remedy, the right to a fair trial, the right to equal access to the courts, and the right to legal aid and legal representation (CoE, 2018).

**Disaster** is a situation or event that overwhelms local capacity, requiring an external response, or is recognized as such by national and/or international actors. **Natural disasters** are severe alterations in the normal functioning of a community or society due to natural hazard events (IPCC, 2014).

**Gender** means the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for women and men (CoE 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. Intersecting forms of discrimination may limit the access of particular groups of women to the information, political power, resources and assets that would help them to mitigate the adverse effects of disasters (CEDAW/C/GC/37).

**Gender-based violence against women** shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately (Istanbul Convention, Article 3).

**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 (CoE, 2022).

**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 (CoE, 2022).

**Gender-responsive and inclusive disaster risk reduction** addresses the underlying inequalities and power structures that drive the disproportionate disaster risk faced by women. This goes beyond awareness raising and ad-hoc consideration of the ways in which certain groups including women, persons living with disabilities, children, migrants and refugees, the elderly, LGBTIQ+, etc., have specific needs and face specific vulnerabilities in case of disasters, and seeks to secure their leadership, empowerment, and address their needs and priorities in reducing risks and building disaster and climate resilience (UNDRR-UN Women-UNFPA, 2015).

**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).

**Substantive equality** refers to equality in practice. To provide it in times of disasters, states should take targeted and specific measures to guarantee equality between women and men, including the adoption of participatory and gender-responsive policies, strategies and programmes relating to disaster risk reduction (CEDAW/C/GC/37).

**Women’s access to justice**, in this study means “access by women, in particular from poor and disadvantaged groups to a 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

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Disasters exacerbate gender inequalities. Consequently, women and girls encounter difficulties in accessing adequate healthcare, food, secure shelter, clean water, education, information, and, notably, information pertaining to their rights due to these disparities. Gender-sensitive disaster management requires that states undertake the overarching responsibility of ensuring substantive equality between women and men across all spheres of life particularly susceptible to the impact of disasters.

For this reason, it is incumbent upon states to formulate policies and establish novel mechanisms aimed at addressing the risk factors associated with gender-based violence against women (GBVAW). One of the pivotal facets of ensuring access to justice is the provision of legal aid, which serves to eliminate obstacles for individuals lacking the financial means or capacity to assert their rights. It also assists them in asserting their rights and availing themselves of the remedies and services available. In the context of disaster occurrences, the provision of legal aid services should be tailored to be gender-sensitive.

Nevertheless, in the wake of the earthquakes in Türkiye on February 6, 2023, many women may find their interaction with the justice system and the pursuit of legal aid to be a daunting and overwhelming experience.

This study endeavours to elucidate the barriers impeding women's access to justice and legal aid in the earthquake-affected provinces of Türkiye. It aims to establish standards for gender-responsive legal aid during times of disasters. The analysis also includes an assessment of opportunities and challenges relating to women's access to justice in Türkiye in the aftermath of the earthquake. There are numerous obstacles within the current structure that hinder women's access to justice. These obstacles are observed to intensify during times of disaster. For instance, the precarious conditions women endure in communal living spaces, insufficient provisions for accessing justice mechanisms, and other challenges arising from the lack of gender sensitivity in disaster management result in challenges in women's access to justice. On the other hand, the proactive attitude of women's rights centres of bar associations, the efforts of non-governmental organisations (NGOs) dedicated to improving access to justice, and the initiatives of international organisations focused on enhancing women's access to justice are paving the way for new strategies in times of disaster.

In this context, the study puts forth concrete and practical recommendations to enhance the integration of a gender perspective in the provision of legal aid to women. It aspires to contribute to the necessary improvements in the organisation and implementation of legal aid services, rendering them more accessible, gender-responsive, and empowerment-oriented for women, particularly those from vulnerable groups. For instance, within this framework, essential prerequisites for facilitating women's access to justice during times of disaster have been delineated, with a particular focus on legal aid. Bar associations, notably the Union of Turkish Bar Associations (UTBA), should establish the necessary infrastructure to ensure women's access to legal aid in disaster situations. These requirements can be categorized into two groups: legal issues specific to disasters and issues related to preventing GBV.

In this context, bar associations should establish mobile legal support services and legal support units. Furthermore, they should create a dedicated unit to address the prevention of GBV in earthquake-prone areas. This unit should offer information on preventing GBV and early marriages, handle complaints regarding incidents of violence, and facilitate the connection of violence victims with relevant support services.

In addition to these measures, it is imperative to ensure that both the Ministry of Justice and the UTBA have a gender-sensitive access to justice management plan in place, along with relevant departments specifically designated for disaster scenarios.

# 1. Introduction and Methodology

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On 6 February 2023, a 7.8 magnitude earthquake struck Kahramanmaraş province located in the north of Gaziantep in southeast Türkiye close to the border with Syria. Several hours later, a 7.5 magnitude aftershock struck just 60 miles away.

The gender analysis conducted within the scope of the EU/CoE joint action on “Fostering women’s access to justice in Türkiye” aims to identify emerging needs in access to justice for women victims of the earthquake from a gendered perspective in the aftermath of a natural disaster.

This study envisages to clarify which barriers block women’s access to legal aid in the earthquake-affected provinces in Türkiye and to develop standards regarding gender-responsive legal aid in times of disasters. The CEDAW GR No. 37 on Gender-related dimensions of disaster risk reduction in the context of climate change (CEDAW/C/GC/37) provides guidance on how to determine the standards for mitigating the effects of the disasters. **Therefore, this study has been based on this particular Recommendation.**

## 1.1. Objectives of the Study

The main objective of the study is to carry out a gender analysis on women’s access to justice in the aftermath of the devastating earthquake in Türkiye on 6 February 2023. The analysis identifies emerging needs in access to justice for women victims of the earthquake from a gendered perspective in the aftermath of a natural disaster. The analysis also includes an assessment of opportunities and challenges relating to women’s access to justice in Türkiye in the aftermath of the earthquake. It proposes concrete and realistic recommendations for strengthening the inclusion of a gender perspective in the provision of legal aid to women.

The gender analysis includes gathering of information related to the purpose of the assignment taking into account the main objectives of the action titled “Fostering women’s access to justice in Türkiye”:

- ▶ Enhancing accessibility and gender-responsiveness of legal aid services in the aftermath of a natural disaster.
- ▶ Increasing legal awareness among women victims of the earthquake.

## 1.2. Methodology of the Study

Taking into consideration the objectives, the scope, the analytical and evaluative approaches, the study will use qualitative research methods. The qualitative study involves focus group discussions (FGDs) with the legal aid providers and civil society organisations (CSOs).

The following research instruments were developed: (1) questionnaire for FGD of legal aid providers, (2) questionnaire for FGD of CSO representatives. In addition, the report also reviewed the results of multi-stakeholder meetings which were organised by the Council of Europe’s action implemented during the Horizontal Facility phase II. Besides, ten bar associations from the earthquake zone were involved in the research, including the pilot bar associations Adiyaman, Hatay, Kahramanmaraş and Malatya included in the EU/CoE joint action on “Fostering women’s access to justice in Türkiye”.

The FGDs mapped the specific challenges in access to justice for women victims of the earthquake focusing on legal aid and explored CSOs’ suggestions for common standards and indicators for legal aid provided to women. The discussions were facilitated by a moderator. The questions covered broad themes regarding women’s situation in the aftermath of the earthquake in Türkiye. The questions asked to the lawyers participating from the earthquake zone were as follows:

- ▶ The main legal needs of women victims of the earthquake who seek legal aid (as compared to men).

- ▶ The main challenges/barriers for women victims of the earthquake 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 in Türkiye in the aftermath of a natural disaster.
- ▶ The main challenges related to GBV.
- ▶ Support provided by the UTBA to the bar associations in the earthquake zone.
- ▶ Whether or not legal aid is provided by mobile vehicles.
- ▶ Recommendations to respond to these various barriers.

The questions asked to the representatives of CSOs were as follows:

- ▶ The main barriers for women in accessing justice.
- ▶ The main legal needs of women victims of the earthquake who seek legal aid (as compared to men).
- ▶ Relevant actions/measures taken and not taken by the national institutions to address gender inequalities, gaps, and vulnerabilities.
- ▶ Women's perceptions on access to justice in the region after the earthquake.
- ▶ The problems regarding VAW (domestic violence, sexual harassment, etc.).
- ▶ Access to justice-related services provided by civil society to women in the earthquake zone.
- ▶ Recommendations to respond to these various barriers.

Four FGDs (30-31 May, 1 and 12 June 2023) were carried out and a total of 29 (27 women and 2 men) selected participants from CSOs engaged in women's access to justice and legal aid lawyers from Adana, Adiyaman, Diyarbakir, Hatay, Gaziantep, Kahramanmaraş, Kilis, Malatya, Osmaniye and Şanlıurfa were met to discuss the challenges and needs in relation to women victims of the earthquakes and their access to justice and legal aid.

Three CSOs, namely the Mor Çatı Women's Shelter Foundation, the Flying Broom Foundation, and the Women's Solidarity Association participated in the meeting. Furthermore, one FGD (12 June 2023) with selected lawyers from the Union of Turkish Bar Associations Women's Rights Commission (TUBAKKOM) was carried out to discuss the main challenges of legal aid in the earthquake zone. 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 seven lawyers / legal aid providers. The FGDs were held online for approximately 2 hours each.

Furthermore, a desk review has been conducted to analyse relevant international and local legal frameworks and policies regarding natural disaster from a gender perspective, as well as an analysis of sample cases of women victims of the earthquake. Desk review also included analysis of reports about women and girl victims of the earthquake.

This study covers the following topics:

- ▶ Analysis of the legal and policy frameworks on provision of legal aid to women victims of the earthquake or natural disasters, including women in vulnerable situations.
- ▶ Relevant actions/measures taken by the government, national institutions, and agencies, to address gender inequalities, gaps and vulnerabilities in the given field and the context.
- ▶ Analysis of the reports on the situation of women and men and existing differences in the roles, conditions, needs, participation, access to resources, control of assets, decision-making powers etc. within the context of access to justice and emerging needs in the aftermath of a natural disaster, as well as the existing national capacities to respond to the gendered needs in the aftermath of the earthquake and in relation to the main objectives of the action.
- ▶ Analysis of the discussions held during FGDs.
- ▶ Recommendations based on the insights gathered from the FGDs and legal and policy frameworks.

## 2. International Policy and Legal Framework for Gender-Responsive Disaster Management

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### 2.1. Human Rights-Based Approach which Contains Gender Equality in the Context of Disasters

Disasters constitute a matter of concern for human rights. They affect, eliminate, and make it difficult for people to access basic human rights, especially the right to life. In the aftermath of earthquakes, people are unable to meet or have difficulty in meeting their most basic needs such as nutrition, shelter, and healthcare. Therefore, it becomes crucial to address disasters through the lens of a human rights-based approach (HRBA). According to UN Sustainable Development Group, HRBA embodies a conceptual framework for the process of human development, rooted in international human rights standards and oriented towards promoting and protecting human rights.

This framework seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress and often result in groups of people being left behind. Under the HRBA, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law, including all civil, cultural, economic, political and social rights, and the right to development. HRBA requires human rights principles (universality, indivisibility, equality and non-discrimination, participation, accountability) to guide United Nations development cooperation, and focus on developing the capacities of both 'duty-bearers' to meet their obligations, and 'rights-holders' to claim their rights (UN, 2023).

Progressing from this point, HRBA requires to focus on duty-bearers and rights-holders. Given that disasters are inherently entwined with human rights, it becomes paramount to consider states as duty bearers and those actually and potentially affected by the earthquake as rights-holders within the framework of HRBA. In 2005, the Hyogo Framework for Action (HFA) was adopted during a UN conference and contains commitments and priorities aiming at reducing disaster risks, including through policy, legislative and institutional frameworks. According to this document, the duties of states are:

1. to ensure that disaster risk reduction (DRR) is a national and local priority with a strong institutional basis for implementation;
2. to identify, assess, and monitor disaster risks and strengthen early warning systems;
3. to develop better knowledge management for building a culture of safety and resilience; 4) to reduce the underlying risk factors; and
4. to enhance preparedness for effective response (Hyogo, 2005).

These duties of states must be understood as fundamental requirements of the right to life and other related rights enshrined in the United Nations Universal Declaration of Human Rights and the European Convention on Human Rights. When combined with Article 14 of the European Convention on Human Rights, this obligation should be interpreted within the framework of non-discrimination, in particular gender-based discrimination. The above-mentioned HRBA also stipulates non-discrimination and equality as fundamental tenets of the human rights approach, extending to the sphere of gender equality. The core principle underpinning HRBA in the context of gender and gender-sensitive risk management during disasters is equality.

The report entitled "Beyond vulnerability to gender equality and women's empowerment and leadership in disaster risk reduction: critical actions for the United Nations system" also clearly states this point:

A key understanding from the human rights-based approach to gender and DRR is that treating everyone the same may achieve formal equality, but it does not achieve substantive equality if the starting points are unequal. Leaving no one behind requires positive measures to close relative gaps in access to basic necessities and to the human right to enjoy the benefits of development equally. This means moving beyond the idea that women and people of diverse genders are intrinsically vulnerable, to a recognition that structural gender inequality puts them at higher risk because it limits their access to resources and opportunities and reduces their autonomy to make decisions about their own lives (UNDRR-UN Women-UNFPA, 2021).

In this context, the substantive equality required by CEDAW GR No. 37 on gender-related dimensions of disaster risk reduction in the context of climate change (CEDAW/C/GC/37) is also encompassed within the HRBA. According to the Recommendation, state parties must take measures to guarantee equality between women and men. The Recommendation states that they must ensure substantive equality between women and men in all areas covered by the Convention, including the adoption of participatory and gender-responsive policies, strategies and programmes relating to DRR and climate change, across all sectors.

Given that women, as rights-holders, are disproportionately affected by earthquakes and subjected to discrimination, as will be elaborated upon later, it is necessary to establish special arrangements for them. One of such arrangements pertains to women's right to access to justice, which is crucial for protecting their fundamental human rights that are jeopardised by earthquakes.

HRBA also requires recognising and eliminating social, cultural, economic, and political barriers to equality. The report entitled "Beyond vulnerability to gender equality and women's empowerment and leadership in disaster risk reduction: critical actions for the United Nations system" states this point:

A human rights approach also recognizes that gender must not be a barrier to full and equal participation in the social, political, economic and cultural life of communities and nations. Translated into DRR and CCA terms, this means looking at who is present and what roles they play in the institutional priority setting resource allocation and decision-making regarding disasters and climate change. Who is empowered to participate meaningfully and who are the recognized leaders of these processes (UNDRR-UN Women-UNFPA, 2021)?

## 2.2. Natural Disasters and Gender Inequality

Disasters further exacerbate existing gender inequalities. As stated in the European Commission Thematic Document No. 6, while disasters are gender neutral, their consequences certainly are not. This document integrates the gender dimension into the humanitarian aid efforts of the European Union:

**Natural disasters and human-made crises are not gender neutral** — they have a different impact on women, girls, boys and men. Thus, in order to respond effectively to the differentiated needs of various gender-related groups, humanitarian assistance supported by the European Union must take considerations of gender into account. The systematic integration of a gender approach into humanitarian aid is an operational requirement for **effective quality programming**, as well as a matter of compliance with the EU humanitarian mandate and international law and commitments.

**Gender-insensitive operations are less effective** because they may not reach a large part of the affected population — often the most vulnerable — or may fail to respond adequately to their specific needs. Moreover, they can expose beneficiaries to serious risks (even life threatening ones), such as sexual and gender-based violence (European Commission, 2013).

European and Mediterranean Major Hazards Agreement also underlines this point as follows:

The number of women who die from natural threats is greater than that of men. This is a consequence of women's unequal socio-economic status. Additionally, women face different levels of risk and have different coping vulnerabilities and capacities, originated by a series of gender-based political, cultural, and socio-economic inequalities and differences.

Women and girls are more likely to be disproportionately affected by disasters, including through loss of life during and in the aftermath of disasters, loss of livelihoods and productive assets, and increased gender-based violence. Women and girls from vulnerable groups (women and girls with disabilities, migrant and refugee women, women and girls living in poverty) face heightened risks in situations of natural or technological disasters (CoE- European and Mediterranean Major Hazards Agreement, 2018).

Especially after the COVID-19 experience, this effect has been explained by several studies. For example, the Report of GFDDR-World Bank which was written at a time of unprecedented crisis caused by the surge of COVID-19, states:

Early assessments on the impacts of the pandemic have found that, although men seem to be more susceptible to the virus, women are disproportionately affected by its social and economic impacts (de Paz et al. 2020). Women are overrepresented in some of the occupations that are being hardest hit—such as retail, travel, leisure, and hospitality. When schools close or children are taken out of school, the increased childcare and other domestic responsibilities often fall on women, which has further implications for female labour participation and financial autonomy. There are also reports of a surge in gender-based violence during quarantine, when access to supportive services is disrupted. Finally, their lack of control over housing, land and property may leave women particularly vulnerable to health crises. If they lose their partner, women can also lose their housing and livelihoods, as was reported during the HIV and Ebola epidemics (GFDDR-World Bank, 2021).

What is stated in this report also applies to women affected by the earthquakes. Namely, women's care burden increases, and those who lose their husbands face more economic and social inequalities in the earthquake zone. Furthermore, some analysis shows that the experiences of women and men in the earthquake zone in meeting basic needs also differ and it has been reported that women's needs are not adequately met (UN Women-CARE, 2021).

### 2.3. Gender-Responsive Recommendations Related to Natural Disasters

Studies on disasters and gender have been carried out at the UN level since the 1990s. However, legal and policy documents regarding these studies have been available since 2000. One of them is Sendai Framework for Disaster Risk Reduction 2015-2030 which was adopted at the Third UN World Conference on Disaster Risk Reduction in Sendai, Japan on March 18, 2015. This framework states that women and their participation are critical to effectively managing disaster risk and designing, resourcing, and implementing gender-sensitive DRR policies, plans and programmes. Among the priorities for action, the framework counts that women and persons with disabilities should publicly lead and promote gender-equitable and universally accessible approaches during the response and reconstruction phases.

Gender guidance on the Sendai Framework for DRR was prepared through a collaborative study conducted by UN-DRR, UN Women, UNFPA. Accordingly, "the purpose of this document is to assist countries consider and assess gender equality, social inclusion, and women's empowerment and leadership in disaster risk reduction as part of their national consultation and review process, and then integrate these findings into their voluntary national reports" (UNDRR, UN Women, UNFPA, 2015). This guidance includes principles for gender-responsive DRR. For example, DRR requires gender perspective to be integrated in all policies and practices and women leadership would be improved (UNDRR, UN Women, UNFPA, 2015).

It is discernible that gender-sensitive disaster management is encompassed within the general recommendations of CEDAW. Notably, one of them is CEDAW GR No. 35 on GBVAW, including GR No. 19. This Recommendation acknowledges natural disasters among the factors exacerbating GBVAW. Accordingly, it states that "gender-based violence against women is also affected by political, economic and social crises, civil unrest, humanitarian emergencies, natural disasters and the destruction or degradation of natural resources" (CEDAW/C/GC/35).

Gender-related dimensions of DRR in the context of climate change (CEDAW/C/GC/37) focuses only on gender-responsive climate changes and disasters. The objective of this Recommendation is:

To underscore the urgency of mitigating the adverse effects of climate change and to highlight the steps necessary to achieve gender equality, the realization of which will reinforce the resilience of individuals and communities globally in the context of climate change and disasters. It is also intended to contribute to coherence, accountability and the mutual reinforcement of international agendas on disaster risk reduction and climate change adaptation, by focusing on the impacts of climate change and disasters on women's human rights (CEDAW/C/GC/37).

The Recommendation includes general and specific principles for DRR and climate change. General principles require that state parties should ensure that all policies, legislation, plans, programmes, budgets, and other activities relating to DRR and climate change are gender-responsive and grounded in human rights-based principles. These principles are the following:

1. Substantive equality and non-discrimination
2. Participation and empowerment
3. Accountability and access to justice (CEDAW/C/GC/37)

According to the Recommendation, since the gender-related dimensions of DRR and the impacts of climate change are often not well understood, specific principles related to the gender dimension of disaster should be included in state policies and other instruments. These principles are the following:

1. Assessment and data collection
2. Policy coherence
3. Extraterritorial obligations, international cooperation, and resource allocation
4. Non-state actors and extraterritorial obligations
5. Capacity development and access to technology (CEDAW/C/GC/37)

The recommendation also states specific areas of concerns. These are:

1. Right to live free from GBVAW and girls
2. Rights to education and to information
3. Rights to work and to social protection
4. Right to health
5. Right to an adequate standard of living
6. Right to freedom of movement (CEDAW/C/GC/37)

In addition to these documents, there are also reports that include gender dimension in disasters. These reports contain principles to be followed for gender-sensitive disaster management. For example, after the Haiti earthquake, UN Women and CARE, in collaboration with the Ministry for the Status of Women and Women's Rights and the General Directorate of Civil Protection, prepared a Rapid Gender Analysis, "designed to evaluate the impact of the earthquake of August 2021 on women, men, girls and boys, including persons in a situation of vulnerability, in order to guide the current humanitarian response in Haiti in the short term, as well as recovery efforts in the medium and long term" (UN Women-CARE, 2021).

## **2.4. Gender-Responsive Access to Justice for Women Victims of Disasters**

The Article 15 of the CEDAW Convention guarantees women equality before the law, which is particularly important in situations of disaster and climate change, especially when women face barriers in accessing justice. CEDAW GR No. 37 provides standards for women victims of disasters regarding access to justice. In line with GR No. 33, GR No. 37 requires the following in disasters:

- (a) Conducting a gender impact analysis of current laws, incorporating those that are applied in plural legal systems, including customary, traditional and religious norms and practices, to assess their effect on women with regard to their vulnerability to disaster risk and climate change, and adopt, repeal or amend laws, norms and practices accordingly;
- (b) Increasing awareness among women of the available legal remedies and dispute resolution mechanisms and their legal literacy, by providing them with information on their rights and on policies and programmes relating to disaster risk reduction and climate change and empowering them to exercise their right to information in that context;
- (c) Ensuring affordable or, if necessary, free access to legal services, including legal aid, as well as to official documents such as birth, death and marriage certificates and land registration documents and deeds. Reliable and low-cost administrative systems should be implemented to make such documentation accessible and available to women in situations of disaster so that they are able to benefit from such services as relief payments and compensation;
- (d) Dismantling barriers to women's access to justice by ensuring that formal and informal justice mechanisms, including alternative dispute resolution mechanisms, are in conformity with the Convention and made available and accessible, in order to enable women to claim their rights. Measures to protect women from reprisals when claiming their rights should also be developed;
- (e) Minimizing disruptions to legal and justice systems that may result from disasters and climate change, by developing response plans that provide for the deployment of mobile or specialized reporting mechanisms, investigative teams and courts. Flexible and accessible legal and judicial mechanisms are of particular importance for women and girls wishing to report incidents of gender-based violence (CEDAW/C/GC/37).



CEDAW GR No. 37 also states some specific concerns regarding VAW. According to this Recommendation, disasters and the degradation and destruction of natural resources affected and exacerbated GBV against women and girls. Furthermore, sexual violence is common in humanitarian crises and may become acute in the wake of a national disaster. In a time of heightened stress, lawlessness and homelessness, women face an increased threat of violence. Furthermore, the Recommendation states that in accordance with the Convention and GR No. 35, state parties should:

- (a) Develop policies and programmes to address existing and new risk factors for gender-based violence against women, including domestic violence, sexual violence, economic violence, trafficking in persons and forced marriage;
- (b) Ensure that the minimum legal age of marriage is 18 years for both women and men. States parties should include training on the prevalence of early and forced marriage for all personnel involved in disaster response activities. In partnership with women's associations and other stakeholders, mechanisms should be established, within local and regional disaster management plans, to prevent, monitor and address early and forced marriages;
- (c) Provide accessible, confidential, supportive and effective mechanisms for all women wishing to report gender-based violence;
- (d) Develop, in partnership with a wide range of stakeholders, including women's associations, a system for the regular monitoring and evaluation of interventions designed to prevent and respond to gender-based violence against women, within programmes relating to disaster risk reduction and climate change;
- (e) Provide training, sensitization and awareness-raising for the authorities, emergency services workers and other groups on the various forms of gender-based violence that are prevalent in situations of disaster and how to prevent and address them. The training should include information on the rights and needs of women and girls, including those from indigenous and minority groups, women and girls with disabilities, lesbian, bisexual and transgender women and girls and intersex persons, and the ways in which they may be exposed to and affected by gender-based violence;
- (f) Adopt long-term policies and strategies to address the root causes of gender-based violence against women in situations of disaster, including by engaging with men and boys, the media, traditional and religious leaders and educational institutions, in order to identify and eliminate social and cultural stereotypes concerning the status of women (CEDAW/C/GC/37).

## **2.5. Women Victims of Earthquakes and Standards of Legal Aid**

As noted above, the CEDAW GR No. 37 calls for the provision of legal aid as a requirement for women's access to justice in disasters and climate crises. Accordingly, states should ensure affordable or free access to legal services, including legal aid. Based on this Recommendation, the characteristics of gender-sensitive legal aid in times of disaster should be as follows:

1. Legal aid should be accessible and available to women in situations of disaster.
2. Official documents which are necessary to apply for legal aid should be accessible and available to women in situations of disaster.
3. Legal aid should provide accessible, confidential, supportive and effective mechanisms for all women wishing to report gender-based violence.
4. Legal aid providers should be trained to address gender-sensitive legal needs in times of disaster.
5. Legal aid providers should be trained on the various forms of GBV that are prevalent in situations of disaster and how to prevent and address them. The training should include information on the rights and needs of women and girls, including those from refugees and minority groups, women and girls with disabilities, lesbian, bisexual and transgender women and girls and intersex persons, and the ways in which they may be exposed to and affected by GBV.

# 3. National Policy and Legal Framework for Gender-Responsive Disaster Management

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This chapter conducts a situational analysis of legal aid with regard to laws, policies and budget, using a gendered lens. In Türkiye, the legislative framework pertaining to times of disasters is generally devoid of gender specificity, demonstrating a prevailing gender-blind orientation. An illustrative instance can be found within the “Integration of gender perspective into Turkey’s disaster policies” project carried out by the Ministry of Interior, Disaster and Emergency Management Presidency (AFAD) between 2017-2020 within the scope of National Earthquake Research Program. This project scrutinised 17 legislations related to disasters, revealing a prevailing utilisation of gender-blind and gender-neutral language in these legal texts (Erbaydar, 2018). One of these legislations is the Law No. 7269 on Measures to be Taken and Aid to be Provided in Case of Disasters Affecting Public Life (Disasters Law) which does not contain any gender-oriented provisions.

In a similar vein, the article 29 of the Disasters Law No. 7269 designates beneficiaries as “families”. This article stipulates that “families residing in buildings that have been demolished, burnt or severely damaged or are likely to be damaged [...], are provided with housing or loans provided they meet the requisite criteria”. This article leaves room for interpreting the concept of “family” through the lens of gender roles, consequently identifying the male as the head of family. As highlighted below, the fact that primarily men received financial assistance for earthquake-affected houses after the 6 February 2023 earthquake is a clear example of this.

However, the Directive on the Establishment, Management and Operation of Temporary Accommodation Centres issued in 2015 seems to meet the main requirements of gender-sensitive disaster management. These requirements include equality and non-discrimination, ensuring women’s participation in disaster management, and creating a safe environment for women. The Directive also includes provisions on meeting basic needs in temporary accommodation centres and states that no fees will be charged for these needs. This provision and the principle of equality are regulated in Article 20 as the basic principles of the Directive:

## General Principles

ARTICLE 20 - (1) No fee may be demanded from temporary residents in return for services such as shelter, healthcare and education provided in temporary accommodation centres.

(2) In the services to be provided in temporary accommodation centres, no discrimination shall be made on the basis of gender, race, colour, ethnic or social origin, hereditary characteristics, language, religion, belief, political or other opinion, wealth, birth, age or similar factors.

Article 9 of the Directive is important in terms of ensuring the participation of women in post-disaster management as stated in the relevant documents above and constitutes an example of a regulation that meets gender-sensitivity in disasters:

ARTICLE 9 - (1) The living areas of temporary accommodation centres consist of neighbourhoods.

(2) The management of temporary accommodation centres shall enable the formation of assemblies such as youth, children, women assemblies, and neighbourhood representatives within the framework of democratic management procedures in order to include the residents of the neighbourhood in the management. There shall be at least one female representative in the representatives of the assemblies.

Article 18 of the Directive is also important in that it specifies women among the personnel to be assigned to temporary shelters. According to this article:

ARTICLE 18 - At least one female staff member shall be assigned to the religious services office who speaks the mother tongue of those hosted in the temporary accommodation centre.

Article 34 of the Directive prioritizes vulnerable groups in the provision of psycho-social services and includes women among them:

ARTICLE 34 - (1) Duties of the psycho-social services office;

a) To provide psycho-social support to those hosted in temporary accommodation centres, to conduct individual interviews and group work, to carry out necessary guidance activities, to carry out social support activities for children, women, the disabled, the elderly and adults, with priority given to vulnerable groups,

Another provision under this article is very important in terms of GBV and directs the authorities to take action without the need for a denunciation:

c) To take measures within the scope of the legislation of the relevant institution without the need to report child abuse, underage marriage, harassment, rape, and violence,

Another gender-sensitive article of the Directive is not only important for protecting the safety of women, but also important for women with disabilities with its special provision in this regard:

ARTICLE 35 - (1) When placing foreigners whose registration procedures have been completed in temporary accommodation centres, priority shall be given to those with special needs such as the disabled, the elderly, women living alone and pregnant women.

(2) When placing foreigners with disabilities in temporary accommodation centres, care shall be taken to place them in sections close to social facilities such as bathrooms, toilets, laundry facilities and to ensure that there is a disabled toilet in the section where they are placed.

(3) When placing women who have lost their spouses or who live alone in temporary accommodation centres, it is essential that they are placed in sections that are illuminated and where security measures are more intensive.

This article holds significance in the context of establishing secure zones, an essential component of gender-sensitive disaster management. The Directive does not include other requirements related to access to justice, particularly information on rights. However, ensuring that the authorities undertake measures to address instances of GBV as described above without the requirement of reporting is important for those who are subjected to such crimes but cannot file a complaint. Furthermore, the requirement for installation of complaint boxes within residential areas, as stipulated by the Directive, presents an opportunity for those who have been silenced by gender-related pressures to voice their concerns.

In addition, numerous policy initiatives incorporate a gender perspective into natural disaster management in Türkiye. The National Earthquake Strategy Action Plan (2012-2023) which was prepared by AFAD outlines the necessity to address diverse demographic groups, including women, and addresses issues related to power dynamics and gender roles:

It is necessary to carry out studies in which each group will be taken into consideration separately for women, children, elderly and disabled people who constitute a significant majority of the society and the results of these studies should be included in the disaster management system. Increasing the capacity to cope with disasters and reducing vulnerability are functions of social ties, power relations, knowledge and skills, gender roles, health and economic development levels and settlements of individuals and social groups. During these periods, the vulnerable position of women, children, the elderly, and persons with disabilities is also a factor that increases their vulnerability (AFAD, 2012-2023).

However, there are no provisions regarding access to justice in this strategy plan. The absence of such provisions potentially signifies a gap in the existing policy framework. However, Türkiye Earthquakes Recovery and Reconstruction Assessment (TERRA) which will be mentioned below, fills this gap.

The Presidential Decree issued after the earthquakes in Türkiye on 6 February 2023 published on 11 February 2023, namely the Presidential Decree on measures taken in the field of judiciary under the state of emergency, aims to take

certain measures in the judicial field. It concerns the suspension of judicial deadlines as it is important to prevent the loss of rights due to time restraints. It also includes provisions that favour lawyers in the earthquake zone as well as those who travelled there to help. These provisions relate to cases pursued by lawyers. However, the Decree does not include gender-neutral provisions or any specific provision regarding women.

The Fourth National Action Plan on Combating Violence Against Women (2021-2025) includes strategies that specifies the actions to be carried out, the support to be offered and how it will be provided, and the organisational aspects to combat VAW, including in times of disaster. The plan calls for the development of policies to prevent VAW in times of crisis. One of the strategies is to take necessary measures to ensure that access to services and service delivery are not disrupted during extraordinary periods such as disasters, emergencies, and epidemics (Strategy: 3.8). The strategy entails the following:

- ▶ Institutions and units providing services before, during and after disasters and emergencies will review the processes of identification and response to violence cases and create a handbook with process-specific workflows, and the subject will be included in training programmes for the specialisation of service providers (Strategy: 3.8.1).
- ▶ Service models specific to extraordinary periods will be developed and implemented in accordance with the needs (Strategy: 3.8.2).
- ▶ Families with socio-economic problems specific to extraordinary periods will be identified in advance and supported in a necessary way to prevent violence (Strategy: 3.8.3).
- ▶ Necessary measures will be taken to ensure that victims of violence access and benefit from institutional services during periods of emergency (Strategy: 3.8.4).
- ▶ In extraordinary periods, communication technologies will be used effectively in order to ensure that victims of violence can access and benefit from services quickly (Strategy: 3.8.5).
- ▶ A report on good practices in different countries for the effective provision of protective and preventive services specific to extraordinary periods will be prepared and shared with relevant institutions (Strategy: 3.8.6).

After the earthquakes, TERRA was prepared by the Strategy and Budget Office of the Presidency of the Republic of Türkiye with support from the UNDP, the UN, the EU and the World Bank on March 20, 2023.

The assessment mentions women together with other disadvantaged groups, but the needs of women alone are also emphasised. It recognizes that women become more vulnerable during times of disasters, due to pregnancy-related health problems, maternal or infant deaths, infections and bleeding caused by inadequate post-delivery care or hygiene (TERRA, 2023).

TERRA points to the difficulty in accessing justice due to earthquakes. It states that:

“Natural disasters often prompt restrictions and limitations on the governance structures that are in force under normal circumstances. On the other hand, attention should be given to ensure that earthquake driven circumstances do not delay legal proceedings, and measures should be taken to provide easy access to free legal aid services” (TERRA, 2023). It also states that “widespread damage and destruction of residential buildings require legal support for housing and property rights such as ownership issues, loss of legal documentation, insurance claims, legal representation and protection of children, and inheritance issues”. TERRA emphasises that the vulnerability of disadvantaged groups may increase due to certain buildings being damaged in the earthquake: “The damage to the social service buildings which serve groups including children, elderly people and women may further increase the vulnerability of these groups” (TERRA 2023).

TERRA also includes requirements on legal aid and women victims of violence:

Given the potential increase in demand as well as the decrease in the workforce, the free legal aid system will need immediate resources. The judicial processes, protection mechanisms and required expertise for groups that have special needs, especially for women and survivors of violence should be enhanced (TERRA, 2023).

In TERRA, short (1 year), medium (2-3 years) and long-term (3-5 years) objectives for access to justice and the actions to be taken in relation to women, among other groups have been stipulated. Namely, these are:

- ▶ Differing needs of the elderly, disabled, children and women should be integrated in recovery and reconstruction policies and participatory policy making tools should be utilized (medium-term/long-term).

- ▶ Legal support for housing and property rights (short-term).
- ▶ Support the free legal aid system and augment finance and staffing for judicial services (short-term).
- ▶ Expand provision of legal support to all, including persons with disabilities and the elderly in accessing social services and other groups in need (middle-term/long-term).
- ▶ Support mainstreaming the rights of persons with special needs in relevant response and recovery policies (middle-term/long-term).

# 4. Results of the Analysis: the Challenges in Women's Access to Justice and Legal Aid in Earthquake Areas in Türkiye

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## 4.1. Analysis of Reports

Following the earthquakes occurred on 6 February 2023, various entities including UN Women, CSOs and non-state institutions generated reports on gender-sensitive disaster management in Türkiye. This chapter will explore the findings of the above-mentioned reports in terms of women's access to justice.

### 4.1.1. Gender Inequality and Violence Against Women in the Affected Region Before the Earthquake

"Brief on earthquake in Türkiye: Impacts and priorities for women and girls" which was published on 6 April 2023 by UN Women explains the pre-existing inequality faced by women and girls, along with instances of VAW in the earthquake region prior to the earthquake. The main facts briefed in the report on this issue are as follows:

- ▶ Women and girls make up half of the population of the affected 11 provinces. 54% of the population over 60 years old are women, and 8% of the 3.5 million households are female-headed with at least one child.
- ▶ Women are underrepresented in political decision making in the affected provinces – only 2 out of 135 mayors (11 provincial and 124 district) are women.
- ▶ Women's labour force participation rate in the affected region is lower than the rate in Türkiye as a whole, and there is a significant gender gap between women and men in labour force participation and employment.
- ▶ Agriculture is one of the main sectors in the region. Almost all women employed in the agriculture sector work as unpaid family worker (78.7%; 20.2% for men), thus are deprived of social security benefits, health insurance, trade union rights and subject to poor working conditions and low wages.
- ▶ According to the official data on domestic VAW, available from prior to the earthquakes, the affected regions have a relatively lower rate of reporting to authorities and higher level of acceptance in case of violence.
- ▶ Among the 3 regions where the earthquake-affected provinces are dispersed, the rate of early marriages is significantly above the national average. Six provinces affected by the earthquake (Kahramanmaraş, Hatay, Gaziantep, Diyarbakır, Kilis and Şanlıurfa) are among the 21 provinces with the highest rates of marriages below 18 years of age and are prioritized by the Ministry of Family and Social Services' efforts to combat early marriages through local action plans.
- ▶ In the affected provinces, divorce, alimony, and custody are among the most common cases before family courts, which are inherently considered as VAW risks. Criminal courts in five of the affected provinces (Adana, Diyarbakır, Gaziantep, Malatya and Şanlıurfa) adjudicate higher proportions of sexual assault, sexual harassment, and child sexual abuse cases, compared to other provinces in their regions. This data is indicating a pressing need for strong focus on prevention, risk mitigation and support services for different forms of violence against women and girls in the response (UN Women, April 2023).

### 4.1.2. Needs and Priorities of Women and Girls in the Affected Region

Several challenges related to the accessibility of basic humanitarian needs of women and girls in the earthquake-affected areas have been reported. UN Women's Brief on earthquake in Türkiye also explains this issue as follows:

Women and girls face particular challenges in terms of access to essential services and vital relief items, to remain safe and to cover their basic needs for appropriate shelter, hygiene and sanitation, healthcare and protection. This is particularly acute for women with specific needs such as those who are pregnant and breastfeeding, who are single and single mothers, with disabilities or from rural areas (UN Women, 2023).

According to the report of the Community Volunteers Foundation (TOG - Toplum Gönüllüleri Vakfı), gender roles are effective in women's lack of access to health. The report also states that gender roles increase women's workload (TOG, 2023). This issue is also included in the report prepared by UN Women as follows:

Women's and girls' care and domestic work responsibilities have increased significantly, due to both increased demand for care of children, elderly and disabled people (including injured and newly disabled people) and domestic work (already disproportionately performed by women prior to the disaster) as well as decrease on the supply side, with damaged/closed schools and hospitals and limited care services (already limited to begin with). The nature of this work has also changed due to the psychological impacts of the earthquake on children and adults, as well as the limitations in equipment and facilities needed to perform household tasks (such as laundry machines and cooking equipment).

Based on the joint Multi-Sector Initial Rapid Needs Assessment (MIRA) 12 conducted on February 18-24, the reported priority needs, both by female and male key informants (KIs) are: shelter, food security, non-food items, sanitation and hygiene. Overall, across respondents, female-headed households and lactating women are among the groups most in need across the assessed districts. Concerns for privacy and safety for shelter and sanitation facilities (UN Women, April 2023).

Turkish NGO Equality for Women (EŞİK) Platform also highlights, women have had to assume the care responsibilities and men tend to create a gendered division of living spaces rather than assuming their care responsibilities (EŞİK, 2023).

### 4.1.3. Violence Against Women

The reports state that VAW increases in earthquake regions. According to UN Women's Brief, "CSOs report an increasing number of gender-based violence and harassment. The physical environment in temporary settlements does not correspond to the needs of women and girls; most of the time they are not sufficiently lit, communal spaces for women to socialize are either not present or sufficient. Safety is a concern for all women and girls but especially for single women and female-headed households" (UN Women, 2023). The Brief also underlines the problem of sexual violence: "Concerns for privacy and safety for shelter and sanitation facilities and the emerging issue of sexual violence were reported in 42 of the 120 assessed districts" (UN Women, 2023).

Mor Çatı's report titled "Mechanisms for Combatting Violence Against Women in the Earthquake Zone" states that:

Women who, albeit not officially divorced, are in the process of divorce or separated from their husbands prior to the earthquake were not given tents as it was assumed that they were still in the same family. The difficulty they faced in accessing tent forced them to stay with the violent husband, his family, or their own families, increasing the risk of women being exposed to violence. Besides, single women and women who do not want to live with their families even if their family is alive have difficulty in accessing tents or alternative safe accommodation services. The fact that the tents are delivered on the basis of family unit registered in the official records prevents women, who have built or want to build an independent life and who are exposed to domestic violence, from getting away from the violent environment; in fact, it compels them to stay there. We saw that women who have to stay in the same tent with their extended family struggle with psychological difficulties. People who provide support to women in the region shared with us that, young women, who had to live under these conditions, experience an intense state of introversion. Moreover, we noted that no precautions were taken against the potential risks of sexual violence both within and outside the family in tent cities or scattered settlements (Mor Çatı, 2023).

Mor Çatı's report includes the experiences of women who have been subjected to violence by their husbands:

We have survived an earthquake! Look at the state we find ourselves in! Not only that he inflicts physical violence on me because he knows that I still cannot reach the police, but he also uses psychological violence by saying “If you had moved to another place without me, they would not have been able to find your dead body in 2 months.” See? (Mor Çatı, 2023)

The report states that living in tents increases domestic violence. It is underlined that this situation is more difficult for refugee women:

Living conditions in tent cities exacerbate the situation for women experiencing violence. A migrant woman who is living with her children in a tent while her husband stays at home due to a restraining order said that her husband has continued to inflict violence on her in the tent. Her husband assaulted her in the tent, which led to a new restraining order indicating that the husband should not come near tent number “x”. However, the husband defied the restraining order against him and kept on making threats. The woman continued to remain in a tent city where she could not get any translation support, nor could she reach the police or be taken to a women’s shelter due to her migrant status and the number and age of her children (Mor Çatı, 2023).

The report prepared by the Women’s Solidarity Foundation states that women are more likely to face GBV after the earthquake:

It was observed that women who suffered heavy losses in the earthquake, whose basic needs have still not been met by the state, whose care labour burden has increased even more, and who are expected to provide emotional support to their relatives as if they themselves had not been affected by the earthquake or had not suffered any loss, have become more vulnerable to violence and losses of various rights in this environment (Women’s Solidarity Foundation, 2023).

The report prepared by EŞİK states that women who have experienced violence and wish to live separately from their husbands did not receive their own tents. In one example, a divorced woman who had to live with her ex-husband was assaulted with boiling water while she was sleeping:

The day after the earthquake, I went to my sister’s house with my two children and stayed there for 9 days. My ex-husband said, “Let’s make peace, our house is earthquake-resistant, there is not even a crack, let’s stay with our children”. We went back to our house so that the children would not have any problems. We did not have any arguments during the first 3 days. At the end of the third day, he poured boiling water over my head while I was sleeping. I woke up with horror and he said, “Pray that I didn’t kill you”. The reason was that I was standing upright after the divorce, and I had friends. He took revenge on me (EŞİK, 2023).

According to EŞİK’s report, those who travelled to other provinces after the earthquake also faced violence. Two sisters from Hatay who went to Mersin to stay with relatives were harassed by the owner of the house and had to apply to a women’s organisation in order to find another shelter. The 5-year-old daughter of a woman who went to her husband’s family home after the earthquake was abused by her husband’s father (EŞİK, 2023).

The “Rapid Gender Analysis Policy Brief: Türkiye & Northwest Syria Earthquake Response” which was published on 13 February 2023 also points to similar results and draws attention to the risk of increasing VAW:

Gender-based violence, including domestic violence, trafficking, sexual violence and sexual exploitation, abuse and harassment, increases in the aftermath of an emergency, and, at the same time, weak, non-existent or insufficient reporting mechanisms combined with the absence of social and cultural support systems and impunity of perpetrators and discrimination towards the survivor lead to underreporting. As core infrastructure and the fabric of communities are destabilized in the aftermath of a natural disaster, communication channels and community-based social safety nets are disrupted in ways that increase risks of GBV for women and girls in both Türkiye and Northwest Syria, survivors lack confidence in available protection and assistance mechanisms and intensive mental health and psychological impacts serve as barriers to reporting experiences of GBV. In 2021, Türkiye withdrew from the Istanbul Convention, which provides comprehensive standards for the protection of and support for survivors, risk mitigation measures and prosecution of perpetrators, as well as establishing obligations on the state to provide minimum essential support services to survivors, such as shelters and medical assistance. Therefore, it is critically important that actors in all sectors of the humanitarian response systematically implement measures to mitigate and prevent GBV and, at the same time, ensure GBV response services are available as quickly as possible (CARE, 2023).



The report published by UNFPA in June 2023 also draws attention to GBV. According to this report, gender and other inequalities in times of disasters increases GBV, including intimate partner violence, rape and harmful practices such as early and forced marriage. The report also states that the loss of social services, including women shelters and violence prevention and monitoring centres was significant. According to the report, in the earthquake-affected areas, reporting processes do not fully cover GBV cases due to the difficult living conditions especially in the tent areas where case management is challenging (UNFPA, June 2023). This report also states that the earthquakes increased the risk for child, early and forced marriages (CEFM) among girls. But, according to the report, “there are no available mechanisms to ensure prevention of CEFM with early risk assessment tools or mechanisms, and little awareness about preventing CEFM being a priority for preventing serious violations of children’s and young people’s human rights” (UNFPA, June 2023).

The other report published by UNFPA on 3 August 2023 also states that domestic violence increased after the earthquake, including physical, sexual, and psychological violence. According to the report, there are many reasons for the increase in violence. The main one is related to the conditions created by the earthquake:

High stress levels due to the loss of loved ones, deteriorated and cramped living conditions, unemployment, and economic disempowerment are all contributing factors to increased violence affecting primarily women and children (UNFPA, 2023).

According to the Report, existing cultural norms also lead to the continuation of violence:

However, due to cultural norms and beliefs, women are afraid to report domestic violence, fearing that they may lose the custody of their children or be “found guilty” of causing the incident (UNFPA, 2023).

The report also states that women victims of violence lack access to services for combating VAW, access to justice and legal aid. The report lists the main obstacles in combating VAW as follows:

(i) Understaffed protection services, especially in certain provinces (including Adiyaman and Malatya), (ii) lack of safe/private places in tent settlements to conduct one-on-one interviews, (iii) lack of knowledge for provision of psycho-social support and accurate referrals among GBV case workers, (iv) lack of female leaders that could ensure engagement of communities with GBV case management services offered, (v) lack of awareness about the needs of most vulnerable groups, (vi) lack of GBV services in rural areas (UNFPA, 2023).

#### **4.1.4. Women’s Legal Needs**

The legal needs of women affected by the earthquake are related to GBV as well as other legal issues. According to the report of UN Women which aims to bring to light the experiences of CSOs working to safeguard and empower women and girls in the aftermath of the earthquakes, it is necessary to provide legal support and ensure information sharing around VAW and response mechanisms and services for women in the region. This report states that:

There is a need for legal support to women around land and property rights as problems such as the destruction of evidence, damage assessments, missing identification documents and insurance coverage emerge in the aftermath of the earthquakes. There has been looting, embezzlement and theft, which require support for women to ensure their safety, and more broadly in locating missing children and family members. These topics require specific legal knowledge within the context of the earthquake and protection mechanisms for women and girls. This is especially important as women and girls have limited access to information and dependable sources (UN Women, May 2023).

According to a note published by Gender and Law Studies (Toplumsal Cinsiyet ve Hukuk Çalışmaları), women in the earthquake zone have experienced loss of rights. This note was prepared following a workshop with lawyers in the earthquake zone. It stated that alimony of clients who were owed alimony was cut off, that lawyers could not do anything for women in whose favour a cautionary decision was issued within the scope of Law No. 6284 on the Protection of Family and Prevention of Violence Against Women (due to the fact that the houses allocated were damaged, demolished, etc.), and that failure to extend the duration of cautionary decisions leads to victimisation (Toplumsal Cinsiyet ve Hukuk Çalışmaları, 2023).

#### **4.1.5. Institutional Barriers**

There are institutional barriers to women’s access to justice in the earthquake zone indirectly related to the disaster itself. UN Women’s Brief states that “case management support to women and girls has been severely disrupted due to the earthquakes, and violence monitoring and prevention centres are overwhelmed with the crisis response” (UN Women, May 2023).

This has also been underlined by several NGOs. According to the report of Mor Çatı Women's Shelter Foundation, institutions that are responsible for combatting VAW and their employees have been affected by the earthquake. As a result, it has become more difficult to reach mechanisms for combatting violence:

We saw that people in charge in the tent areas such as the AFAD officers and other public officials, who are possibly the main authorities that a woman exposed to male violence should be able to access easily, have no knowledge of how to reach an institution that the woman immediately needs or of where to direct the woman. While some officials, in line with their personal interest and knowledge, voiced some suggestions as to where to direct the woman in the event of violence, some others did not know what to do. In fact, a public official found it strange that we asked questions and stated his conviction that there would be no male violence at times like these. On the other hand, even if a woman who is exposed to violence had access to information about the location of the public institution to get support from, she would have difficulties in reaching the institution without a private vehicle, as the public transport system has not yet been operative.

Although what we observed in the region seems peculiar to disaster conditions, the lack of coordination in combatting violence against women is a problem that we have been facing for a long time. This problem causes women to bounce from one institution to the other to be able to access their rights, and many institutions that are in charge of combating violence are unaware of their liabilities. Inter-agency coordination –a bare minimum specified by the Istanbul Convention– was already absent in Türkiye, and disaster conditions deteriorated the situation. We consider these problems that we observed in the region and listed above as an effect of the existent coordination problems that have been amplified in the disaster conditions (Mor Çatı, 2023).

Mor Çatı also reported ŞÖNİMs' situation:

Official public buildings of ŞÖNİMs in Gaziantep and Kahramanmaraş continue to serve in the same premises they occupied prior to the earthquakes. We found out that ŞÖNİM in Hatay, together with its official service units, has moved to a separate building in another region. ŞÖNİM building in Adıyaman is heavily damaged and provides services from a container placed right next to it. However, we noticed that this container operated under the risk to life safety and fell short of both ensuring the safety and meeting the basic needs of its workers and the women and children seeking support. We saw that women started to apply to ŞÖNİMs for assistance, except for the ŞÖNİM in Hatay; however, access to ŞÖNİMs was only possible for women who lived in the city centre or who could use public transport or had their own means of transport. Women who live in villages or in remote areas where public transport is not currently available due to the damage caused by the earthquakes, face an additional challenge to access institutions. We frequently report that there is a general problem with ŞÖNİMs, that they fail to fulfil a fundamental activity, which is to monitor the status of women for whom protection measures have been taken and confidentiality decisions have been issued. There still aren't systematic monitoring work and qualified consultancy services which should be carried out by ŞÖNİMs for all women including those who, prior to the earthquakes, have been receiving support from relevant units because of the violence they experienced and those for whom protection measures and confidentiality decisions have been taken. In our meeting with ŞÖNİM staff, they stated that they referred women who apply for shelter to provinces in close proximity (Mor Çatı, 2023).

#### 4.1.6. Civil Society Organisations Providing Legal Support

CSOs report that women in the earthquake zone are in need of legal support, and some of them provide legal support themselves. For example, KAMER Foundation which works in collaboration with lawyers, supports women with 30 lawyers who provide multilingual legal counselling. According to KAMER's report, for the first three months after the earthquake, they supported 2183 women for standing up against violence and provided online legal support to 20 women in the earthquake region (KAMER, 2023). A group of approximately 300-400 women, known as the [Feminist Solidarity for Disaster Group](#) also provide legal support to women victims of the earthquakes. Mor Çatı Women's Shelter Foundation, an active participant in the feminist network, offers psychological, social, and legal support, as well as operating a secure women's shelter, to aid those affected by GBV<sup>1</sup>.

UN Women's report titled "Her Aftermath – The Impact of the Earthquakes in Türkiye: Perspectives on Civil Society Organizations Working for the Rights of Women and Girls" which was published in May 2023 aims to bring to light the experiences of CSOs working to safeguard and empower women and girls in the aftermath of the earthquakes. It states that:

<sup>1</sup> See: <https://www.newarab.com/features/turkeys-feminists-help-rebuild-lives-after-earthquake> (Access Date: 10 June 2023).

CSOs working on women's rights are highly engaged in humanitarian support for the earthquake-affected region yet face a myriad of programmatic and operational challenges in reaching the most affected women and girls (UN Women, May 2023).

According to this report, CSOs have also focused on providing access to justice and rights for earthquake-affected groups and prevention of and response to violence against women. Groups supported by CSOs include LGBTQ+, elderly women, Syrian women under temporary protection, and women with disabilities (UN Women, May 2023).

## 4.2. Analysis of Focus Group Discussions

In this chapter, the report analyses 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 CSOs that provide legal support to women victims of the earthquakes, 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.

This chapter discusses the findings using the elements of gender-responsive access to justice for women from the CEDAW Committee GR No. 33 and GR No. 37. CEDAW GR No. 37 stipulates that state parties should ensure that legal frameworks are non-discriminatory and that all women have effective access to justice, in line with GR No. 33, including by other requirements of disaster risk (CEDAW/C/GC/37). On the basis of these recommendations and the information obtained from the focus group discussions (FGDs), an investigation is conducted to explore the current situation regarding women's access to justice, particularly in terms of legal aid in the earthquake region. However, in this analysis, the focus was mostly on women and girls living in collective living places.

### 4.2.1. The Main Barriers that May Prevent Women's Access to Justice and Legal Aid

#### 4.2.1.1. Intensified Gender Roles

After the earthquakes, women live in unequal conditions, especially in collective living spaces. This inequality stems from gender roles. The above-mentioned reports explain this point. For example, the official report TERRA states that:

As the involvement of women in the decision-making processes at the stages of disaster preparedness and disaster management is limited, they cannot express their different needs; therefore, the needs of women, who constitute half the population in the disaster region, cannot be properly taken into consideration. For example, as women and girls have limited access to safe environments due to the disaster, they become more likely to be exposed to violence. Furthermore, some women and girls go missing in such events of crisis. The care obligations imposed on women increase after a disaster; in an atmosphere of destitution and deprivation, it becomes difficult for women, who have already suffered major trauma, to fulfil their care responsibilities in decent conditions. In times of disaster, access by pregnant, elderly and/or single women to healthcare services becomes a prominent problem; school attendance of girls, in particular, significantly decreases (TERRA, 2023).

Participants from FGDs also noted this point and said that women's domestic work and care obligations increase after disasters. One participant noted that:

Domestic labour has turned into tent labour and tent labour is much more difficult. Because they are deprived of everything that would make their lives easier.

In fact, these unequal conditions are the main obstacle to women's access to justice in earthquake regions. The challenges in the provision of humanitarian aid and access to basic services and goods such as hygiene kits affected the priority given to request for legal aid in cases such as divorce, especially during the period immediately after the earthquake in different provinces. One lawyer from Şanlıurfa Bar Association noted:

During the earthquake period, I think that women took a step back, largely due to the fact that even hygiene kits were not accessible during that time, and it was almost a luxury for women to think about divorce at that phase.

This lawyer also noted transportation problems related with gender roles:

Transportation from districts in Şanlıurfa to the centre is also problematic. There are daily shuttles, but only at limited hours and usually during rush hours on the way to work or on the way back from work. During these hours, women may experience problems in travelling back and

forth due to their husbands. There are problems in terms of accessibility, but it is mostly linked with gender roles.

The security-related living conditions of women in earthquake zones lead to an increase in gender roles. One participant noted:

Women living in the tent city stated that they could not go out after dark and that they needed a man to accompany them to the toilet, for example.

Similarly, one lawyer from Adana Bar Association noted that women accommodated in collective living areas in the earthquake zone did not feel safe and their dependency to their husbands increased. One participant stated that the material and moral losses experienced by women due to the earthquake increased their dependency on men.

One participant talked about the difficult conditions for LGBTIQ+ individuals in the earthquake zone:

They are unable to find shelter in communal accommodations. They are afraid to leave their house. They can only stay in shelters set up by non-governmental organisations.

Another participant also stated that LGBTIQ+ individuals cannot benefit from accommodation services in collective living spaces.

Furthermore, gender prejudices that lead to inequality for women are also affecting resource allocation. This further increases economic barriers women face. Participants noted that one of the issues most frequently mentioned was the absence of financial support for women who were in the divorce process, even though their husbands received such support:

Since women in the process of divorce are still officially recognised as married, payments for damage to their homes were deposited into men's accounts. In other words, although women are currently staying at home, they experienced problems in accessing financial support since the payments are deposited into men's accounts.

#### **4.2.1.2. Difficulties for Women to Access Legal Information**

In earthquake zones, it is more difficult for women to access information about their rights and mechanisms to protect these rights. According to the report entitled "Understanding barriers to women's access to justice and legal aid in Türkiye", there are main barriers connected with the justiciability in the context of legal aid even during normal times in Türkiye. Specifically, these are: lack of awareness and handling cases in a gender-insensitive manner (Council of Europe, 2022). Women's lack of knowledge about legal aid and their rights after the earthquake remains similar to the situation before. One participant noted:

People are still unaware of the existence of a legal aid scheme. I think this is our biggest problem. They know they have a right. In their own words, they are aware that the state will appoint a lawyer for them. But they do not know how to make this application.

These barriers are further increased in earthquake zones. The difference between before and after the earthquake is that it has become more difficult for women to access information about legal aid and to apply for legal aid. Some participants stated that, they carried out informative activities in earthquake-affected areas, aiming to inform women about their rights and legal aid. One lawyer from Şanlıurfa Bar Association noted:

We have seen that there are many illiterate women, especially in the districts and villages, and we have also seen that women who reside in urban areas and who can read and write are also not aware of legal aid. When I told them that there is legal aid and that they can apply to the bar association, they were very surprised. Most women do not know their rights yet. They do not know where to apply or how to do it.

Participants from Gaziantep Bar Association also stated that they provided information, including legal aid in the districts affected by the earthquake.

#### **4.2.1.3. Difficulties in Accessing Institutions and Authorities Related to Access to Justice**

As stated before in this study, there are institutional barriers to women's access to justice in the earthquake zone directly related to the disaster itself. This has also been underlined by participants of the FGDs. They said that women did not know where to go, who is entitled, where to complain about violence since the public institutions were damaged. Similarly, a lawyer from Kahramanmaraş stated that the women need somewhere, somebody, some institution to trust. A lawyer from the Hatay Bar Association stated that there was chaos in Hatay immediately after the

earthquake, it was not known which authority to contact and how, and as a result there were incidents of violence. Under these conditions, access to justice is difficult for everyone, but even more difficult for women. The places where women could make complaints and institutions where they could receive support were damaged by the earthquake. One participant from FGDs noted:

The court building was damaged in the earthquake. Some courts operate on a quota. But the family court is not among them. In this case, how will women apply within the context of Law No. 6284? How will the expired cautionary decisions be renewed? This situation is a serious obstacle in women's access to justice.

Another participant said that:

The staff working at Adıyaman ŞÖNİM are earthquake victims themselves. Their buildings were damaged. Then they were given a container. The social worker I interviewed was working 7 days a week and said that she was staying with women who would be transferred to other shelters in other provinces. I mean, the employees did not have accommodation facilities.

Shelters where women stayed because they were subjected to violence were also damaged by the earthquake. For this reason, they transferred the women staying in the shelters to other provinces. They cannot receive new requests for shelter accommodation. Because there is no space in women's shelters. Their capacities are full.

The authorities do not pay due attention to the situation of women staying in shelters because of violence. One participant from FGDs stated the following:

A woman who stayed in a shelter with her children was refused to be accommodated in the shelter again. She was asked to be placed in a community centre. However, she said that she would not stay there because the perpetrator of violence could reach her there. But the authorities did not listen to her.

#### **4.2.1.4. Obstacles in Legal Aid Provision and Suggestions of Lawyers**

Under this section, certain issues will be emphasised based on the outcomes of the FGDs. These include challenges in accessing legal aid lawyers in the earthquake-affected zone, the requirement to submit documents in legal aid applications; persistent need for legal aid in the earthquake-affected zones; suggestions of lawyers on women's access to legal aid.

##### **► Challenges in accessing legal aid lawyers in the earthquake-affected zone**

Lawyers are not immune to the impacts of earthquakes, just like the general population. Tragically, some lawyers have lost their lives due to the earthquake, while others have experienced damage to their residences and offices. For example, lawyers from Adıyaman, Hatay, Kahramanmaraş and Malatya Bar Associations have communicated the considerable hardships they are currently facing. Regrettably, these challenging circumstances act as a deterrent for women who might otherwise seek to access legal aid services. A lawyer from the Hatay Bar Association stated the following about this matter.

The problem lies partially in the appointment of a lawyer from the legal aid scheme, owing to the insufficient availability of resources.

This lawyer explained why legal aid lawyers are inadequate as follows:

People's primary necessity is, of course, having a shelter. As lawyers here, we also needed a shelter first. However, in the initial days following the earthquake, we had next to nothing, but gradually the situation has begun to stabilise.

This lawyer also noted her personal situation:

I lost my workplace and my house in the earthquake. I only have my car left. I could only save a laptop, we have no office. At the Hatay Bar Association, they built prefabricated containers for us. Every lawyer will be given a prefabricated container. I don't know how we will serve under these conditions. You must have an address to give an appointment.

Another lawyer also noted the same point:

I had to evacuate because my office was damaged. Thank God it was not demolished, and I was able to remove my belongings, but I am sure it is the same in other cities now. Since there are very few undamaged buildings, rents have skyrocketed. Normally they were 6.000 - 7.000 TL in the pre-earthquake period. The rents of houses or flats that can be used as offices are now starting from thirteen thousand and going up to twenty thousand, so there are even places that have increased up to 3 times. Therefore, we have to continue working from home for a while.

A lawyer from Kahramanmaraş Bar Association noted:

Finding individuals willing to engage in the realm of social responsibility has proved to be challenging. This is predominantly due to the fact that a significant portion of our colleagues either had to relocate to different cities or opted to sustain their legal practices from home offices.

A lawyer from Malatya Bar Association noted:

We also have lawyer friends who are permanently transferred from Malatya to other provinces. Because they do not have a home here. Since they did not have offices, they were permanently transferred to other bar associations. Of course, our other bar associations also provided facilities in this regard. In the sense that transfer fees are not charged, this seems attractive. Our colleagues preferred to transfer to other bar associations in order to make a fresh start.

Regarding this point, requirements of accessibility stipulated in CEDAW GR No. 37 should also be considered:

Minimizing disruptions to legal and justice systems that may result from disasters and climate change, by developing response plans that provide for the deployment of mobile or specialize reporting mechanisms, investigative teams and courts. Flexible and accessible legal and judicial mechanisms are of particular importance for women and girls wishing to report incidents of gender-based violence.

Participants in the FGDs from Hatay, Kahramanmaraş and Malatya Bar Associations had been provided with containers by the UTBA to be used by lawyers as workplaces. The Hatay Bar Association provided one container for five lawyers, while the Kahramanmaraş Bar Association stated that it would provide one container for two lawyers. A lawyer from Malatya Bar Association noted:

The UTBA decided to send 50 containers. There was a place allocated to us by the Malatya Metropolitan Municipality. There, we have planned the containers as offices that at least 4 colleagues could use jointly. Also, Malatya Bar Association had a building that we used as a social facility before the earthquake. There we have established working offices where our colleagues can have client meetings and write their petitions.

In Adiyaman, a room in the courthouse has been allocated to lawyers, but there is no suitable environment for them to meet with their clients. Furthermore, the number of lawyers to take part in legal aid decreased in the earthquake zone. Therefore, the containers and other places provided for lawyers are not sufficient to fulfil their duties.

- The requirement to submit documents in legal aid applications

Access to justice for women in the earthquake region needs to be facilitated. Related to this, the indications in CEDAW GR No. 37 on legal aid is as follows:

Ensuring affordable or, if necessary, free access to legal services, including legal aid, as well as to official documents such as birth, death and marriage certificates and land registration documents and deeds. Reliable and low-cost administrative systems should be implemented to make such documentation accessible and available to women in situations of disaster so that they are able to benefit from such services as relief payments and compensation.

Hatay Bar Association appears to meet this requirement, as one of the participants noted:

After the earthquake, there is no problem with legal aid in our region. Both in civil cases and in cases related to the Family Court, there aren't any requirements. Legal aid is given to those who request it without any criteria.

Hatay Bar Association has introduced unconditional application for legal aid and ensured its accessibility to people in that region. However, such an approach is not observed in other bar associations.

The other bar associations in the earthquake region are less affected from the earthquakes. For example, lawyers from Adana Bar Association said that there is no difference in legal aid before and after the earthquake in Adana. They stated that they continue to provide legal aid in Adana in equal terms as before the earthquake.

- ▶ Persistent need for legal aid in the earthquake-affected zones

The FGDs have pointed out that requests for legal aid from women were mainly related to divorce cases and property registration. One participant noted:

The foremost matter requiring legal aid is divorce. Secondly, there are challenges related to real estate. Individuals (generally men) who are engaged in commercial activities in this region register their properties under the name of their wives. Following the earthquake, as a significant number of these properties were either destroyed or necessitated demolition, women are encountering predicaments concerning properties held under their names. Due to their limited understanding of their legal entitlements, these women are at risk of experiencing loss of their rights.

- ▶ Suggestions on women's access to legal aid

Participants articulated recommendations aimed at enhancing women's access to justice in the earthquake zone. One participant noted:

I believe that conducting on-site activities and gatherings in the earthquake-affected zones holds paramount significance. As women, through shared experiences in our pursuit for gender equality and women's struggle, we naturally begin to communicate, foster solidarity, and collectively voice our needs. Consequently, physical presence and engagement in those areas hold immense value. In particular, it is necessary to explain the Law No. 6284 to women residing in tents and to offer them the necessary support.

In fact, a participant from the Women's Rights Centre of the Osmaniye Bar Association stated that the information desk set up next to the tents was useful. In this way, she stated that they could reach women more easily and meet their requests for legal aid. Another participant stated that they set up women's tents in Adiyaman to meet the needs of women. She also stated that they provide legal information to women in this way. Women's tents are usually staffed by civil society volunteers who are responsible for meeting the needs of women. In this context, it is important to set up stands in collective living places to provide legal information to women.

Participants from FGDs also noted the need for legal aid trainings aiming at reducing gender-related risks in disasters. In fact, they also stated that the training programmes of bar associations are deficient in terms of gender.

#### **4.2.2. Gender-Based Violence Against Women in Earthquake Zones**

Participants noted that they had observed an increase in GBV. One participant noted:

The earthquake forced women who had not obtained divorces to continue living with their husbands, exacerbating instances of domestic violence. This escalation in violence is not limited to marital relationships; it extends to other types of intimate partnerships as well. Subsequently, we have noticed a substantial rise in the number of women seeking assistance post-earthquake. While I am unable to definitively establish a direct causal link to the earthquake at this moment, there is a visible and significant surge in the count of women approaching us after the earthquake due to their experiences of violence within their social circles.

Another participant noted:

In the last week or 10 days, there have been 5 femicides in Diyarbakir. Normally the number is not so high. In other words, this is a country where femicides, violence against women and violation of rights are generally high. But there have been 5 femicides in the last week.

Participants from the FGDs expressed the difficulties of living in collective centres and the violence experienced there:

In collective places of residence, everyone is violent towards each other. Children suffer more violence. There is a lot of physical, psychological, and economic violence against women. Women say they cannot even move out in this environment.

Participants from FGDs noted that women cannot file a complaint against violence because they do not feel safe:

There are problems with security in tent cities. There is a possibility that women may face violence from their relatives in these cities. There are women who are in the process of divorce. We do not know their situation.

Women who are subjected to violence by their husbands are forced to stay with their husbands in the same collective living space or in the same tent, even if they had a restraining order against their husbands before the earthquake. The security guards don't do anything and say "We can't do anything. This is a tent, what should we do? That man is also an earthquake victim, should we throw him out of here?". So, it is a fact that tents, tent cities, are not safe for women. Women continue to live in an environment of violence.

Another participant noted:

Women find themselves unable to lodge complaints against acts of violence due to their inability to take action owing to other issues concerning basic needs.

One lawyer from FGDs stated that they could not reach women who were placed in dormitories after the earthquake and who were staying in dormitories in other cities. The problem in accessing these dormitories and other collective living spaces also leads to not knowing whether women have access to justice. They also stated that they do not know how state institutions act in relation to women's access to justice and that there is a lack of transparency in this regard. One lawyer noted:

In situations where a woman in Diyarbakır, presently residing in dormitories, becomes a victim of violence, the significant issue arises when we are unable to establish contact with her, physically visit her, or facilitate her access to legal aid. This predicament poses a particularly grave concern, especially in regions that endured more pronounced impacts of the earthquake. I firmly believe that this constitutes a substantial deficiency in our response system.

Participants from FGDs noted that the number of child abuse incidents increased in the earthquake regions and the number of girls and boys exposed to this abuse could not be determined. Regarding early marriages, they stated that it is more common among refugees in the region. One participant linked early marriages after the earthquake to the loss of parents:

Especially after the earthquake, early marriages have become more frequent in this region for young women and children who have lost their mothers and fathers. Of course, we do not provide you with any data or statistics on this, but this is what we hear from our neighbours and friends. This situation can be seen more frequently especially in young women and children who have lost their parents.

This clearly shows that there is a correlation between early marriages and the socio-economic situation after the earthquake. Lawyers from FGDs reported that they intervene in cases of VAW as women's rights centres of bar associations. A lawyer from Diyarbakır Bar Association noted:

In cases of femicide, we especially go and meet them directly. We request them to apply to our centre.

A lawyer from Adana Bar Association noted:

As the Adana Bar Association, our women's rights centre has a phone number and we have made this phone number available to citizens through NGOs and municipalities. In other words, two out of every three women in Adana can easily find our number and call us to request assistance and support. We can direct them to the relevant places.

Lawyers from FGDs reported that they had problems with the implementation of the Law No. 6284. Since family courts were also damaged by the earthquake in some places, lawyers stated that they could not apply for cautionary decisions as regulated in the Law No. 6284. The difficulty of obtaining cautionary decisions from family courts in other earthquake regions was also pointed out. One participant noted:

Until the earthquake, the family court was not looking for evidence to decide on cautionary measures under Law No. 6284. After the earthquake, they started asking for evidence to make a decision. According to the law, evidence is not required for a protection measure. But the court wants evidence.

Participants from FGDs also reported difficulties with the extension and notification of cautionary decisions.



## 5. Conclusion: Findings and Recommendations

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The analysis of policy documents, reports, online meetings, and the FGDs involving bar associations and CSOs conducted within the scope of the action revealed that the repercussions of the February 2023 earthquakes in Türkiye exhibited gender-specific implications on the accessibility of justice for women and girls. Consequently, it is essential to adopt a gender-responsive approach to ensure that women's and girls' access to justice, particularly in regard to legal aid, is adequately ensured.

### Findings:

- ▶ There are social, cultural, economic, and institutional barriers to women's access to justice. The earthquake added to these obstacles the fact that women's basic humanitarian needs were not met. Women who struggle to meet these needs postpone other problems such as domestic violence or divorce.
- ▶ Women who are victims of earthquakes often find themselves in challenging circumstances while residing in collective centres. Issues such as limited access to information and restricted availability of legal aid within these centres have had detrimental consequences on women's ability to report instances of GBV, seek compensation for incurred losses, and apply for humanitarian assistance.
- ▶ The main institutional barriers to legal aid before the earthquake were insufficient budget, limitations on legal aid and the lack of a gender-sensitive approach. In the aftermath of the earthquake, damages endured by bar associations and lawyers were added to these institutional barriers.
- ▶ In Adıyaman, Hatay, Kahramanmaraş and Malatya, lawyers who experienced personal losses and whose offices were damaged, faced difficulties in accessing humanitarian aid which in turn affected their provision of legal aid to women. Namely, some lawyers lack the capacity to support women's access to justice. This raises a question about the quality of legal aid in earthquake zones.
- ▶ Public institutions in charge of providing services to women who are exposed to violence were not sufficiently working on psycho-social needs. The offices of these institutions, also affected by the destructive shock, had been either closed or relocated to hard-to-reach locations.
- ▶ Lack of coordination in combatting VAW: There is no sufficient coordination especially when women who have been subjected to violence want to apply to the relevant institutions. For example, there is no regular communication between Provincial Directorate of Family and Social Services, Social Services Centre and ŞÖNİM and communication between shelters and psycho-social support centres.
- ▶ The arrangements and financial aids after the earthquake had several gendered consequences. For example, women were forced to live in the same tent as perpetrators of violence and women lost access to compensations. This clearly shows that the entities distributing aid lacks gender-awareness. Despite property being registered in the name of women, the compensation was paid to men. This also applied to women in the process of divorce. Reports indicate that women who have been affected by this situation have expressed dissatisfaction with the fact that their objections and grievances were not adequately addressed.
- ▶ There are problems in reaching women who were placed in dormitories after the earthquake and women staying in dormitories in other cities. The problem in accessing these dormitories and other places of collective living also leads to not knowing whether women have access to justice and whether they have been subjected to violence.
- ▶ In earthquake regions, women are more likely to be subjected to violence. Some of them were forced to stay in the same tent with their husbands despite being subjected to domestic violence, and the situation of women who are in the process of divorce was not taken into consideration.

- ▶ After the earthquakes, gender inequality and women's dependency on men increased more. Gender roles have become even more dominant, especially in collective living spaces.
- ▶ Women's rights centres of the bar associations have been working on a voluntary basis on VAW cases and women's access to justice during the earthquake.
- ▶ The UTBA has sent containers to some bar associations affected by the earthquake. Although these provide convenience for lawyers to carry out their work, they are insufficient in number. For example, in Hatay, there is one container for every five lawyers.
- ▶ Systematic collection of data regarding VAW, access to resources and services is lacking. Therefore, there is no data on women's access to justice.
- ▶ There is no training programme on gender-sensitive legal aid in times of disasters in bar associations.
- ▶ According to the reports analysed in this study, domestic violence increased after the earthquakes, including physical, sexual, and psychological violence. The conditions after the earthquakes (such as high stress levels due to the loss of loved ones, deteriorated and cramped living conditions, unemployment, and economic disempowerment) caused the violence to increase. People with disabilities have a higher risk of GBV and have problems in accessing GBV response services.
- ▶ The earthquakes increased the risk for CEFM among girls. There are no available mechanisms to ensure prevention of early marriages and awareness about preventing early marriages. Especially girls who have lost their families are at risk of early marriage.

## Recommendations

- ▶ To advance towards a gender-sensitive human rights approach, it is crucial to address the challenges faced by women who are victims of earthquakes and are residing in collective living areas. These challenges pertain to accessing fundamental humanitarian necessities and upholding their fundamental human rights. Legal aid must be integral to addressing this issue. Additionally, the scope of legal aid should encompass providers who themselves have been unable to secure their basic humanitarian requirements in earthquake-stricken regions. Recognizing that the absence of access to legal services directly impacts women's access to justice emphasizes the importance of these interventions. The UTBA should develop an understanding of legal aid based on women's human rights and provide mobile vehicles to meet legal needs.
- ▶ The needs of bar associations regarding legal aid differ in the earthquake region. Therefore, it is important for the UTBA to conduct needs analyses for these bar associations and coordinate the services to be provided accordingly.
- ▶ According to UNDP's report, six months after the earthquake, 2.6 million people are still living in tents and containers (UNDP, August 2023). Therefore, the UTBA, in co-operation with civil society and relevant state institutions, should do the following:
  - Women in earthquake regions should be informed about their rights. This information should cover issues such as divorce, alimony, real estate, early marriages, how to apply for legal aid. Awareness-raising programmes on violence against women should be organised and boys and men should be included in these programmes. Information meetings should be organised on the drawbacks of early marriages.
  - Women and girls living in collective centres in provinces other than the earthquake zone need to be informed about access to justice, including legal aid.
  - Women and girls living in tents and containers are under the threat of GBV after the earthquake. Bar associations should reach out to those under threat and provide them with the necessary support.
- ▶ It is important to have women's tents in collective living places in the earthquake-affected areas for women to voice their needs. These tents are important for women's access to justice, including legal aid. These tents are also important to conduct one-on-one interviews.
- ▶ It is important to have women leaders that could ensure engagement of communities with the offered GBV case management services (UNFPA, August 2023). Conditions that will enable violence prevention and monitoring centres to provide services in the earthquake zone (such as physical space, increasing the number of personnel) should be provided.
- ▶ It is important to provide GBV services in rural areas (UNFPA, August 2023).

- ▶ The UTBA should prepare a plan to prevent GBV in times of disasters. This plan should include informing women before disasters and procedures to be followed by services to prevent GBV. This plan should also specify how bar associations will take measures to prevent GBV in times of disasters and how legal aid will be accessed. For example, in cooperation with bar associations and other relevant actors, district-based women's centres can be established to provide services for preventing violence, combatting violence, and facilitating access to legal aid.
- ▶ The relationship between women's access to justice and poverty has become more evident in the aftermath of the earthquake. Efforts should be made to financially empower women in their access to justice. The UTBA, in co-operation with the Ministry of Justice, should develop a plan and allocate a budget for free or minimum cost access to legal services in times of disasters.
- ▶ Legal aid mechanisms, including mechanisms to protect women from violence in times of disaster should be developed. A clear action plan with a gender-focused approach is needed. The UTBA should provide accessible, confidential, supportive, and effective legal aid mechanisms for all women wishing to report GBV.
- ▶ The bar associations all over Türkiye have shown solidarity with those who need legal aid. However, UTBA should work to strengthen solidarity to ensure that it is continuous and regular.
- ▶ The UTBA should prepare a gender-sensitive policy document on access to justice that takes intersectionality into account, and also ensures the strengthening of legal aid in times of natural disasters.
- ▶ The UTBA should establish an access to justice unit which is based on gender sensitivity. This unit should develop policies and programmes to make legal aid gender-sensitive. These programmes must include gender sensitivity in times of disasters.
- ▶ The UTBA should develop, in partnership with a wide range of stakeholders, including women's associations, a system for the regular monitoring and evaluation of interventions designed to prevent and respond to GBVAW, within programmes relating to DRR and climate change.
- ▶ The UTBA should take steps to strengthen the women's rights centres of bar associations, including in times of disaster, with a particular focus on the needs of women lawyers during times of crisis and disasters. The presence of women lawyers is especially important in terms of reaching women who face GBV in the earthquake zone. The participants from FGDs pointed out the importance of showing solidarity and understanding each other as women in women's struggle. They also noted the importance of having women's tents in collective living places in the earthquake-affected areas for women to voice their needs. These tents are important for developing women's leadership. The bar associations have taken initiatives to support women's tents.
- ▶ The UTBA should minimize disruptions to legal aid system that may result from disasters, by developing response plans that provide for the deployment of mobile or specialized reporting mechanisms, investigative and information teams. Flexible and accessible legal aid mechanisms are of particular importance for women and girls wishing to report incidents of GBV.
- ▶ Legal aid lawyers should be trained on gender-responsive legal aid in times of disasters.
- ▶ The UTBA should prepare a gender-sensitive training programme for legal aid lawyers. This training should include basic issues such as gender equality, needs of women and girls in times of crisis and disasters, trauma-informed approach and legal instruments regarding women's access to justice in times of disasters. In this programme, legal aid providers should also be trained on the various forms of GBV that are prevalent in times of disaster and how to prevent and address them. The training should include information on the rights and needs of women and girls, including those from refugees and minority groups, women and girls with disabilities, lesbian, bisexual and transgender women and girls and intersex persons, and the ways in which they may be exposed to and affected by GBV.
- ▶ The Ministry of Justice should develop measures for the effective implementation of Law No. 6284 in times of disasters and the duration of cautionary decisions should be automatically extended until the relevant institutions are re-established.
- ▶ Bar associations in the earthquake region should organise programmes to provide women with access to legal aid and legal awareness about their rights.

## 6. SWOT Analysis

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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 TERRA which includes some provisions regarding women's access to justice and legal aid, comprehensive criminal legal aid for women suspects, detainees and victims.
- ▶ To have a national action plan on combatting VAW that includes provisions on women's access to justice in times of disasters.
- ▶ To have CSOs which provide for women's legal needs.
- ▶ To have women's tents.
- ▶ To have the support of international organisations (such as UN Women, UNFPA, the CoE) for combatting GBV and accessing to justice.
- ▶ The supremacy of CEDAW, and other legal instruments related to gender-responsive legal aid being declared in the Constitution.

### Weaknesses

- ▶ Lack of gender-sensitivity in the management of disasters.
- ▶ No special code or policy relating to women's access to legal aid in times of disasters.
- ▶ No gender policy relating to justice sector or legal aid in times of disasters.
- ▶ No requirement for gender equality education (including disasters) for legal aid lawyers.
- ▶ No requirement for lawyers to provide gender-sensitive legal services.
- ▶ Lack of monitoring mechanisms and legal aid statistics related to disasters.
- ▶ Insufficient GBV services.
- ▶ Lack of services combatting early age marriages.
- ▶ Lack of GBV management plan in times of disasters.
- ▶ Risk of an increase in early age marriages.
- ▶ Increasing GBV.
- ▶ Increasing gender inequality.
- ▶ Insufficient legal aid services.
- ▶ Unsafe and gender-insensitive communal living spaces.
- ▶ No institutional mechanisms for different women applicants (such as disabled, refugees, older women, girls, etc.).
- ▶ Difficulties in access to justice for those living in rural areas.

## Threats

- ▶ Pervasive use of gender stereotypes.
- ▶ To consider legal aid for women only in the context of VAW.
- ▶ To view all women as a homogenous group and not consider intersecting factors of discrimination.
- ▶ Limited budgetary resources.
- ▶ The UTBA has not organised gender-sensitive legal aid and does not have a gender-sensitive plan on access to legal aid in times of disasters.

## Opportunities

- ▶ Increasing number of lawyers with gender-sensitivity.
- ▶ Developing possibilities of legal information by Women's Rights Centres and NGOs.
- ▶ University legal clinics which support women's access to legal aid.
- ▶ Projects which aim to develop women's and girls' access to justice in times of disasters.
- ▶ Support from international organisations.

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# ANNEX 1: Promising Practices in Times of Disasters in Türkiye

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## 1.1. The Projects Implemented by the Union of Turkish Bar Associations

### UN Women - UTBA

Key activities: A comprehensive report on women's access to justice in the earthquake region. Training at bar associations in the earthquake region. Trainings on legal literacy and gender equality for women in tent cities.

### UNICEF - UTBA

Activities for earthquake-affected children and care-givers in 10 earthquake provinces: Information buses on legal aid. 3 mobile minibuses, especially in the districts, to function as counselling centres. Legal aid fees of lawyers will be paid under the project.

### ÇABA Project: UNICEF - UTBA

Supporting children's, and in particular girls', access to justice.

Activities: identifying the differentiated needs of girls, designing a training module, increasing the capacity of children's rights centres in 5 pilot provinces: Adana, Aydın, Trabzon, Batman, Erzurum.

### Action on Fostering women's access to justice in Türkiye (CoE - UTBA)

Payment of legal aid lawyers' fees in 4 provinces (Hatay, Kahramanmaraş, Adıyaman, Malatya) for 18 months under the grant component. Funding legal aid in 4 provinces (Sinop, Bilecik, Bursa, Tunceli) in addition to the earthquake-affected provinces.

### ILAP: UNDP - UTBA

Increasing the capacity of the legal aid system, providing a prefabricated building for Hatay Bar Association.

## 1.2. Gender-Responsive Temporary Settlements and Services

- ▶ "Purple space" – one of 28 counselling centres set up in the earthquake zone by the Federation of Women's Associations of Turkey to provide advice and health referrals for women and children – established in a tent city in Defne district of Hatay municipality.
- ▶ [The Women's Defence Network](#), set up a women's solidarity tent in Hatay, in order to create a safe place for women, LGBTIQ+ and children.
- ▶ Feminist Solidarity for Disaster Group set up women's solidarity tents in Adıyaman and Hatay.
- ▶ Osmaniye Bar Association Women's Rights Centre has a stand within the tents area in Osmaniye.
- ▶ UN Women has developed a model for gender-responsive temporary settlements that prioritizes the housing needs and rights of vulnerable groups, particularly women and girls. This model sets out to mitigate risks that may arise from gender-blind temporary shelters, enhance the safety and security of women and girls and ensures that temporary shelters prioritize women's protection and dignity (UN Women, August 2023).



- ▶ The GBV Sub-Sector, supported by UN Women, has created a Legal Monitoring Tool. It gathers data on GBV-related legal cases referred to law enforcement in regions impacted by the earthquakes and failed to receive timely responses.
- ▶ “Women’s Solidarity Centre,” a partnership between UN Women, Koç Holding, Oxfam Foundation for the Support of Women’s Work (Kadın Emeğini Değerlendirme Vakfı – KEDV) has become a haven for women and girls, and a hub for community activities aiming at helping impacted people return to normalcy.
- ▶ UNFPA provided some containers and services for combatting GBV. These are:
  - Two containers for ŞÖNİMs were provided to the Ministry of Family and Social Services to ensure GBV prevention and response.
  - 8 UNFPA-supported static service units deliver sexual and reproductive health (SRH) and GBV services.
  - 2 tent service units provide SRH and GBV services.
  - 11 mobile outreach teams provide SRH and GBV services.
  - The GBV Sub-Sector, co-chaired by UNFPA and the KAMER Foundation, continues to support the delivery of GBV awareness, response, and mitigation services in earthquake-affected areas by member organisations.

### 1.3. Earthquake Legal Clinic

After the earthquakes on 6 February 2023 in Türkiye, Ankara University, Faculty of Law organized an earthquake legal clinic. This clinic started its work on 1 March 2023. The students of Çukurova University, Faculty of Law and Gaziantep University, Faculty of Law in the earthquake zone were also included in these studies. In the clinic studies, firstly, a total of 160 students were informed about disaster and disaster law based on human rights and sensitive to gender equality. These students are organised to provide legal information to those affected by the earthquake. The main purpose of the clinic is to provide legal information including on legal aid to those affected by the earthquake. The clinic has already started its informative activities primarily for the earthquake survivors living in collective centres in Ankara. The clinic continues its activities in the earthquake region, especially in Hatay and Adıyaman and will continue its informative activities (Hukuk Klinikleri, 2023).



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